HOUSE OF REPRESENTATIVES

Friday, February 25, 2000

The House met at 1.30 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 two Members of this honourable House who have asked to be excused from today's sitting; they are the Member for Nariva and the Member for Ortoire/Mayaro. The leave of absence which they seek is granted.

REGIONAL HEALTH AUTHORITIES (AMDT.) BILL

Bill to amend the Regional Health Authorities Act, 1994, brought from the Senate, *[The Minister of Health]*; read the first time.

POLICE COMPLAINTS AUTHORITY (AMDT.) BILL

Bill to amend the Police Complaints Authority Act, No. 17 of 1993 and for matters connected therewith or incidental thereto, brought from the Senate, *[The Minister of National Security]*; read the first time.

PAPERS LAID

1. Report of the Auditor General on the accounts of the Siparia Regional Corporation for the year ended December 31, 1996. [*The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj)*]
2. Report of the Auditor General on the accounts of the Siparia Regional Corporation for the year ended December 31, 1997 [*Hon. R. L. Maharaj*]
3. Report of the Auditor General on the accounts of the Arima Corporation for the year ended December 31, 1981. [*Hon. R. L. Maharaj*]
4. Report of the Auditor General on the accounts of the Arima Corporation for the year ended December 31, 1982. [*Hon. R. L. Maharaj*]
5. Report of the Auditor General on the accounts of the Arima Corporation for the year ended December 31, 1983. [*Hon. R. L. Maharaj*]
6. Report of the Auditor General on the accounts of the Arima Corporation for the year ended December 31, 1984. [*Hon. R. L. Maharaj*]

Papers 1 to 6 to be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS

Primary School Textbooks (Special Case Students)

19. Mr. Fitzgerald Hinds *(Laventille East/Morvant)* asked the Minister of Education:

(a) Would the Minister of Education tell this House whether the Government purchased new primary school textbooks in 1997 for needy and special case students to replace those used for the prior three (3) year period?

(b) If the answer is negative, could the Minister state whether the policy in this regard has been changed?

The Minister of Education (Hon. Kamla Persad-Bissessar): Mr. Speaker, the Ministry of Education did not purchase new primary school textbooks in 1997 for needy and special case students because, at that time, the Standing Committee for the Standardization and Selection of textbooks for schools 1996—1998 found several textbooks to be not acceptable, and as a result, several books were to be withdrawn from circulation within the school system.

Thereafter, a Textbook Evaluation Committee was established. The policy has not changed. In 1999, 221,303 books to the value of $8,058,516 were purchased and distributed for needy persons by the Ministry of Education.

May I point out this is the largest figure that has been spent, thus far, on purchasing textbooks for needy students.

I thank you Mr. Speaker.

State Land Regularisation (Certificates of Comfort)

22. Mr. Barendra Sinanan (*San Fernando West)* asked the Minister of Housing and Settlements;

Could the Minister state the names of the persons who have applied for certificates of comfort under the State Land (Regularisation of Tenure) Act, 1998 in the constituency of San Fernando West?

The Minister of Housing and Settlements (Hon. John Humphrey): Mr. Speaker, the names of persons as at February 09, 2000 who have applied for

Certificates of Comfort under the State Land (Regularisation of Tenure) Act, 1998 in the constituency of San Fernando West are as follows:

(i) Julien Joel Griffith;

(ii) jointly between Korisha Sookdeo and Theodora Toppie;

(iii) Christeen Sandy; and

(iv) Priyawatee Rampersad.

That is the entire list of those who have applied for Certificates of Comfort from the Constituency of San Fernando West.

Foreshore Reclamation Project
(San Fernando)

23. Mr. Barendra Sinanan (*San Fernando West)* asked the Minister of Works and Transport:

(a) Could the Minister state whether the San Fernando Foreshore Reclamation Project is being implemented?

(b) If the answer is in the negative, could the Minister explain the reasons for the failure to implement?

The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma): Mr. Speaker, the San Fernando Reclamation Project is being implemented. To this end, a Public/Private Sector Committee was appointed by the Ministry of Works and Transport to implement this project.

The major component involves the construction of a jetty at Kings Wharf, San Fernando. It is proposed to undertake this project in two phases:

Phase I involves the reclamation of 1.98 hectares of land in the vicinity of the existing derelict jetty and the construction of a landing facility.

Phase II involves the construction of a 15 metres wide causeway extending 1,300 metres into the sea, with a jetty to accommodate ferry-type, fishing, pleasure craft and government security vessels.

Pre-construction activities for Phase I which have been completed to date, include the biological assessment, cadastral survey plan and outline planning permission.

A reclamation licence for this project will soon be granted which will facilitate the award of the contract to the preferred tenderer to undertake the following construction activities:

- demolition of the existing concrete jetty;

[MR. SHARMA]

- wreck removal;
- construction of a new concrete dock;
- dredging; and
- reclamation and coastal protection.

The estimated completion time for Phase I is 10 months. Upon the completion of Phase I, Phase II will then be undertaken.

Mr. Sinanan: Mr. Speaker, a supplemental question. Could the Member state approximately when actual physical works are expected to commence?

Mr. C. Sharma: Mr. Speaker, as indicated, a licence is to be granted. As soon as that licence is granted, work will start.

Airport Terminal
(Completion of)

24. Mr. Barendra Sinanan *(San Fernando West)* asked the Minister of Works and Transport:

(a) Could the Minister state when the new Airport Terminal building now under construction would be ready for occupation and use?

(b) Could the Minister state whether there have been any cost overruns in any of the construction packages awarded to date and if so, the reason for the cost overrun and the amount of such cost overrun?

The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma): Mr. Speaker, the new airport terminal building is scheduled for occupancy and use by August 31, 2000.

There have been no cost overruns to date. There have been several variations and additional works that have been requested by the client. These are approved via a change order system.

The additional works that have been approved are as follows:

- a ramp ground control tower;
- a canopy over the full width of the roadway;
- a canopy over the ticket counter;
- automatic plumbing fixtures;
- a south-west mid field taxiway connector;

- a baggage tunnel;
- the extension of the parallel taxiway including the relocation of the ditch; and
- the construction of a second floor to the connector and associated works such as additional car parking.

In addition, a number of change order requests have been approved to respond to variations in measured works and design changes that have arisen during construction.

Further, a performance related bonus payment system has been approved to facilitate the achievement of an accelerated schedule to bring the project to completion at the desired date.

Mr. Sinanan: Could the Member state whether any consideration is being given for the relocation of the jet fuel tank farm?

Mr. C. Sharma: If it is necessary, it would be considered.

Mr. Sinanan: Mr. Speaker, supplemental question. Does the ministry think it would be necessary to relocate the tank farm from its existing site, closer to the new airport terminal building?

Mr. C. Sharma: Again, if it is required, it will be done. I will enquire and furnish you with that answer at the next sitting.

1.40 p.m.

DEFINITE URGENT MATTER (LEAVE)

LNG Expansion (Trains 2 and 3)

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I thank you for recognizing me; I crave your indulgence. Earlier in the day I requested your permission to raise a matter. I seek your leave in accordance with Standing Order 12(1) to raise as a definite matter of urgent public importance, problems associated with the imminent signing of contracts relating to the expansion of LNG Trains 2 and 3.

This matter is definite because it pertains to one of the single largest investments in this country, with construction costs amounting to approximately US $1 billion. This matter is urgent because the execution of the contract is imminent because and thereafter near irreparable of the strength of the negotiating partner. Mr. Speaker, any damage done now would be virtually impossible to rectify.

[DR. ROWLEY]

The matter is of public importance because any failure on the part of the Government to have an agreement or to have negotiated equitable terms in an agreement will have a serious deleterious effect, not only on the lives of the current population, but also on the lives of future generations.

Mr. Speaker, I crave your indulgence to raise this Motion under Standing Order 12(1).

Mr. Speaker: Hon Members, what the hon. Member has raised is to ask that there be an emergency debate today on this issue of problems associated with the imminent signing of contracts relating to the expansion of LNG Trains 2 and 3.

The learning is that a matter must be seen to be urgent and to have arisen suddenly and without one having an opportunity to give notice of a normal debate. I am not satisfied that that is the position here, in which circumstances, I would not grant leave for this emergency debate.

GENERAL ELECTIONS

COMMONWEALTH OBSERVERS

(REQUEST FOR)

The Prime Minister (Hon. Basdeo Panday): Thank you. Mr. Speaker, it is my duty to inform this honourable House, the highest forum in our sovereign Republic, of a measure which I have taken that will serve to strengthen the most valuable democratic entitlement of the citizens of Trinidad and Tobago. As we approach the general elections, Opposition fears that the People's National Movement would again be rejected by the electorate have led to increased Opposition attempts to create alarm among the citizenry. This is manifested in declarations from the Members opposite that the general elections, the date for which I have not yet announced, will be stolen by the UNC. Principal perpetrator of this scare campaign is, not surprisingly, the hon. Leader of the Opposition.

It is, perhaps, understandable that my honourable fellow parliamentarian, the Member for San Fernando East, should be concerned about the legitimacy of elections in this country. It is a well-known fact that the Leader of the Opposition would not have been sitting in this honourable House after the 1986 general elections if the victorious National Alliance for Reconstruction had allowed the recount, which that party’s candidate Mrs. Merle Stephens had, on patently valid grounds, called for on the night of December 16, 1986. That act of charity by the NAR was ultimately to work to my own good fortune. I now have an Opposition Leader in whom I am reasonably well pleased. [*Laughter*]

Mr. Speaker, I well recall urging my then fellow warrior, the leader of the National Alliance for Reconstruction, to let the first count stand since it would have appeared to be an act of avarice to claim a thirty-fourth seat after having captured 33 of the 36 seats in the House in that memorable election. I cannot escape a moment of nostalgia as I revisit the spirit of 1986 when "one love" was more than just a Bob Marley or Shadow song for Trinidad and Tobago. There may well be some of my detractors who will say that my motive in advising against that recount was my concern at the power that had fallen into the hands of the NAR leader. That, too, might have been the case. History has shown that any such concern would have bordered on the prescient.

On this subject of legitimacy, the hon. Member for San Fernando East and other apologists in his camp have had the temerity to question the legitimacy of the process which led to the formation of the administration which has governed Trinidad and Tobago since November 1995. They must be reminded that although the People's National Movement got only 45 per cent of the votes that were cast in the 1991 elections, the current leader of the PNM was asked to form the government. I never saw that questioning as a basis for the legitimacy of the administration which preceded mine; its competence, yes. Everyone questioned the competency of the administration that immediately preceded mine. Everyone, Mr. Speaker.

The Opposition's alarums about the elections being stolen are obviously the result of their own recognition that every single published opinion poll conducted with any semblance of acceptable methodology has the governing party and its leader well ahead of its challengers. Moreover, when the votes are projected in the national constituency boundaries, the local government polls had the governing party winning 19 of the 34 seats last June. On the matter of legitimacy in the electoral process Trinidad and Tobago has been without serious blemish. When there were legitimate grounds for concern, sustained crusades by groups defending democracy forced the party now in Opposition to withdraw voting machines that had been introduced by the People's National Movement. It is entirely possible that Members opposite will always be sensitive to the colonial gerrymandering that gave the party now in Opposition its first term in government.

Mr. Speaker, the records will show that in the 1956 general elections the PNM got only 40 per cent of the votes. Apart from getting a minority of the total number of votes cast in the 1956 elections, the PNM got only 13 seats in the 31-member unilateral—[*Interruption*]

Hon. Members: 24!

Mr. Speaker: Order please!

Hon. B. Panday: In a 31-member unilateral Legislative Council which looked after the affairs of the country in those days. The Leg. Co, as it was called, was made up of 24 elected members, two official members and five nominated members. This meant that the People's National Movement was three members short of a majority in the 31-member Legislative Council in 1956.

The PNM leader thereupon submitted memorandum which proposed that any nominated member of the Legislative Council who had any identification with the well-established opposition to the PNM, should be rejected by the government. That proposition bears repeating since it may well explain PNM's perennial refusal to recognize any other government in this country.

In a memorandum of September 30, 1956, which Dr. Williams submitted to the Governor for onward submission to the Secretary of State for the Colonies in England, he proposed that anybody identified with the established opposition to the People's National Movement should be rejected by the Governor. The Governor was furious at that proposal. The Secretary of State for the Colonies, however, said, in effect, "No big thing, let us run with it". Secretary of State for the Colonies ruled that the PNM should have two nominated members, that Dr. Williams would be consulted by the Governor in selection of the other three nominated members, and that the PNM should have the support of the two official members. Thus, by colonial fiat, did the PNM come into office in this country. What about the 60 per cent who voted against the PNM and the 11 other elected members of the Leg. Co? It was a case of "crapaud smoke their pipe".

It is done very differently now, Mr. Speaker. If you do not have a majority of seats in the House of Representatives, you put together a coalition if you can, or you go into Opposition alone, if you cannot. Once the President is satisfied that you command the support of a majority of the Members of the House of Representatives, the Constitution mandates that as Leader of the Government you nominate 16 Senators. The Leader of the Opposition nominates six Senators and the President appoints nine Senators of his own choosing; no ambiguity in this. The Constitution is clear, as it is in other matters.

Mr. Speaker, since 1995 my administration has introduced legislation to reinforce our democratic institutions to encourage transparency and to mandate accountability. We have been meticulous in our respect for the Constitution and

the law. We have called two local government elections and two by-elections at local government level right on schedule. We have the utmost confidence in the competence and integrity of the Elections and Boundaries Commission and we have taken no action, made no utterance that could have in any way compromised the reputation of the Elections and Boundaries Commission.

Mr. Speaker, I have taken an unprecedented step to preserve the reputation of the Elections and Boundaries Commission and our democratic system overall. I have called upon the Commonwealth Secretariat to send a Commonwealth Observer group to monitor the conduct of the imminent general elections. I have written to the Commonwealth Secretary General as follows:

"February 24, 2000

His Excellency Chief Emeka Anyaoku
Secretary General
Commonwealth Secretariat
Marlborough House
Pall Mall
London SW1Y 5HX

Your Excellency,

General Elections in the Republic of Trinidad and Tobago are due to be held this year.

Elections in this country are conducted by an independent Elections and Boundaries Commission which is headed by a former Chief Justice who is of unblemished reputation.

Though there have been no complaints about the conduct of the electoral process in Trinidad and Tobago, the parliamentary Opposition has, nonetheless, been expressing fears that the imminent Elections may not be conducted fairly.

I have therefore proposed to the Leader of the Opposition that an invitation should go out for a Commonwealth Observer Group to be present during our forthcoming General Elections, and to report to you thereon.

The Leader of the Opposition has committed his support for this proposal directly to me.

The Elections and Boundaries Commission fully supports this recommendation.

[HON. B. PANDAY]

We are confident that the presence of a Commonwealth Observer Team during our General Elections would be valuable in reinforcing Trinidad and Tobago's reputation as a model democracy in which General Elections, free and fair, and free from fear, are held on time, as scheduled by this country's Constitution.

Trinidad and Tobago values the contribution that the Commonwealth Observer Groups have made in strengthening democracy in the Commonwealth.

The Government of the Republic of Trinidad and Tobago would be obliged, Sir, if arrangements can be made for an Observer Group to be readily available for our Elections, which are Constitutionally due at this time.

Kindly advise what arrangements will be necessary to facilitate the work of an Observer Group.

I look forward to your confirmation that a Commonwealth Observer Group will be available.

I thank you for your kind attention.

I take this opportunity to extend best wishes to you and your establishment.

Sincerely

Basdeo Panday."

Mr. Speaker, I trust that the Opposition will now desist from remarks which could impugn the integrity of our electoral processes. More importantly, I sincerely trust that the presence of a Commonwealth Observer Group for our general elections will protect us from the possibility of the hon. Leader of the Opposition again having to implore his supporters to go home peacefully should he be replaced as the Member for San Fernando East and, if he crosses that hurdle, should he regain his position as Leader of the Opposition after the coming general elections.

Thank you. [*Laughter*]

1.55 p.m.

COMMISSION OF INQUIRY (JUDICIARY)

Mr. Patrick Manning *(San Fernando East)*: Mr. Speaker, I rise to move a Motion standing in my name which reads as follows:

> Whereas the Government has announced its intention to establish a Commission of Inquiry into the Judiciary comprised as follows:
>
> Lord Mackay - Chairman
>
> Dr. L. M. Singhvi
>
> Dr. Austin Amissah
>
> Mr. Geoffrey Robertson as Counsel
>
> Be It Resolved that this honourable House take note of the Government's stated intention in this regard.

Mr. Speaker, you will notice that the Motion seeks and asks this honourable House merely to take note of the stated intention of the Government. We have chosen to put our resolution in this way because it is our intention to, as dispassionately as possible, consider the issues that are before us, because the issues have very far-reaching implications. It is one of the fundamental matters that has arisen in my time as a Member of Parliament and that as these issues arise, it calls for mature discussion—not an issue in which you may want to necessarily score points—as dispassionately as possible, so that we can decide what is in the best interest of the country and where the truth lies. Because of that and the nature of the resolution, you will forgive me. I seek your indulgence, Mr. Speaker, to permit me to quote fairly extensively from my notes.

Assent indicated.

Thank you very much.

Mr. Speaker, the irony of establishing a Commission of Inquiry at this time is that it comes at a time when an international institution, the Inter-American Development Bank (IDB), has given full marks to the Judiciary in Trinidad and Tobago. I quote from the *Daily Express* of January 14, 2000. The article is entitled "IDB gives T&T Judiciary high marks" and it goes as follows:

> "Trinidad and Tobago leads other Caribbean states in terms of advances this country has made in modernising and improving the efficiency of court administration and other judicial support systems.

Mr. Speaker, we lead the Caribbean in this matter.

> "This is contained in a report of the Inter-American Development Bank (IDB) on Judicial Reform in the Caribbean.
>
> Excerpts of the report were released to the media yesterday by court protocol and information officer Michael Lilla.
>
> The report was produced last October. It followed a study, carried out under the auspices of the IDB, which was completed in April last year.
>
> The report stated that Trinidad came closest to developing a court administrator/manager position and function of the sort recommended in more advanced jurisdictions.
>
> Lilla said Master Christie-Anne Morris Alleyne had proposed the department of court administration.
>
> The report noted that several eastern Caribbean states formally asked Trinidad for help with computerisation and court administration.
>
> It said that all courts in the region could benefit from the positive experience of the High Court in Trinidad in implementing an automated information system to support a broader range of court management functions.
>
> The report described the development of the computerised court management information systems in the local High Court as 'impressive'.
>
> Lilla said following recent criticism of the Department of Court Administration, it was necessary to bring to the attention of the public the extremely favourable view which an independent international body took of the efforts of those involved in the Department."

Mr. Speaker, I have taken the time to place the entire article in the records of Parliament because the article arose out of an independent study conducted by the Inter-American Development Bank, a respected institution in the region. The study of court systems throughout the Caribbean not only gave full marks to Trinidad and Tobago, but placed it at the top of all the other Caribbean countries in terms of court administration.

It also said that levels of computerization and standards have been applied to the Judiciary in Trinidad and Tobago which, under normal circumstances, one would consider applicable to countries that are far more advanced than us and countries in more favourable circumstances. That is the IDB talking. Yet, this is the time that the Government of Trinidad and Tobago feels that a Commission of Inquiry is warranted—whatever the inquiry is about.

It becomes even more ironical when one takes into consideration the fact that in May 1998, the Executive and the Judiciary took possession of a report entitled, "Judicial Sector Reform Project Review of Civil Procedures" in which a Mr. Dick Greenvale—I think he comes from the United Kingdom and was, in fact, a Registrar of the courts there—reviewed the civil court procedures in their entirety. Arising out of that review, which was completed in May 1998, new rules of procedure were drafted which today are the subject of deliberations of the Parliament of Trinidad and Tobago.

So that a review has already taken place in respect of the civil procedures in the court, and that particular review was conducted in a manner that was threatening to no one. It was conducted in a manner that did not disrupt the courts; it was conducted in a manner that facilitated eliciting properly what the constraints might be in terms of civil procedures in the courts of Trinidad and Tobago, and that the report places the administration in a position to rectify whatever defects exist against the background of the IDB's assertion that Trinidad and Tobago stands at the top of the totem pole in terms of the administration of justice in the Caribbean.

More than that, we are aware that the Judiciary has worked extremely hard in this country at reducing the backlog of cases. In fact, the last report on the administration of justice, which has come before this Parliament, spoke eloquently about that. Not just the backlog of cases but also in a particular aspect—this is the *Pratt and Morgan* issue involving the execution of condemned prisoners where the implications of the backlog have been very great, and the implications of delay have been very great—we need not go into the details of that, because I think all Members of Parliament are fully aware that the courts have been very successful in reducing that backlog and pressing the time-frame within which these cases are dealt, within the pale of the *Pratt and Morgan* decision of the Privy Council of the United Kingdom. So there are all of these things which seem to suggest that the courts are doing well.

2.05 p.m.

I will be the first to admit that the court system in no country is perfect but, as long as the system is administered by human beings, then there will be imperfections in the system itself. Even so, in the context of our determination here in Trinidad and Tobago, to ensure that our system is as efficient as possible, enough has been done—attracting the attention of international bodies and domestic bodies alike—to give the national community the confidence that our system is the subject of constant review, especially within recent time. Our system

is constantly being updated and certainly, Mr. Speaker, there is nothing in the system that requires a commission of inquiry. *[Desk thumping*]

What is needed, therefore, is not a commission of inquiry established in a way that threatens the judges of the court, but against the background of what has already been done to improve the administration of justice. What is required is an understanding Executive that will, as it were, encourage the Judiciary to continue along the lines in respect of which they are going. Of course, the course of action taken by the Government, the establishment of this commission of inquiry, does not meet that criterion.

Mr. Speaker, if a commission of inquiry is to be established, why not into the InnCogen deal [*Desk thumping*] where the Government of Trinidad and Tobago is paying for electricity that it does not get and does not want? If you want to establish a commission of inquiry, that would have been an area [*Desk thumping*] that suggests itself for inquiry. If you wanted to establish a commission of inquiry, why not one into the airport, where public alarm has been such that the President was written to and asked to establish a commission of inquiry? Those are just two areas. He felt it necessary that a case could be made out for it. If the Government was intent on setting up commissions of inquiry, there are so many other areas of public operations—and in respect of which accountability is a national concern—into which a commission of inquiry could so easily have been established. There are other areas where the establishment would be far more applicable and relevant rather than into the Judiciary, where we are demonstrating that it clearly is not at all relevant.

What is the genesis of all of this? The genesis of this is a statement made by the hon. Chief Justice, Mr. Michael de la Bastide, on the occasion of the opening of the law term on Thursday, September 16, 1999. The statement was an allegation that there is Executive interference in the Judiciary. Three months later, on December 16, 1999—it took three months for the Government to come to this conclusion—the hon. Prime Minister announced the establishment of this commission of inquiry.

A commission of inquiry is not something to be taken lightly. Its terms of reference must be definite and precise. In establishing a commission of inquiry one has to be very careful. As of now, the terms of reference of the commission of inquiry to be established are not known to the people of Trinidad and Tobago. All that we know of it is from a report appearing in one of the newspapers—I will try to locate it—in which some terms have been outlined, even if these terms do not—[*Interruption*] Mr. Speaker, in fact I am now advised by one of my

colleagues that only today these terms of reference have been laid in this Parliament and, therefore, could not have been taken into account in the preparation of my contribution today.

What we had to go on was an article at page 5 in the *Newsday* of Saturday, February 5, which said:

> "The Commission would be required to make inquiries with special reference to 'the duties, functions, management and adequacy of the system of courts and procedure to provide for more efficient, accessible, affordable and expeditious justice for all..."
>
> "Secondly, it would look at the qualifications which may be prescribed in the appointment and promotion of judicial officers, the manner of dealing with complaints by the legal profession and the public against judicial officers.
>
> Thirdly, it would examine the operation of the existing financial and administrative rules and procedures for the release and draw down of funds allocated to the Judiciary by Parliament for the approval of travel by judicial and other officers for training and conferences, among other things. The fourth term of reference will be to inquire into allegations that the Executive has attempted to undermine the independence of the Judiciary.
>
> Panday said…"

I imagine it is Prime Minister Panday to whom they are referring:

> "…the Commission would be charged with making such observations and recommendations pertaining to its findings."

Just for the record, Mr. Speaker, this article also indicates that there will be a secretary to the commission, a Larraine Lutchmedial. Those are the terms of reference. Mr. Speaker, a commission of inquiry is not something that should be appointed lightly but it should be appointed where there are matters of public importance causing public disquiet or giving rise to widespread public concern or public inquiry and anxiety.

In the language of the Salmon Report, to which I will make reference a bit later, it is not part of the duty of government to satisfy idle curiosity about gossip, however scandalous. That is what it says. You do not satisfy scandalous gossip by establishing a commission of inquiry, but there must be serious issues and concerns in doing that. The terms of reference that have been identified for the commission of inquiry do not meet those requirements. In fact, what we see from the terms of reference is a reaction of a Government that felt jaded by the public comments of the Chief Justice.

[MR. MANNING]

We see also that the commission of inquiry was established as a form of counter-attack [*Desk thumping*] and done in a manner to threaten judges and to threaten the independence of the Judiciary. It was done in a manner that would cause disruption of the operations of the judicial system. Above all, it was done in a manner which, more than likely, will bring the Judiciary into disrepute, undermine public confidence in the system of administration of justice [*Desk thumping*] and, perhaps, bring about a situation in the country where there is such loss of confidence in the equity of the judicial system that people will wish to take the law into their hands. All these are possibilities to which the establishment of a commission of inquiry in this way and on these matters exposes the people of Trinidad and Tobago.

Mr. Speaker, in 1956 the Napier Commission of Inquiry was established to report on the system of administration of justice in Trinidad and Tobago and to make recommendations for expediting work in all courts. That inquiry was established in response to a request which the Chief Justice of the day had made to the then Governor. One notes that the terms of reference were tied to expediting the work of all courts. There was a measure of definiteness in the terms of reference, Mr. Speaker, yet that inquiry worked from February 1956 until it reported in June of 1956. It took four months with very definite terms of reference for this commission of inquiry to complete its work. With the commission that the Government now proposes having terms of reference not half, in fact not a fraction, as definite as the terms of reference of the Napier Commission of Inquiry, it is quite clear that this inquiry is likely to go on not just for four months, Mr. Speaker, but for a very long time, including years. [*Desk thumping*] It would take the inquiry years.

In saying that, Mr. Speaker, I also raise, just *en passant*, the question of cost. One of the things we have noticed about that Government is that cost does not matter. They have not told us what it would cost us to get these gentlemen, who they consider very distinguished, to come and conduct the inquiry in Trinidad and Tobago. With the background of the commission, if it were to do its work properly and carry out the mandate proposed by the hon. Prime Minister, it would cause havoc to the work of the Judiciary. Cases will be delayed because judges will now have to come before this commission of inquiry and as they do that, their work in the courts will be disrupted.

They will have to answer allegations, however spurious these allegations may be. They may wish, Mr. Speaker, to be represented by counsel before the commission of inquiry. The question arises, who is going to pay for that? Much

time will be taken, Mr. Speaker, not just in answering allegations but in cross-examining persons who have made allegations before the commission of inquiry. The whole thing will end up in one masquerade that takes up much of the valuable time of the people of Trinidad and Tobago and of the court system. It threatens not only to damage the reputation of judges in the country but also to take us back to the situation from which we have just emerged in terms of the clogging of our courts and the backlog of cases. This is a situation on which this Judiciary has worked very hard in recent times to completely eliminate. [*Desk thumping*]

What is worse, Mr. Speaker, is that allegations can be made before the commission of inquiry which judges can go to answer. However, no matter how well they answer those allegations, no matter how comprehensively they can adduce evidence to assert their own innocence against those allegations, there is always the risk of a residual tarnishing of the image of the particular judge and, therefore, the undermining of confidence in the Judiciary. Members of this Government are past masters of doing that.

I would refer to one incident, Mr. Speaker, which may be familiar to you. When the Government was on this side in Opposition—a position to which they are due to return very shortly, Mr. Speaker—[*Desk thumping*] they alleged that the then Prime Minister sold his car to a drug dealer. Over ten years ago they raised that matter. [*Interruption*] They fought an election campaign on it, as I was just reminded by my colleague. They came to the Parliament, Mr. Speaker, and they raised it again, I think it was in 1993 or 1994. No matter how the then Prime Minister answered the allegations, which really had absolutely no basis in fact, they still were able to repeat these allegations in a manner that left a doubt in the minds of individuals in the society as to whether the then Prime Minister was innocent or guilty of the charges laid. You understand?

2.20 p.m.

It took the wife of the person involved—recently they said that was not true—and it took another person with whom they have been *in loco parentis* for sometime. *[Interruption]* It is a Latin term.

Mr. Assam: What does it mean?

Mr. P. Manning: Mr. Speaker, it took the statements of two such persons to, as it were, dispel all doubts in the minds of the national community that the allegations made by the hon. Members opposite actually had no basis, in fact. Is that what we want to expose our judges to? Is that what we would like to expose our judicial system to?

In the face of all the damage that is being done by actions of the Government of Trinidad and Tobago, where they are "in noise" with the Chief Justice; they are now "in noise" with the President. Could this country afford the development of a situation now, where we raise so much of a cloud over the heads of judges that we undermine confidence in the system? But we are free to want or not want. That is our responsibility under the Constitution. Do you understand what I am saying? *[Interruption]*

Mr. Speaker, just an aside, let me deal with the point just raised by the Member for Couva South. If as Prime Minister or as Leader of the Opposition, I object to the appointment of anybody, I do so in accordance with the Constitution of Trinidad and Tobago. *[Desk thumping]* I will do that. I can say something more—that the one thing I know is how to do these things in accordance with the norms that the society expects people of high office to conduct themselves. I know how to do it that way.

In fact, I may have had diversities with a few Presidents in the past. It has never come to the public domain and it will not. Do you know why Mr. Speaker? As somebody who is a Member of this Parliament, I know in a way that the Government does not know, how to conduct the affairs of the country in a manner that is consistent with office. *[Desk thumping]*

Mr. Hinds: Class.

Mr. Valley: Class.

Mr. P. Manning: Mr. Speaker, it brings us to the situation that now faces us. So far we see an inquiry going on for years; an inquiry which would put our judges under additional pressure; an inquiry which will cause further delay in our courts; an inquiry that will put our judges' reputations at risk; an inquiry that exposes our judges to all possible types of unjustified allegations; an inquiry that can unjustifiably leave such a cloud of suspicion over our judges that the public confidence in the Judiciary can be shaken to the extent where persons no longer wish to drink from the stream of justice. That is where we have now come.

Mr. Speaker, I have already referred earlier on to the *Salmon Report*—let me organize my notes. That report refers to six cardinal principles to deal with injustices caused by inquiries of this type. I refer to paragraph 32 of the report.

The six cardinal principles as they are identified:

"The difficulty and injustice with which persons involved in an inquiry may be faced can however be largely removed if the following cardinal principles which we discuss in Chapter IV are strictly observed:—

1. Before any person becomes involved in an inquiry, the Tribunal must be satisfied that there are circumstances which affect him and which the Tribunal proposes to investigate."

That is the first principle.

"2. Before any person who is involved in an inquiry is called as a witness he should be informed of any allegations which are made against him and the substance of the evidence in support of them.

3. *(a)* He should be given an adequate opportunity of preparing his case and of being assisted by legal advisers.

   (b) His legal expenses should normally be met out of public funds.

4. He should have the opportunity of being examined by his own solicitor or counsel and of stating his case in public at the inquiry.

5. Any material witnesses he wishes called at the inquiry should, if reasonably practicable, be heard.

6. He should have the opportunity of testing by cross-examination conducted by his own solicitor or counsel any evidence which may affect him."

Mr. Speaker, is the Government prepared in the conduct of this Commission of Inquiry to adhere to these six principles which the Royal Commission advocated in 1966, when it reported to the Government of the United Kingdom? If the Government is prepared to adhere to these, you see what the implications are—the time, the cost, the damage to reputations. It is all here.

Mr. Speaker, of these six principles the following are particularly relevant. Judges and magistrates who are called as witnesses, having been informed of any allegations made against them and the substance of the evidence in support would have to be given sufficient opportunity to prepare their cases—time. This could bring the administration of justice to a standstill. The judges and magistrates should have the opportunity of being examined by their own attorney-at-law and of stating their case at the inquiry.

Who is to pay for the representation? One of the principles is that the state should pick up the cost. Is the state prepared to do that? We have not been told. The judges and magistrates should then have the opportunity of calling material witnesses who they wish to call—more time taken from the courts. They should have the opportunity of testing by cross-examination conducted by their own attorney-at-law any evidence which may affect them—more time and expense. At the end of it all, the suspicion that may have befallen the judges and magistrates may never be removed. That is really the situation in which the country now finds itself, in the face of the Government's stated intention to have a commission of inquiry with the terms of reference to which I have just referred.

Mr. Speaker, several editorials and articles in the newspapers have urged the Government to reconsider its position in this matter. Mr. Speaker, permit me to refer with your kind permission to an article in the *Express* newspaper dated December 19, 1999, written by Mr. Raffique Shah and it is entitled: "We must fight this commission" and I quote in part—"Just when the nation thought…"*[Interruption]* Mr. Raffique Shah is a columnist. It is not the singer; it is the song. The article is of great relevance to the matters under deliberation by the Parliament at this time and I quote:

> "Just when the nation thought we could put the raging war between the judiciary and the executive behind us, when Justice Telford Georges was about to come here at the request of the Law Association to smooth things out, we are faced with an outrageous decision by the Cabinet. The supreme body in the executive, in its lack of wisdom, has decided to appoint a foreign commission to 'inquire into all aspects of the administration of justice'.
>
> The names of the jurists who have agreed to serve on the commission mean nothing to the people of this country, except for Geoffrey Robertson, QC, who worked with Maharaj…"

I assume he means, Attorney General Ramesh Lawrence Maharaj.

> "as defence counsel for the Muslimeen during that trial."

2.30 p.m.

He was not the Attorney General then.

> "Lord Mackay's name may also be familiar to court reporters and those who have an interest in law. Justice Austin Amissah and Dr. L. M. Singhvi are unknowns."

That is what the article said.

> "That the PM announced his commission days before Justice Georges was due to arrive here was clearly not coincidental. The government seems intent on intensifying the brawl between the executive and the judiciary, and to this end it has hired its own 'hit squad' to do a 'hatchet job'..."

This was the view of the columnist, that the members of the Commission of Inquiry comprised "a hit squad" and what they were called upon to do, in the view of this columnist, was a "hatchet job".

> "…on the esteemed judges of this country."

The article continued:

> "If we did not know it before, we do now: the judiciary is indeed under attack from powerful forces, the most prominent of which is the government."

—of Trinidad and Tobago. I repeat.

> "…the judiciary is indeed under attack from powerful forces, the most prominent of which is the government."

—of Trinidad and Tobago.

[*Desk thumping*]

Mr. Sudama: What are they clapping for?

Mr. P. Manning: Elsewhere in the article, Mr. Shah had this to say:

> "Having re-emphasized my *bona fide* and fierce independence, I need point out that I find it totally unacceptable for the government to invite anyone, least of all foreigners, to come here and lord it over our judges. Imagine the CJ, or any other judge for that matter, being summoned to appear before three men whose integrity may well be questionable."

Consider it. That is Raffique Shah talking and, as I will demonstrate later on, there are some very curious associations in this whole matter. Mr. Shah was saying:

> "Imagine the CJ, or any other judge for that matter, being summoned to appear before these three men whose integrity may well be questionable."

On Friday, December 24, 1999, the editorial in the *Daily Express*, Mr. Speaker, was headlined "In the interest of justice". Again, with your kind indulgence, I will read it into the record.

> "Objections to the appointment of a commission of foreign jurists to investigate the administration of justice in Trinidad and Tobago are now more widespread and forceful than any normal government should be able to ignore.
>
> There has been unequivocal condemnation of the proposal by the Parliamentary Opposition, all but one of the High Court judges…"

Hear the forces that have been aligned against it.

> "…two daily newspapers, and several political commentators and columnists.
>
> In a telephone poll conducted by TV6, 80 per cent of the callers thought that the appointment of the commission was an attempt to undermine the inquiry being conducted by Mr. Justice Telford Georges.
>
> Now 75 members of the Law Association, including several Senior Counsel, have added themselves to the list."

All these people are saying, "Think again; do not go that route. There are dangers associated with that that are not in the national interest. Do something else." That is what they are all saying. I continue, Mr. Speaker.

> "In fact, the Law Association must be considered to have opposed the plan as a body when it opted for the appointment of Justice Georges over the proposal by its President, Karl Hudson-Phillips QC, to ask the Government to appoint a commission."

A body of lawyers went against it.

> "Hudson-Phillips' proposal was soundly defeated in the most heavily-attended meeting of the Law Association ever to take place."

The Government cannot ignore all these things, Mr. Speaker. That is what has happened. People have been arrayed against it because they see the implications of it.

> "The objectors to the commission have emphasized how inappropriate it is for a government to cast aspersions on the administration of justice in its own country and its ability to heal its own wounds.

> They are agreed that the commission more likely represents an attempt to intimidate the judiciary than an attempt to reform the legal system."

I repeat that for the benefit of hon. Members.

> "They are agreed that the commission more likely represents an attempt to intimidate the judiciary than an attempt to reform the legal system.
>
> Other objections are that the commission cannot have the knowledge of this country that will enable it to make any valid recommendations; and that the task, if it is a genuine one, of reforming the administration of justice encompasses far more aspects of the country's life than could be dealt with by lawyers alone, let alone foreign lawyers. Most objections have also included the not inconsiderable cost of such an inquiry."

The editorial continued:

> "The urgency with which the Government announced its intention to the public is in odd contrast with the fact that no terms of reference for the commission have been published, other than the general account of its objectives given in the Prime Minister's broadcast; and with the fact that no one knows whether the President of the Republic has yet been asked to make the appointments."

We now know that he has been asked and we now know it has not been done.

Mr. Maharaj: And you agree with that.

Mr. P. Manning: I am just saying he has been—Mr. Speaker, I placed it on the record without giving it any opinion. All I am saying is that the President has been asked and we know, as of now, he has not seen it fit to comply with the request of the Government. That is all I say.

Mr. Assam: You are gloating that he has not done it.

Mr. Panday: Is he right or wrong? What is your position, if you have any?

Mr. P. Manning: Let me continue, Mr. Speaker.

> "The 75 lawyers have asked the President to reject the advice of the Cabinet to appoint a commission, and to revoke the appointment if it is already made. They ask him, instead, to use his good offices to persuade the Government to co-operate with Justice Georges.

[MR. MANNING]

The result of the Attorney General's first meeting with Justice Georges is not encouraging in that regard. But it took place before the Attorney General was officially aware of the lawyers' petition.

If the President complies with the petition, or better still, if the Government heeds the objections and abandons the proposal, there is every chance of a dignified resolution to the immediate problem. Long-term reform of the legal system is another story."

There are several from which I could quote extensively.

There is a headline, "More mud in judicial waters" in the *Trinidad Guardian* of December 24, 1999. It is the same thing. It ends by saying:

"But it is important that the Government should think again. The debate is heading for the mud, and nothing could be worse for the administration of justice and the independence of the Judiciary than to have it continue along this path."

There is a headline in the *Newsday* of Thursday, December 23—"Lawyers beg Robinson—STOP THAT INQUIRY". Another group of people, another body saying, "Do not go that route."

Mr. Speaker, one that I think I need to read into the record is an editorial that appeared on page 6 of the *Daily Observer*, a Jamaican newspaper, of Wednesday, February 9, 2000. It goes as follows:

"This newspaper has, on a number of occasions, stated its support for the Caribbean Court of Justice.

It has been our view that Judges in this region are, and can be, as good as any anywhere in the world. We believe, too, that a regional court can only help to lift the quality of jurisprudence in the region and provide regional courts with another layer of insulation against the possibility of political interference.

The proposal, so far, is for this regional court to be headquartered in Port of Spain, the capital of Trinidad and Tobago, whose government has already declared its commitment to be a founding member of the court. Jamaica, too, has given its support to the court and our government has said it will be one of the initial members.

In the normal course of things, matters which impact on the justice system anywhere in the English-speaking Caribbean are of import to other members

of the regional family, given our common commitment to the rule of law and the compelling influence of rulings in one jurisdiction or another.

Moreover, as the Caribbean Community (CARICOM) moves to a single market and economy there will emerge a body of regional law and the need for common interpretation of statute and treaties if this single, seamless regional economy is to work."

Forgive me, Mr. Speaker, it is a copy from which I am reading and it is not as clear as I would like it to be.

"A properly functioning regional court will be important to this process.

But as we are all aware, the important foundation of the regional court will be national courts. The quality of jurisprudence will, to a significant degree, influence the quality of jurisprudence at the regional level. It is important, therefore, that Caribbean countries have their best lawyers and judges practising at home and in the wider region.

At another level, a strong and independent justice system and Judiciary are important underpinnings of democratic society. If these are undermined, you erode the organisation of a community based on the rule of law and open the citizenry to the possibility of arbitrary action by the State, and with that the loss of individual rights and freedoms.

People in the justice system in any part of the Caribbean have a legitimate interest everywhere else in our community. In that regard our own Judiciary should view with concern recent developments in Trinidad and Tobago where the Prime Minister, Mr. Basdeo Panday, has declared the chief justice, Mr. Michael de la Bastide, an enemy of the ruling party and the government. Justice de la Bastide had the temerity to complain about attempts at political interference in the judicial process in his country."

Of course, Mr. Speaker, tongue in cheek.

Mr. Panday: Descended into their area.

Mr. P. Manning: The editorial notes that:

"He had the support of others on the bench.

Mr. Panday's attack can only serve to undermine public support for the judiciary in that country, weaken the bench and threaten democracy. We believe, therefore, that it is important for the Jamaican bench, and the judiciary at large, to speak out against Mr. Panday's attack.

It won't do for our judiciary to take an aloof, beyond-the-fray position or to speak in cryptic language. This demands open, up-front, plain talking to tell Mr. Panday what is what. For as we were so eloquently told, justice is not a cloistered virtue."

Mr. Panday: What is your opinion?

Mr. P. Manning: I go on, Mr. Speaker. The list that I have read is by no means exhaustive. I could quote far more extensively on this matter but the time does not permit it. Suffice it to say that the body of opinion that has been expressed against this course of action has come from all walks of life, from people of all backgrounds, from people of all political persuasions representing the widest possible cross-section of the people of Trinidad and Tobago, almost in one voice saying to the Government of Trinidad and Tobago, "Enough, no more".

Mr. Speaker, I turn now to the composition of the commission. The Chairman is a former Lord Chancellor; his name is Lord Mackay. The *Solicitors Journal* of March 28, 1997, when he held office, said that:

"The court system is in a shambles."

"…morale within the court system is at an all-time low, resulting in chronic inefficiency, delay and consequent cost."

He was talking, of course, about the British court system, not the court system of Trinidad and Tobago.

But I would like to quote from the documents themselves. In the *Solicitors Journal* at page 275, the article is entitled "Lord Chancellor's task" and it says it, at three different points in the article itself. First, it goes:

"Moreover, morale within the court system is at an all-time low, resulting in chronic inefficiency, delay and consequent cost."

It says elsewhere:

"Next, the new Lord Chancellor should be more robust in his defence of the judiciary."

This was written when Lord Mackay was going out of office and they were making a comment and advising the incoming Lord Chancellor that he:

"…should be more robust in his defence of the judiciary. The judiciary at all levels from tribunal chairman to the Law Lords are seen as fair game by various cabinet ministers and their departments."

What, in fact, they were saying was that Lord Mackay took an attitude towards the Judiciary that was not in the interest of the independence of the Judiciary, him having a view of the independence of the Judiciary that was a very restrictive view and, incidentally, not shared by so many of his colleagues.

At the end, of course, the article says that:

> "The court system is in a shambles."

It is commenting on the stewardship of the Lord Chancellor, Lord Mackay.

It is the very same honourable gentleman that the Attorney General and members of his Government would have us believe is the epitome of rectitude, would have us believe is as broad in his view about judicial independence as he should be and that he represents a solution to the problems of Trinidad and Tobago, which could only be the case if you ignore his stewardship in the United Kingdom. His colleagues in the United Kingdom have said that. [*Desk thumping*]

2.45 p.m.

Mr. Speaker, I turn now to the *New Law Journal* of December 06, 1996. At page 1791, this is what it says—permit me to quote at some length, Mr. Speaker:

> "I come now to the strange case of Sir John Wood (For the full facts, see 'What is happening to judicial independence?') …While we were all concentrating on preserving judicial independence of lay judges and their legal advisers, there suddenly surfaced a very grave allegation made on the front page of *The Observer* of March 6, 1994…"

At a time incidentally when our man was Lord Chancellor.

> "…supported by a very respected and recently retired Lord Justice of Appeal, namely that the Lord Chancellor had acted unconstitutionally by requiring the President of the Employment Appeal Tribunal, Sir John Wood, a High Court judge, to follow a legal course which that judge considered to be contrary to his judicial oath."

This is Lord Mackay, Mr. Speaker. Lord Mackay, the person whom the hon. Attorney General is suggesting to the national community and to His Excellency, the President, should accept as Chairman of that Commission of Inquiry who is now being referred to in the following terms. He is asking Sir John Woods a High Court Judge to follow a legal course which that judge considered to be contrary to his judicial oath. Mr. Speaker, I say it for the benefit of honourable Members opposite. *[Desk thumping]* Because I get the impression that that Cabinet is run,

not on the basis of the wisdom of the arguments, but on the basis of the source from which it comes. It is personalities; it is the singer across there and not the song. Whatever the Attorney General says they are prepared to accept it. That is the impression I have.

How else could we have a situation where the Prime Minister gets up in the Parliament and makes a statement about Trains 2 and 3 of Atlantic LNG and so forth; that the Government is moving ahead, but the Attorney General could say: "Moving ahead? You cannot move ahead unless I say so." I am looking very carefully before I say such a thing. In other words: "to hell with the Prime Minister." That is what the Attorney General is really saying. *[Desk thumping]*

Mr. Valley: Dhanraj is another one.

Mr. P. Manning: The article continues:

> "Copies of the letters passing between Lord Chancellor and Mr. Justice Wood which were disclosed by *The Observer* were subsequently deposited in the House of Lords Library. That led to Questions in the House and subsequently to a debate at the instigation of Lord Irvine of Lairg. The Lord Chancellor's letter to the judge of which complaint was made stated in substance that if the judge did not apply certain statutory rules to the Tribunal in the manner in which the Lord Chancellor thought appropriate he should—I quote—'consider his position'."

You understand Mr. Speaker? The Lord Chancellor said to Mr. Justice Wood: "If you do not operate in the way in which I direct you to operate, then you should consider your position."

Dr. Rowley: Threats!

Mr. P. Manning: He threatened the judge.

Dr. Rowley: And you learned that from him.

Mr. P. Manning: "…Mr. Justice Wood concluded his letter to the Lord Chancellor…"

which is Lord Mackay,

> "…in the following terms:

> 'You have demanded that I exercise my judicial function in a way in which you regard as best suited to your Executive purposes, but I have to say that in all the circumstances that present themselves to me and in the light of

the existing law, I cannot regard compliance with your demand as conducive to justice… You express disappointment. I express profound regret that it has even been the uncomfortable duty of a judge in this country, in compliance with his Judicial Oath, to write to a Lord Chancellor or refusing a demand such as the one you made.'"

Of course, Mr. Speaker, the article continues:

"No reply came. There was merely a Civil Servant's acknowledgement on May 5, stating: 'the Lord Chancellor is considering the issues you raise and hopes to reply shortly.'"

You understand?

"In the course of that debate Lord Oliver was moved to say: 'Recent pronouncements in this House seem to indicate that the noble and learned Lord, the Lord Chancellor and his Department interpret the principle of judicial independence in a very much more restricted sense and as meaning simply this: judicial independence is infringed only if an attempt is made to dictate or influence the decision in a particular individual case.'"

It is a restricted view. That is what the problem was. It is a restricted view, Mr. Speaker, and it is appearing to us that that is the view of the Attorney General of Trinidad and Tobago. *[Desk thumping]*

Mr. Valley: That is right.

Mr. P. Manning: That is the problem. It is the same view that the independence of—the hon. Attorney General will say from now till the cows come home that the Government is not interfering because he believes, as Lord Mackay believes, the Lord Chancellor at the time, that one interferes with justice—the judicial independence—only if one tries to dictate a matter in a particular case. In other words, Mr. Speaker, "show me your friends and I will tell you who you are". *[Desk thumping]*

Mr. Valley: We know who he is, long time.

Dr. Rowley: But we know him long time "yuh know". Mackay is new to us but we know him.

Mr. P. Manning: The article continues:

"He observed:

'I hope very much that I am wrong about that because one has only to think about it to see where the logical train then leads. On that analysis a direction in the 1930s by the German Ministry of Justice that judges were

not to decide disputes in favour of members of the Jewish faith or against party members would have been no infringement of their judicial independence—and that of course is quite absurd.'"

That is where the argument led to.

"I next briefly refer to the exhortation delivered to the public by the Chairman of the Conservative Party Mr. Mawhinney at a Party Conference suggesting that they should write to judges where they were dissatisfied with sentences, thereby clearly seeking to influence or pressurise the judges to adopt a tougher line on sentencing, which represented the current philosophy of the Government. When critical questions were raised about this conduct in the House, the Lord Chancellor was not prepared to comment adversely on the Chairman's conduct."

Do you know why, Mr. Speaker? Because the Attorney General agreed with it. That is the man that the Attorney General is suggesting to us to be the Chairman of a commission of inquiry into the administration of justice, and in particular, interference by the Executive in the Judiciary in Trinidad and Tobago.

Mr. Speaker, in seeking to find an answer then, to the question: why then did the Government choose Lord Mackay? The answer can be gained from an article by Lord Ackner, another former Law Lord and colleague of Lord Mackay, in which Lord Mackay is credited with a very restricted view of the meaning of the independence of the Judiciary. Clearly, Lord Mackay is chosen not because the Government wishes to seriously inquire into the allegations of the Chief Justice about attacks on the independence of the Judiciary, but because it wishes to have the inquiry coloured by the narrow and restricted views of Lord Mackay. This, Mr. Speaker, cannot inspire confidence in any findings of the commission on this matter.

Lord Ackner's article refers to the case of Mr. Justice Wood; and interference with judicial functions by Lord Mackay. That is the article I just read into the record.

2.55 p.m.

Mr. Speaker, what happened in the case of Mr. Justice Wood is also set out in the *New Law Journal* of April 22, 1994 at page 527 in an article by another English judge, the Right Hon. Sir Francis Purchas. It goes like this,

"In the opening letter of correspondence under review, dated December 18, 1992, Lord Mackay wrote to Mr. Justice Wood referring to the difficulties in March of that year:"

The same Mr. Justice Wood.

> "As you know, over the last year and more, I have been concerned at the growing backlog of cases at the EAT. …I wish to ensure that public money is not wasted on preliminary hearings in cases where there is no point of law shown in the Notice of Appeal. I am disappointed to note that you are still making little use of the power which Rule 3 gives you to reject notices which in your opinion show no point of law to give the tribunal jurisdiction to register to the appeal."

Mr. Speaker, I do not wish to read the entire article into the record, but let me just come to what I consider the punchline—and this was after he had asked him to reconsider his position, remember that one. It goes as follows:

> "Subsequently, Lord Mackay was to say in the House of Lords: I had no intention whatever of inviting Mr. Justice Wood to resign his judicial Office, and I did not do so."

It sounds too much like the Attorney General of Trinidad and Tobago. He writes him initially and he says to do this and that, or "consider your position" and then when a debate breaks out in the House of Lords on the matter, he is able to get up and say, "I never had any intention of asking the man to resign and I did not do so." Do you understand, Mr. Speaker? It is the same attitude that the Government has taken with the media in Trinidad and Tobago, where it was the destination of the *Guardian* newspaper, and the Government would tell you. "We did not do that".

Mr. Panday: I never burned the *Guardian*.

Mr. Hinds: Nor the Constitution.

Dr. Griffith: Williams did both.

Dr. Rowley: You only burnt Jones P. Madeira! [*Crosstalk*]

Mr. P. Manning: Therefore, at the end of day, we conclude that Lord Mackay was selected to head this Commission of Inquiry not because of his prowess in the law or any particular expertise that he may have in respect of the conduct of the administration of justice in the United Kingdom or any other country or because of his objectivity in the conduct of his affairs. He was selected because he shares a view on the independence of the Judiciary which is very restricted and consistent with the view of the hon. Attorney General and the rest of his Government and because it is convenient, at this time, to have him do that and, at the end of the

day, he is put in place to do a particular job which the Attorney General requires; a hatchet job as described.

Mr. Speaker, just a minute please. I turn now to the counsel, a certain Mr. Geoffrey Robertson who is not a citizen of this country at all. [*Interruption*]

Hon. Member: Did they not change him?

Mr. P. Manning: Have they changed him? I did not know that; they did not say that. So you see, Mr. Speaker, there is a doubt as to whether they have changed him or not, because they have now put out the inquiry without saying that he is counsel. Well, what they have now said is that it comprises these people and they did not refer to who was the counsel. He is still the counsel.

Mr. Geoffrey Robertson is not a citizen of this country and during the court proceedings arising out of the attempted coup he described those lawyers who gave yeoman service to the state, including the then Acting President in this country's most difficult moments, as “bush lawyers”. Permit me, Mr. Speaker, to read from the court proceedings before Mr. Justice Brooks on March 17, 1992. I am reading at page 44:

> “Well, of course that was an opinion that was booted around at the time, and I made the point that what the lawyers thought and said at that stage is not a matter that is quite irrelevant to our purposes. And he thought that something like as the words ‘as required of me’—or some of them thought, and this is perhaps the problem of too many cooks spoiling the cake of what I think in Australia is called ‘bush’ lawyers, people who aren’t real lawyers but think they know what will work, putting in words here and there, someone thought that those words would be important in some way...”

This is Robertson’s view of lawyers in Trinidad and Tobago.

I think the Parliament should note that one of the lawyers involved in this case to whom reference has been made by Mr. Robertson is today the Chief Justice of Trinidad and Tobago, the hon. Michael de la Bastide. Therefore, Mr. Robertson comes with this bias to sit on a commission of inquiry as counsel, the genesis of which is a statement by somebody who he referred to sometime before as a “bush” lawyer and who today is the Chief Justice of Trinidad and Tobago, at the opening of the law courts that the independence of the Judiciary was under threat from the Executive. [*Desk thumping*]

Mr. Speaker, what qualifies Mr. Robertson to say these things? [*Interruption*] It is well known that Mr. Robertson was one of the lawyers who appeared

together with Mr. Ramesh Lawrence Maharaj in a case in the United States, I think it was in Miami, in which a member of the family of the Attorney General was before the courts for murder.

Mr. Hinds: Oh "gooooood"! Tell us, teach, teach!

Mr. P. Manning: Do you understand, Mr. Speaker?

Mr. Hinds: He is now getting his fees.

Mr. P. Manning: In asking this Parliament to take note of the Government's stated intention in this regard, I also need to point out that there was an alternative suggested by the Law Association. They agreed that Mr. Justice Telford Georges should come to Trinidad and Tobago and do an investigation in a non-threatening way, which he has done. Justice Georges has done his inquiry and has reported, but only yesterday the hon. Attorney General held a press conference to condemn the report; clearly, in anticipation of a debate that was to take place in Parliament today; that is the only reason.

The fact of the matter is, there are and still remain, alternatives to the Commission of Inquiry suggested by the Government of Trinidad and Tobago, that the work already done by Mr. Justice Georges is acceptable to the People's National Movement and to those of us on this side, and it promises to put the matter to rest without running the risk of all the problems to which we have referred, in relation to the Commission of Inquiry. It is unacceptable to the Government of Trinidad and Tobago because the objective is not to inquire into the administration of justice or to set any wrong right. Their objective is not to identify where the truth lies in relation to the statement of the hon. Chief Justice, but their objective is to attack and humiliate the Judiciary of Trinidad and Tobago and, in respect, the hon. Chief Justice. [*Desk thumping*]

In asking the Parliament, therefore, to take note of the Government's intention to establish this Commission of Inquiry, not only do I ask the national community to note also and to reject this approach, but I now call on the Government of Trinidad and Tobago to reconsider the dangerous course of action on which they are now embarking.

Thank you.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, it is very surprising that on such an important issue like this the Leader of the Opposition, apart from not having an opinion in this matter, reading from matters obviously prepared for him, has come here, filed

a Motion and has told us many inaccuracies. We start firstly with the Motion itself.

Mr. Speaker, the Motion is that "the Government has announced its intention to establish a Commission of Inquiry into the Judiciary…"—that is not correct. Apart from the publicity in this matter and statements of the hon. Prime Minister on television, in this House on January 04, 2000, the hon. Prime Minister stated the decision of Cabinet which was to appoint a Commission of Inquiry into the administration of justice. An inquiry into the Judiciary and inquiry into the administration of justice are two different matters.

The Judiciary is only a part of the administration of justice and there is procedure in the Constitution if judges have to be investigated. A commission of inquiry into the administration of justice is not an inquiry into the conduct of judges, as to whether someone is guilty or not guilty. What is amazing is that in a serious matter like this the Member has come here and has said that there were no terms of reference announced. But on January 04, 2000—it may be that he was sleeping, as he normally does in the Parliament—the hon Prime Minister not only announced the terms of reference of the Commission of Inquiry but he also showed how previous administrations, including the PNM, appointed commissions of inquiry into the administration of justice. [*Interruption*]

Mr. Manning: Mr. Speaker, I thank the hon. Attorney General for giving way. I wonder if he would care to tell us whether the terms of reference as he claimed were announced by the Prime Minister on a certain date are the same ones sent to His Excellency the President without change?

Hon. R. L. Maharaj: Mr. Speaker, this is additional and more cogent evidence that the hon. Member for San Fernando East does not pay attention to what happens. Is he saying that he has come to this Parliament as Leader of the Opposition, as an alternative Prime Minister, on an important issue in which justice affects everybody in this country and he has not read—even if he slept here—what the hon. Prime Minister said in this House?

3.10 p.m.

The hon. Prime Minister said that the terms of reference and the instruments were sent to His Excellency the President. As a matter of fact, on January 04, 2000, the hon. Prime Minister, in a statement, was at pains to report to this honourable House what Cabinet had done. He gave instances where the PNM administration had cause in the past to appoint Commissions of Inquiry.

In 1972, a Commission of Inquiry headed by Justice of Appeal, Karl de la Bastide, was asked to inquire into and investigate the working of the magistracy as part of the administration of justice. Who was in office then? Not the UNC, not the NAR; it was the PNM, the Member for San Fernando East—I am sure he was a Member then. In 1972, a Commission of Inquiry was appointed to inquire into and make recommendations on the machinery and administration of justice in each of the magisterial districts of Trinidad and Tobago, with special reference to the duties and jurisdiction of magistrates—whether these courts are adequate; the question of Justices of the Peace who function in the courts and the procedure in the courts. Does that then mean magistrates would have to go and give evidence? Would they have to get lawyers; would there be delays? Was that an attack on the independence of the magistracy?

In 1977, who was in office then? Not the UNC, not the NAR, but the PNM. Another Commission of Inquiry into the administration of justice headed by Justice of Appeal, Karl de la Bastide again, called to inquire into reports of alleged widespread disaffection among magistrates, owing to alleged arbitrary and sectional practices, which disaffection could have adverse effects on the administration of justice in Trinidad and Tobago. And the President signed on the advice of Cabinet—same procedure. But today he was asked to give an opinion in relation to what he was talking about when he talked about the commission of the instruments which went to His Excellency the President. But he could not give one.

He wrote a letter to the hon. Prime Minister and he tried to get the hon. Prime Minister to act in collaboration with the undermining of the Constitution in respect of the President not signing matters in which he was advised by Cabinet to sign. He sits down here on an important issue in which people's cases are being delayed. Mr. Speaker, as I stand here, there are people in this country who are waiting for judgment for years. The newspapers are filled with them and I would refer to some of them.

For years, there are instances where judges do not write judgments. This is not an issue to be swept under the carpet. Mr. Speaker, I would later show this honourable House cases involving drug persons who were in the courts and have never been heard, never been tried; that is what the administration of justice is about. Mr. Speaker, what is a Commission of Inquiry? A Commission of Inquiry is not to find anybody guilty; it is not to condemn anyone; Commissions of Inquiry exist from time to time, in order to consider whether matters have arisen which should be investigated, to see whether there should be review and reform in

order to improve delivery of matters to the people. Commissions of Inquiry exist for the public benefit. What would happen with this Commission of Inquiry? What are the terms of reference of this Commission of Inquiry? Not to investigate any judge, but to inquire into, report and make recommendations on the machinery.

Mr. Speaker: Hon. Member, I am very sorry that it slipped me. I should not, indeed, have allowed you to comment on it without the matter being seconded. It has just occurred to me that it is a Private Member's Motion and I am sorry that no hon. Member of the honourable House was sufficiently alert to bring that to my notice. I am sorry about this. It means that the contribution which you are making is, in fact, jumping the gun and I take it that there are people who are in a position to second and who did not get up to do this. But I simply indicate that the procedure, beyond the contribution of the Member for San Fernando East, is flawed, and I will, in the circumstances, now enable any hon. Member who wishes to second the Motion, to do this.

Mr. Valley: Mr. Speaker, I rise to second the Motion of the Member for San Fernando East and reserve my right to join the debate at a later stage.

Motion seconded.

Hon. R. L. Maharaj: Mr. Speaker, I am much obliged to you. This Commission of Inquiry is not to make a judgment call on anyone, and not to find anyone guilty, as I said. It is to inquire into and report and make recommendations on the machinery for the administration of justice in the Republic of Trinidad and Tobago, with special reference to the duties and functions. The hon. Prime Minister said it in this honourable House: management, adequacy of the system of courts and procedure, to provide more efficient, accessible, affordable and expeditious justice for all. The qualifications which may be prescribed for the appointment and promotion of judicial officers; the manner of dealing with complaints by the legal profession and the public against judicial officers; that is to say, if people have complaints. Right now there are so many complaints and no system to deal with them. People do not get answers; is that against the public interest? Does it mean that the independence of the Judiciary would be compromised if there is a complaint mechanism so people can complain and their complaints can be attended to? If there is a Commission of Inquiry in which people can come and say how their cases are being delayed and what they recommend should be done to solve this problem, is that a violation of the independence of the Judiciary?

Is the PNM so opposed to the people that they do not want the administration of justice system to improve? This is an inquiry in order to make more efficient, accessible, affordable and expeditious justice for all. Is that what the PNM is saying: that we should bury all this under the carpet and not do it?

As a matter of fact, in 1994, when the PNM came here, the then Attorney General made a statement in Parliament on the administration of justice in Parliament. He said that it was spiralling downward and it would be difficult to arrest. There were delays and he took all the reports and reviewed them. We then took the position that it was not going to solve the problem and that has proven to be correct.

3.20 p.m.

What he is trying to do is prevent the people from seeing how they did not act and, as a result of not acting—because we had asked him to appoint a Commission of Inquiry and he refused. He said that his Attorney General knew what he was doing; they would take all the reports and we would have no more delays in the courts. However, when you read the papers from 1994 to today, for 20 and 50 years, a man acquitted on drug charges, he leaves the country, other people are being held on drug charges, cases cannot be heard, yet the system is very, very good.

In other words, if the judicial sector has problems, if it is not functioning efficiently, for whatever reasons, to try to get an assessment of it in order to see that the country's resources are better utilized, your function as an Attorney General and as a government is to cover it up. Why? You might offend somebody at a cocktail party and the people who do not get justice must remain that way all the time. That is how the PNM operated.

Mr. Speaker, have you ever seen the Leader of the Opposition make a contribution like that? He knows about Lord Mackay, Lord Ackner and Lord Browne-Wilkinson? Who prepared that for him? He was not speaking here today. He was speaking because a group of people told him to say this. Did you ever hear, Mr. Speaker—[*Interruption*] [*Desk thumping*] Mr. Speaker, anybody who knows the Member for San Fernando East knows he does not read law. As a matter of fact, he would not have made an error like a Commission of Inquiry into the Judiciary. This was prepared for him. He is a conduit. He came here and he just filed this. So, Mr. Speaker, when the hon. Member for San Fernando East comes here and tells us all these things, we know that this is not his Motion. We know that he is a conduit.

We know that he has come here to say things because other people told him that he must say them. Let me show you how, Mr. Speaker. He comes first and says an inquiry into the Judiciary; so that is wrong. He said the Prime Minister did not give terms of reference. That is wrong. He said I am appointing a Commission of Inquiry into the administration of justice—wrong. It is an attack on the independence of the Judiciary but the PNM Cabinet, of which he was part and parcel, appointed a Commission of Inquiry into the administration of justice. Mr. Speaker, even more revealing, he referred to a publication of the Inter-American Development Bank and quoted from a newspaper cutting. He came to this House as Leader of the Opposition and said the IDB did a report on the administration of justice and gave very high marks for the administration of justice. That is not true.

I have the report here. What happened is that there was, in effect, a conference held in Jamaica hosted by the IDB. Its terms of reference were to consider existing studies and report on judicial reform, develop a plan of action, *et cetera.* There were several papers, good papers, bad papers, papers that said all sorts of things and some of the papers praised certain countries, others criticized, delegates said all kinds of things and the IDB put out a publication and included some of the papers. In the publication—and I read from the *Judicial Reform in Latin America and the Caribbean*—the compilation of the papers makes it quite clear. It said that the views and opinions expressed are those of the authors and do not necessarily reflect the official position of the Inter-American Development Bank.

How could the Leader of the Opposition come here and say the Inter-American Development Bank conducted a survey, a study, and said the justice system in this country is tops? As a matter of fact, Mr. Speaker, I could disclose it. Representatives of the Inter-American Development Bank came to see me and I told them that computers cannot solve the problems of the administration of justice. Putting a case management unit to manage cases and installing computers would not solve the administration problems confronting the administration of justice. What has to be looked at is the system, the kinds of appointments, whether appointments should be changed, whether you have a judiciary with other kinds of criteria or whether you have a different kind of appointing system as to whether you have a career judiciary, things like that. Merely installing computers cannot solve these problems.

You can build the biggest building, the best Hall of Justice, have the best furniture, you can put the most computers but the people in the street would suffer

unless the infrastructure of the system is transformed. If computers, Mr. Speaker, could have solved the problems in the administration of justice, Bill Gates could have solved them. [*Desk thumping*] Computers cannot solve them. However, here he comes again and says that the report which the Judiciary gave about the administration of justice shows how the system is very good, it is progressing.

Mr. Speaker, I took the trouble because I think it was a very important issue, to lodge in this Parliament a document called *The Doctrine Of The Separation Of Powers, The Independence Of The Judiciary, The Obligation Of Accountability, The Facts Of The Matters Raised By The Chief Justice*. In that document we dealt with several matters including all the principles and the allegations. Included in that presentation was a commentary on the annual report of the Judiciary. At page 51 of the—[*Interruption*]

Mr. Valley: Mr. Speaker, I just want to ask one simple question, please. I wanted to know whether that contribution was the Member's own work or whether it is somebody else's work, given that last week he informed us that he paid a considerable amount of money for that.

Hon. R. L. Maharaj: Mr. Speaker, if I knew he was going to ask me that nonsense I was not going to give way and in future I would not give way in this debate for him. You see, that is the problem. They cannot discuss issues. They become personal. This is a serious issue. Your leader came—[*Interruption*]

Mr. Speaker: Order, order!

Hon. R. L. Maharaj: Your leader has not said what is the position of the Opposition on administrative independence of the Judiciary. You sit next to him and, instead of trying to encourage him to do good, you encourage him to go right down the road because you probably have your agenda. Encourage him to uplift himself, not to go down. Mr. Speaker, at page 51 this report analyzed the report given by the Judiciary. It shows, on the statistics given by the Judiciary in its report, it is a sorry state of affairs—the delays are grave, people would not be able to have their cases heard and computers alone cannot solve the problem.

So when they come here, Mr. Speaker, and make all these points, of what importance is it whether Mr. Robertson said the lawyers who did the amnesty were "bush" lawyers? There is an important ingredient of the independence of the Judiciary—the independence of the legal profession and lawyers must be free to criticize whoever is involved in a matter. When a lawyer puts on his gown and goes to court, that lawyer must be able to express his view as he or she sees it. [*Desk thumping*] Just because someone is a big Queen's Counsel and later becomes Chief Justice, it is of no consequence in this matter.

If, at the time, Mr. Geoffrey Robertson said that the state got poor legal advice and a "bush" lawyer would have been able to do a better job, yet it showed from the facts of the case that the state retained lawyers but the state's interest was not properly protected, do you want to blame Mr. Robertson for that? The case decided that. If you study the case and you followed what happened in the case—but he comes here, Mr. Speaker, and because Mr. Geoffrey Robertson expressed a view in a matter, we must not have a commission of inquiry!

Mr. Speaker, I would not deal with all that the hon. Member for San Fernando East has said because I have many more important things to deal with in this debate. All I can say is that this has nothing to do with Pratt and Morgan. The only thing that has to do with Pratt and Morgan is, is the judicial system still functioning in a way in which the appeals of people convicted of murder are not being heard within the time-frame resulting in their death sentences being commuted? That is the position up to today. People who are convicted of murder, the appeal process is not being completed and although the law says they are to be executed and the court finds them guilty, because of delays they cannot be executed.

The hon. Member for San Fernando East had an opportunity of saying that when we came with the Bill. He did not do it then, yet he comes in this Parliament to give the impression that everything is fine and there is no need. I am not saying that the Judiciary has not been doing a good job. I am not saying that they will not do a good job, but that is not what this inquiry is about. One of the terms of reference of this inquiry, Mr. Speaker, is as to whether the system and the machinery of justice, which have been in existence over the years, must be looked at in order to see whether changes ought to be made to the system. Other countries have done that. As a matter of fact, Mauritius recently had a commission of inquiry to look into the administration of justice and there is a report.

So countries have to look at their justice system from time to time, in the same way, Mr. Speaker, that a government has to look at the police service from time to time. It is the same way it has to look at its justice sector and its Parliament from time to time. So what the hon. Member for San Fernando East is saying, in effect, is, do not look at reforms because there are judges and they are above the law. In other words, we must not scrutinize what they do. Mr. Speaker, if we do that we will be failing in our duty.

As a matter of fact, I would have thought the hon. Member for San Fernando East would have gotten up here today and said that, "This thing about administrative independence, as a Prime Minister, that was what was happening

in my term". I thought he would have said, "Well, if you say that during my term as Prime Minister my Attorney General used to do the same thing and there are notes to which they are written, could you show me a copy of them if you have doubts about it?"

Is the hon. Leader of the Opposition saying that what is stated in the Georges Report—which he accepts—is that, in effect, an Attorney General would have no responsibility to the Parliament for the administration of justice? Is he saying that the Chief Justice would sit in the Hall of Justice, whoever he or she may be, he will be a member of Cabinet but he will be sitting in the Hall of Justice? That is what the Georges Report says. I want the national community to know this because when we go to the election hustings that is what we will say you have agreed to. You have agreed that the Chief Justice will be part and parcel of your Cabinet. If you agree to the Chief Justice being part and parcel of your Cabinet, then you are going to erode the independence of the Judiciary.

Mr. Speaker, the reason why there is separation of powers is so that the Executive must not even appear to give the Judiciary whatever it wants in order for the impression to be created that the administration of justice is in the pocket of the Executive. That is why there are procedures to be followed, so that if they have to be scrutinized one would see that they are scrutinized. According to the hon. Member for San Fernando East, he wants the holder of the office of Chief Justice to be a member of the Cabinet of Trinidad and Tobago. The only difference would be that the Chief Justice will be sitting in the Hall of Justice and the Cabinet will be sitting in Whitehall. He is saying that he agrees with that.

That is violative of the independence of the Judiciary and, by agreeing to the Georges Report, he is saying that he wants to be a conduit, he will be a messenger boy, that any Chief Justice who sends a note to him, he will automatically approve it. He will be just the conduit in order to go to the Cabinet. However, Mr. Speaker, I understand that because he was always the messenger boy. He is still the messenger boy. He became a Prime Minister and he was the messenger boy and that is why he had to call an early election because, when the interests did not want him to do what he had to do, he decided that he had a following and he called an election. [*Interruption*]

Mr. Speaker, he comes here and attacks Lord Mackay. A previous Lord Chancellor who was the head of the Judiciary in England heads this Commission of Inquiry.

3.35 p.m.

The Lord Chancellor in England is a member of the Judicial Committee of the Privy Council. So that to say people are foreigners, we still have a system in which our cases go to London. So, are we saying we do not want the Privy Council Judges to be part and parcel of our judicial system? The Constitution says that. Who is the other member of the commission Mr. Speaker? Dr. Singhvi! Dr. Singhvi is the world expert on the independence of the Judiciary. He had been commissioned by the United Nations to do the basic principles on the independence of the Judiciary.

Hon. Member: They do not know that.

Hon. R. L. Maharaj: The United Nations' basic principles on the independence of the Judiciary are known as the Singhvi Declaration—Singhvi Principles.

Hon. Member: They will not know that. They do not read about that.

Hon. R. L. Maharaj: When Justice Georges was in Caracas at a conference I attended about 15 years ago, sponsored by the International Commission of Jurists, we went to Caracas to discuss independence of the Judiciary and it was the Dr. Singhvi Principles that were being discussed. So this is an authority by the United Nations. So there are Lord Mackay, Dr. Singhvi and Justice Amissah, a man who is President of the Court of Appeal of an African state; a man who is a Member of the Commonwealth Judicial Council and, here it is, that distinguished team to come here to look at our system of justice. Mr. Speaker, do you know what had happened? When they were approached, they did not request any fees. They said they considered it as a duty, as citizens of the Commonwealth to come and they would not charge any fees. No fees! Just expenses! In order to have that international resource come here to help us come up with a plan of action, so that the people could get more affordable justice—and the Opposition is against that.

Mr. Assam: They bring in foreigners to try our soldiers in 1970 and to put them to the firing squad. Hypocrites!

Mr. Speaker: Order please.

Hon. R. L. Maharaj: Mr. Speaker, the hon. Prime Minister reminded me when the hon. Leader of the Opposition was speaking, that when the Government attempted to appoint Justice des Iles, a distinguished judge of Trinidad and Tobago, retired Judge of Appeal, the hon. Leader of the Opposition got up and

attacked him; attacked his integrity; attacked his impartiality; and here it is, the Member has come today to attack the independence and impartiality of the Lord Chancellor.

Mr. Speaker, if the hon. Member for San Fernando East used to follow what used to happen at his Cabinet meetings and when he was Prime Minister, he would know that there are two things on a commission of inquiry. There are the members of the commission who adjudicate and make the findings, and if it is that anybody believes that anybody there is biased, they can apply and go to the High Court, and the High Court could rule that the person is biased and that person would not be able to sit on the commission. You could get a prohibition. That has been done in the past already. Then there is the lawyer for the commission, who is retained by the state.

Mr. Speaker, now, if I quote here this afternoon how many lawyers, Members of the Opposition were friendly and associated with when they were in Government and were retained by the state, I will still be here tomorrow morning. When I became Attorney General I did not use that. As a matter of fact, Mr. Russell Martineau and Mr. Daly have been retained by the state all the time, whilst I have been Attorney General! I see it as a system in which one does not become so petty. Here it is, on an important issue like this, the Opposition comes to talk about this pettiness.

Mr. Speaker, the Leader of the Opposition was very involved in the Caricom Charter for Civil Society. The Member went all over the Caribbean states and all over the country saying that these are important principles; we must ensure that our people benefit from these; we must take every step to ensure that they are not undermined; and we must take every action in order to promote them. Let us see what good governance says under Article 17. That is why, there is a lot of double talk in politics, and the people suffer.

Mr. Speaker, here it is that the Government is doing something for the benefit of the people, but because the Opposition has a few friends and they want to "knock glasses" with them; drink with them; go home with them; visit them; they are not concerned about the people. People are having difficulty getting statistics in the Hall of Justice and the Government is asking for it. The Chief Justice was asked for it and he said his duty is not to supply it. He has independence, his duty is not to supply it.

As Attorney General, I wrote to the Chief Justice and I said that I want to get statistics about delayed cases. How many cases are pending? Who are the judges? How many months are these judgments outstanding? The Chief Justice said we are not entitled to get it.

Mr. Hinds: He is right.

Hon. R.L. Maharaj: He must not get it to the people. *[Interruption]* The Opposition is saying that the Chief Justice is right.

Hon. Member: Yes.

Hon. R. L. Maharaj: The Opposition is saying that the Chief Justice is right. Mr. Speaker, that is why—

Mr. Valley: Mr. Speaker, on a point of order, Standing Order 36(10).

Mr. Speaker: No, in the context of this Motion it is not out of order. In the context of this Motion this is all about it. It is not out of order, please proceed.

Hon. R. L. Maharaj: Mr. Speaker, if it is that we are having a commission of inquiry, then, as to the practice which exists as to information which can come to the executive and to the people, it is a matter which must be investigated and recommendations made. So if it is correct—it may be that the Chief Justice is correct, if that is right—then the country is entitled to look at it and to see whether it should be changed.

In the Charter for Civil Society, Article 17, the states recognize and affirm that the rule of law, the effective administration of justice and the maintenance of the independence and impartiality of the judiciary are essential to good governance. So one of the pillars of the Charter of Civil Society is that good governance ensures that there must be effective administration of justice. That is what this Motion is about—to make the administration of justice more effective. This is a commission in order to assist, in coming with recommendations with that.

Mr. Speaker, as I said, a commission of inquiry is to make findings, make recommendations and for the Government to consider and for these matters to be discussed. What happens when a commission of inquiry is appointed? There are terms of reference—I am going through this in order to put this Motion in perspective—and the commission of inquiry is appointed under the Commission of Enquiry Act, Chapter 19:02 and that Act was passed. Well, it was before an Ordinance, and the Ordinance was passed in 1892. The only amendments were because of the change of status of the country from Crown Colony to Independence and then becoming a Republic. Under section 2 of that Act, it was

the Governor who was given the power to appoint a commission of inquiry. There was in the Ordinance, therefore, the original reference to the Governor instead of the President. What happened is, as you know, when we changed and became an independent country on August 31, 1962, the title of the post of Governor was changed to that of Governor-General. So there was in the Trinidad and Tobago (Constitution) Order in Council of 1962, at rule No. 63(1), the following:

> "The Governor-General shall, in the exercise of his functions, act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where by this Constitution or any other law he is required to act in accordance with the advice of any person or authority other than the Cabinet:
>
> Provided that the Governor-General shall act in accordance with his own deliberate judgement in the performance of the following functions:"

And they mentioned certain specific matters.

Then it expressly says at (63)3:

> "The reference in subsection (1) of this section to the functions of the Governor-General shall be construed as a reference to his powers and duties in the exercise of the executive authority of Trinidad and Tobago and to any other powers and duties conferred or imposed on him as Governor-General by or under this Constitution or any other law."

Mr. Speaker, when one looks at THE EXISTING LAWS AMENDMENT ORDER, 1962, Notice No. 8, dated September 1, 1962 which was made pursuant to section 4 of the Constitution Order in Council of 1962; it says expressly in section 3 of the Order—because I want to show that the Government did what was constitutional that:

> "Subject to this Order and the Constitution, a reference in any existing law to the Governor (meaning thereby a Governor of the former Colony of Trinidad and Tobago) including a reference to the Governor in Council or the Governor in Executive Council, shall be read and construed as a reference to the Governor-General."

3.45 p.m.

Then, it says, expressly—and this may be of interest to those who are interested in this point:

> "(2) For the avoidance of doubt it is hereby declared that—
>
> (a) where immediately before the commencement of this Order a function was, under the existing law, expressed to be

> exercisable by the Governor acting in his discretion or absolute discretion, then unless that function is, under the Constitution, expressed to be exercisable by the Governor-General acting in accordance with his own deliberate judgement or in accordance with the advice of any person or authority other than the Cabinet, that function is exercisable by the Governor General acting in accordance with the advice of the Cabinet or a Minister acting under the General authority of the Cabinet;"

Mr. Speaker, the law remained unchanged until section 6(2) of the Constitution of the Republic of Trinidad and Tobago, which provides that:

> "…any rights, powers, privileges, duties or functions are vested in or imposed on the Governor-General…shall…be exercisable by the President."

Then, we have the famous section 18 of the Republican Constitution.

Mr. Speaker, having Cabinet appoint a commission of inquiry, the next thing for the Cabinet to do is to send the instruments to the President for his signature and that is what the Government has done. The instruments are still there and they have not yet been signed.

It is not unusual for countries, as I said, to appoint commissions of enquiry. Quite recently, there were commissions of enquiry into the justice system appointed. For example—there are several, but I will take two.

In Kenya, there was an appointment of a commission of inquiry into the judicial system and, based on the findings of the commission of inquiry, it was found that there was inefficiency and incompetence, and the government took steps in order to improve the system. It took steps to ensure that the appointed mechanism of judges was improved in order to benefit the people.

In Italy, recently, there was an appointment of a commission of inquiry and it was found that the system needed to be changed. There was a purging of the system, but you also had reforms which have worked to the benefit of the people of Italy.

Mr. Speaker, even recently in the United Kingdom, there was assessment being done of the administration of justice and that assessment has caused the British system to be improved and, as a matter of fact, there is a publication—I cannot probably find it at hand—in the *Times* which said that since there have been these improvements in the justice system, there have been instances where, as far as the criminal justice system is concerned, £50 million have been saved every year because of what has been found with the assessment and the steps which have been taken in order to improve the system.

Mr. Speaker, this commission of inquiry is really not what the Leader of the Opposition spoke about. It is not to enquire into the Judiciary. It is a much broader thing than that. It is to see whether the system is working and what recommendations can be made. But I cannot sit here for him to give the impression that the system has been working well and say nothing, because that is not correct. The system has not been working well. Yes, people have been trying their best; they have been doing a good job. But the system has not been working well. The justice system is not working well to deliver accessible justice and affordable justice to people. The criminal justice system is not working well.

I have a list of cases here in which a man called Dole Chadee was charged with possession of firearms, to possession of marijuana, to possession of cocaine. There are cases where all that happened was that they went to the Magistrates' Court; there were several adjournments and, in some of the cases, there were committals to stand trial; committals since 1994 and nothing happened. Not only 1994, but committals since 1992 and nothing happened; even before that, 1983; 1984; nothing happened.

It is a serious matter. In other words, the police service risked lives in order to do investigations. They arrested people; put them before the courts and when they appear before the courts, for whatever reason, the system does not try these people. But a person who has an assault and battery case, or any other case, the case could be tried very quickly, or for another kind of person, the case is tried.

If you look at the statistics, Mr. Speaker, you would see that most of the cases which are delayed in the criminal justice system are people linked to the drug trade and, therefore—[*Interruption*] No, it is not that.

Mr. Speaker, that is what has been happening in this country. People are afraid to deal with problems. That Opposition, in government, was afraid to deal with the problem and their whole problem is that they are afraid, as Opposition, to deal with the problem.

Here it is I am pointing out that there are cases that Mr. Dole Chadee had, which were never done; he was never tried. He was executed on another charge without it being done, and since 1983—and the hon. Member for San Fernando East was Prime Minister during some of these years, but he is not concerned about that. He comes and talks about our saying that he sold his car to a drug lord, but that is true and if it is true, the people are entitled to know that. It is true. The certified copy said so.

Mr. Hinds: He was Prime Minister; you were defence lawyer.

Hon. R. L. Maharaj: Mr. Speaker, I do not know whether the hon. Member for San Fernando East even reads the newspapers. How can he come here and say that the system is working well.

Only on February 14, 2000, there was an editorial in the *Newsday* headlined "Overturning Volney". There was a case where two persons, Gomes and Gomez, were charged for possession of cocaine, $13 million worth of cocaine. The judge stopped the case; the people left the country; the matter went to the Court of Appeal months after. It is not a case where the Court of Appeal convened right away and did the case. It is a case where months later, the matter went to the Court of Appeal.

What happened in the Court of Appeal, according to the writer of the editorial of the *Newsday*, they could not understand why the judge who made such simple errors, was criticizing its State Counsel who wanted to point out the fault of the judge and they criticized the State Counsel but they commended Mr. Justice Volney. They agreed that he was wrong, he made a simple error, but the Chief Justice commended Mr. Justice Volney. Mr. Speaker, what does he want me to do? Put it in a dustbin as an Attorney General; do not look at it; do not read it to see that it affects people in this country. What must I do?

Mr. Panday: Do like him.

Hon. R. L. Maharaj: The article stated:

> "We are also flabbergasted by the stand taken by the Chief Justice Michael de la Bastide who not only praised the trial judge but condemned what he felt was unfair and an unwarranted criticism of his decision!
>
> A judge makes a fundamentally bad decision as a result of which two alleged drug traffickers are freed and the CJ condemns the criticism made by this newspaper of that decision!"

Are these matters which the Government must not look at?

I think the Opposition itself does not understand what the independence of the Judiciary means. It does not mean that the judges and the Chief Justice are independent of everybody. It also means that judges must be independent of the Chief Justice. It also means that judges must be independent of outside influence and one knows that when one is in this world that the drug lords target the Judiciary and the Magistracy. Therefore, society has to protect it; governments

have to protect it from that targeting. They must ensure that there are steps taken in order to protect it and to protect the people. When things like these happen, you want to ensure what is happening. If you do not do it, as a government, you are failing the people of the country. That is what this is all about.

Mr. Speaker, I would like to refer to a public release made by hon. Chief Justice in respect of something which appeared in the newspaper. What appeared in the newspaper and what the Chief Justice was responding to, was the fact that a cheque had come into his possession. I will read what the Chief Justice said to the media.

> "On September 10, 1996, when I returned to office from Canada, there was in my mail, an envelope containing a letter and cheque of US $50,000. (It appears that the cheque and letter were received at the Hall of Justice on the 26th August, 1996 and remained there awaiting my return.)
>
> I immediately contacted the police and on that same day, the then Assistant Commissioner of Police, (Crime), Mr. David Jack, came to my Chambers and received these documents from me. On the cheque, the payee's name was left blank and the accompanying letter directed that the cheque should not be cashed. I gave the cheque, letter and envelope to Mr. Jack in the same condition in which they arrived, and these have since remained in the possession of the police.
>
> This was seven days after the trial of Dole Chadee had ended at Chaguaramas for it was on the 3rd September, 1996, that Chadee and his fellow accused were found guilty of murder and sentenced to death.
>
> I formed the view that the sending of the letter and cheque was not a serious attempt to bribe the Chief Justice, but rather an attempt to disqualify him from sitting on Chadee's appeal. I saw no reason why this attempt should be allowed to succeed, more so as there was no evidence that the letter and cheque had been sent on Chadee's instructions or with his knowledge and approval. There is no justification for a judge disqualifying himself in such circumstances as to do so would make the justice system vulnerable to abuse by unscrupulous persons. It was necessary for me to treat the matter with great confidentiality as long as the police investigation was still continuing.
>
> Chadee's appeal against his conviction was heard in May, 1997, by the Chief Justice…
>
> The police consulted, and were advised by, the then Director of Public Prosecutions, Mr. Aldric Benjamin, (now deceased) in connection with the investigation. The matter is still in the hands of the police."

Mr. Speaker, may I put on record that this account did not mention the position taken by the Attorney General about this matter. The position taken by the Attorney General on this matter was different to what the Chief Justice said.

Mr. Bereaux: What is your position?

Hon. R. L. Maharaj: That is why it is very important for us to determine and for the country to determine the procedure as to whether a government would be entitled to information which the Judiciary has. May I say that the Attorney General was not informed of this matter until three years after the incident of this cheque being sent.

I also say that I was not informed by the Judiciary. I was in The Bahamas and was informed that a cheque was sent to the Chief Justice. I came back to the country and mentioned it to the Chief Justice. There are pieces of correspondence which have passed but, Mr. Speaker, serious questions arise. Can the Judiciary keep information in which there is an attempt to pervert the course of justice and know that the police is not investigating the matter, and take no steps to inform the Executive—

Mr. Manning: But the police had it!

Hon. R. L. Maharaj:—and what has happened is that the police and the country—

Mr. Manning: What is wrong with you?

Hon. R. L. Maharaj:—were deprived of the opportunity of investigations to find out [*Interruption*] whether drug people—

Mr. Speaker: Order! Hon. Members on the opposite side are entitled to disagree with anything that is being said by the Government and the Government is entitled to disagree with anything that is being said by the Opposition. But, in a more civilized society, you let them say it and then you, with your 17 or 15 Members, could put every one of them into the fray to say that what was being said does not make sense. It cannot be that while the person is making a contribution, three or four will band together and shout across the table. It cannot work like that. You would not believe me. It cannot work like that. Please proceed.

4.00 p.m.

Mr. Valley: Could I just ask one simple question? I just want to know if the United Kingdom is a civilized society?

Mr. Speaker: I am sure that the Member for Diego Martin Central would not like me to answer that. *[Interruption]* The fact that in the United Kingdom Members at the front bench put their feet—they do not sit on desks like this—on the table that holds the patch box. They do that in England so I should allow you to do that here!

Mr. Valley: No, no. I was just asking the question whether they were civilized.

Mr. Speaker: All I am saying is that it is offensive to say to me: "Well they do it in England and they are civilized. But please, with the greatest deference, the point I am simply trying to make is that in this Parliament, for however short a while I preside, we will try, we make serious efforts to maintain certain standards. You are free to do that after the next election but let us proceed.

Mr. Valley: Do not worry, we will bring you back when we win. *[Laughter]*

Mr. Speaker: Thank, you. *[Laughter]* You know—I would not say. *[Laughter]*

Hon. R. L. Maharaj: Mr. Speaker, after all the fun and the laughter, on this very serious matter; which is our justice system—In my letters to the Chief Justice I made it clear that I was not attacking the integrity of anyone. Mr. Speaker, can our justice system function properly if the heads of the Judiciary take the position that if attempts are made to pervert the course of justice and if people like Dole Chadee and drug gangs, send cheques to the Judiciary in respect of matters, and it is passed to the police and no action is taken, that the Judiciary does nothing about it—It may be that in this case the Chief Justice tried to do some investigation, himself, to see whether there was money in a bank account. Be that as it may, whether there should not be a system whereby this must pass to the people who are politically accountable.

Mr. Speaker, I know the Opposition does not want to hear about this. You see, why the Opposition does not want to hear about this is because the same Dole Chadee occupied 100 acres of state lands, he built a mansion, the Minister of Agriculture was the Member for Diego Martin West and he was allowed to build that mansion. This administration took it and we have put procedures in place in order to ensure drug people do not do this. *[Desk thumping]*

If, as Attorney General, I get information three years after and I see this and the hon. Chief Justice makes a statement, it is my duty to inform the Parliament that the Executive did not agree with his interpretation of the facts. As a matter of

fact, I am laying the correspondence on the table of this Parliament. I am laying the correspondence for the information of the public because in this matter it would show that although this happened—I had occasion during the matter to write to the Chief Justice to have the matter expedited—at that time the Attorney General was not aware of this matter. I got this information in The Bahamas. The position which the Chief Justice has taken, the Attorney General or Minister of National Security must not get the information.

Hear it is, according to the system we have—which the Opposition wants to agree with and does not want to have investigated—any holder of a high office as Chief Justice can get a cheque in which an attempt is made to pervert the course of justice, he does not give it to the lawyers or show the information to the lawyers, he does not disclose it to anyone. He calls in a police officer who does not do any investigation and he keeps it, so the police is prevented from doing any—*[Interruption]*

Hon Members: That is not true!

Mr. Valley: What are you saying?

Hon. R. L. Maharaj: Mr. Speaker, the Government—

Mr. Speaker: Order please!

Hon. R. L. Maharaj: —and the ministers who are accountable to the people do not know what the police have, and the Government could not have taken any steps to investigate, in order to find out what was the root of the allegation that drug people control certain—*[Interruption]* That is an allegation: drug people control certain judicial officers.

Mr. Speaker, if the Opposition wants to live underneath the carpet, they can live. Mr. Speaker—*[Interruption]*

Mr. Speaker: Hon. Members, allowing for the 10 minutes of *faux pas* time, the speaking time of the hon. Member has expired.

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

Question put and agreed to.

Mr. Assam: Do not entertain that bullying.

Dr. Rowley: You have some tickets for me.

Mr. Assam: All of “all yuh” bullies.

Mr. Speaker: Order please.

Dr. Rowley: I thank the hon. Attorney General for giving way. I just want to ask a question; if the position, as espoused on so many occasions by the Prime Minister in particular, that if any person has information of wrongdoing of any kind, that the person should take that matter to the police; I want to find out if that applies to the Chief Justice in the context of what you have been saying for the last half of an hour.

Hon. R. L. Maharaj: Mr. Speaker, I know that anytime I talk about drugs in this Parliament the Member is offended. Anytime I talk about it he is offended. Here it is I am talking about a serious matter and the Member is offended. Mr. Speaker, as I understand—*[Interruption]*

Mr. Speaker: Order please!

Hon. R. L. Maharaj: —the constitutional system under which we operate—the elected persons are accountable to the people. If the police service does not function properly, the elected persons, the Ministers responsible, are accountable to the people. They cannot say that it is not functioning. The people put them there to make it function. If there is a system in which cheques are sent to the Judiciary or Magistracy, and the Judiciary and Magistracy can keep them, and if it is passed to police officers and they do not investigate and nothing happens, the politicians; the elected people, are responsible. It is in that setting that an Attorney General or Minister of National Security would expect to get information relating to such a serious matter if it involved the perversion of the course of justice. Therefore we did not take the position that this was not an attempt—it was not fulfilled according to what was said but it was an attempt—to pervert the course of justice. Mr. Speaker, the administration of justice is too serious a matter in order for us to try—because of friendship and connections—to forget principles.

Mr. Speaker, what I am going to do, I am going to lay these on the table. I am laying on the table all the correspondence relating to this matter with a summary—I do not want to go into all the details here—in order for the country to see we did not take the same position as the Chief Justice in this matter.

4.10 p.m.

Mr. Speaker, the Leader of the Opposition has given the impression that there is no problem with the administration of justice. The *Express* newspapers at page 8 on July 29, 1998, read “Judgments under question”, so there is a perception by

the media and the population that judgments are questionable. No one is saying that because they are questionable, judges are necessarily corrupt or inefficient. The fact of the matter is that the system produces questionable judgments and, therefore, if a government knows that the system is producing questionable judgments it is the duty of the government to look into it.

I do not understand the Member's statement in the face of the Brad Boyce case, which the press has written about, and the Amoroso case from which he has quoted many things and where the press has talked about having an inquiry into the justice system. As a matter of fact, he talked about the death penalty matters. In the death penalty matters, let me give some statistics: in 1994, 40 person's sentences had to be commuted because of delays; in 1995 there were no executions; in 1996, six; in 1997, four; in 1998 because of delays which accumulated there were 21 cases; and for 1999 we are still trying to get the figures. It is not correct to give the impression that the system is working so well that we do not have anything to worry about.

As a matter of fact, when one looks even at the drug cases in which the state has restrained drug property until the case is finished so that the state can confiscate it, if successful, one sees from the statistics that the moneys which are restrained because of the delays, are being reduced, because under the law you can apply and the person can get money to pay for sustenance and so forth. One sees that over the years from 1996, millions of dollars that we had in the state for these matters have been depleted because of delays in the system.

So we see, therefore, that the court system is not only being frustrated by delays and by drug people manipulating the system but also by people who attempt to pervert the course of justice not being detected because of the system. We see that even when the state acts and takes the moneys, because of the delays the moneys are lost. If that is a system which people are happy about well, let them say so, but the position is that this Government cannot be happy about it. We said that having regard to the serious allegations made by the Chief Justice that there is a conspiracy and there is interference with the independence of the Judiciary, the public must know the truth, whether this is so or not, by a proper inquiry and since we are having the inquiry we should take the opportunity to look at the entire system of justice in order to see whether there can be improvements. But today, from the Leader of the Opposition, I just want to tell him—talking about delays—that I have some facts here.

The *Trinidad Guardian* on January 14, 1995 said, “Justice at last”. It took 20 years for a woman accused of receiving stolen goods to be fully vindicated in the courts. On January 7, 1995, “Woman says prosecuting her 12 years later is unjust” and “Welder sues Attorney General over 19-year delay in Industrial Court”; “Case ends after 59 adjournments—a 79 year old man was retrenched in 1972 and he got his judgment in 1997”; “Judge hits DPP in 8-year trial delay”, April 12, 1997; “Rape case thrown out after 16 years,” *Trinidad Guardian* June 18, 1998; *Newsday* November 9, 1998, “Justice delayed…The State has agreed to pay damages and costs to a man who has been waiting two decades for the Industrial Court to deliver judgement…; “Acquitted after waiting 19 years…,” February 13, 1999, *Express* newspaper; “Customs Officer wins fraud case after 18 years of legal torture”. I could go on and on.

Mr. Speaker, let us go to sentencing. The newspaper is filled with references. On November 23, 1997, “Protecting society is the aim and judge explains sentencing policy”. People have been talking and the press has been writing about inequality and injustice in sentencing, saying that something must be done. So all these are the matters that a commission of inquiry would look into. The administration of justice is not the Judiciary alone, but involves a very wide area. In the document which I laid in Parliament I referred to what the function of the state is in matters involving the administration of justice.

One sees that the law really surrounds a person from the time he is born and sometimes even before he is born, because there is registration of the birth, then when he becomes a young person, his relationship to enter into contracts, criminal law applies to him when he becomes an adult and the institutions also apply to him, so law is very important and it surrounds us. As a matter of fact, law is the most powerful force which surrounds an individual and, therefore, the administration of the law and the adjudication in respect of legal matters are important to individuals. It is also important, if the system is not working, for us to be able to deal with some of the injustices in the system.

Mr. Speaker, it is sometimes thought that the independence of the Judiciary really does not involve independence from heads of the Judiciary. I want to read from page 225 of an article written called “Chief Justices and Their Courts” and it is a Canadian publication. I gave the page in order to prove the name of the publication:

> “A number of Puisne Judges have, however, expressed concern about the potential power of the Chief Justice or Chief Judge.”

According to the Member for San Fernando East nobody must criticize a Chief Judge or Chief Justice.

[HON. R. L. MAHARAJ]

The article continues:

> "How widespread this concern is, I do not know. One Superior Court Judge in a reported speech at Dalhousie Law School stated, 'the attribution of more and more power to Chief Judges may well have the effect of making the judicial ideology of the Chief Judge the only truly independent ideology on the court. Will the new powers of Chief Judges be confined to judicial administration? What of the power to control trips, travel and education of judges? Even the power to allocate desirable and undesirable cases to punish judges can represent a threat to judicial independence."

Mr. Speaker, it is not unusual in our society. We have had newspaper reports and I have got complaints that there are allegations that judges are, in effect, afraid and are not given some of their entitlements to elevation. These are matters which affect the workings of the Judiciary.

If you have a system in which judges are operating in an environment in which they feel very fearful and that they cannot be independent, this is something which should be examined to see whether there should be a better environment and how it should be created. This is not what the Attorney General is saying.

As a matter of fact, this article goes on to say:

> "Every increase in power to a Chief Judge over others might be seen as a threat to judicial independence. A Superior Court Judge on the West Coast recently made the same point. Chief Justices are now entitled to run a Superior Court in the way they think fit. They are appointed until the age of retirement and they make a Rule of Court for periods up to 30 years. They are accountable to no one. The judges that are known to support the policies of the Chief Justice, often serve on a number of committees."

Here it is that we see from the events which have flowed, a situation in which serious questions as to the independence of the Judiciary arose, not only in respect of the allegations made against the Government, but also in respect of one of the most important requirements of the independence of the Judiciary.

One of the most important principles for the independence of the Judiciary is that the public must have confidence in the judicial system. There has been poll after poll conducted by the University of the West Indies which showed that members of the public are losing confidence in the administration of justice. What this would do is, in effect, give the population an opportunity to talk and to give recommendations for consideration to see whether justice can be delivered to poor people.

Mr. Speaker, the Leader of the Opposition talked about the rules of the Supreme Court and the Judicial Sector Reform Project. It was this administration which approved, the Judicial Sector Reform Project which did not only talk about the rules of procedure of the civil court, it talked about the criminal law and reforms of procedure in the criminal justice system. Nothing has been done by the judicial sector in respect of these reforms. The judicial sector has concentrated on the civil rules.

The hon. Member for La Brea filed a motion in this Parliament to say that the Parliament should annul those rules, because it was found that they would, in effect, favour the rich and discriminate against the poor. The rules show that what would happen when poor people have cases, if they cannot retain lawyers, they would not be able to carry forward their cases. You have a system in which people would lose their land, they would not be able to go to the insurance companies, and they would be denied justice, and the Opposition is supporting that.

Although the Member for La Brea brought the motion—[*Interruption*] yes, it is correct. As a matter of fact, when I was given the rules, the Rules Committee said that they had consultation with the legal profession and they were in agreement with them. I accepted that wrongly, but when it was found out that it was wrong, we did not perpetuate the wrong we said that we were not going to support it. Here it is that the Leader of the Opposition gets up today in this Parliament, when he knows that he has had discussion with the President of the Law Association; he discussed these rules with him.

He is aware that these rules are against the public interest. With the system as it is now, if the poor people in Laventille, Point Fortin, Siparia, Sangre Grande, San Fernando West or Tobago have a case and they go to a lawyer and the lawyer says, "Well, I will file the writ for you, but when you get your sou sou or your family sends money for you, you could bring the rest of money," and as the case goes on, one year, two years; you prepare the papers and then you can have a trial; under these rules you would not be able to do that. [*Interruption*]

Mr. Manning: Thank you. Mr. Speaker, for the parliamentary record I just wish it to be known that I did not discuss the rules with the President of the Law Association.

Hon. Member: With whom did you discuss it?

Hon. R. L. Maharaj: Mr. Speaker, he has got up and he cannot say that he disagrees with the rules. He has even reinforced his position that he is in total agreement with the Rules of the Supreme Court and a judicial sector reform programme in which poor people would be denied justice. He made this as part of his contribution and he used these rules to say that the judicial sector is performing well.

4.25 p.m.

Mr. Speaker, let us say, for example, Mr. "A" is injured and he dies in a motor vehicular accident, his wife goes to a lawyer—she says well, "listen, I do not have any money but I want to file a case against the insurance company"—and the lawyer says "Well, all right, whether you have $50.00 or $100.00 I would file the writ for you." So the case is filed—because if it is not filed she would probably lose her rights—and during the months and probably a year or two, she will make her investigation together with the lawyer but she will pay little by little as she gets the sou sou, and the money from the family abroad, and after a period of time the company would put its defence and then the case would be tried in the court.

According to the proposed rules now—and it cannot come into force if this Parliament decides it is not going to come into force, and the Leader of the Opposition says that they are very good in the public interest and he supports them; he supports what the judicial sector is doing—what they do is that when the lady goes to the lawyer, the lawyer will have to say, "Well I have a lot of pre-trial work to do in advance, and the system is going to change." In other words, they would have to pay the lawyer for investigation; they would have to pay the lawyer for drafting the entire case one time, and if you do not do it within a period of time; three months, four months or six months, your case "gone through".

Unless you find all this money to pay the lawyer one time, he cannot start because the amount of work he has to do, investigations and so forth. When we confronted the Rules Committee with that and we said that many of these poor people are going to suffer, the Members of the Rules Committee who supported this measure said, "But that is not important, what is important is that when you file cases they must be completed. They said that what the Government has to do is to provide the money to pay these lawyers. You must increase the legal aid to such an extent that the lawyers must be paid. It also said that you must change the law so that you can have contingency fees so that lawyers could get a percentage of the damages. That would mean that you would be taking away people's rights and putting them at the whims and fancies of lawyers. What you should do is look at the existing rules, see where the problems are and let us remedy the situation.

The problems are, in the Court of Appeal, there are judgments which are outstanding for several years in the High Court. These rules anticipate that an interlocking appeal, that is to say, that an appeal before the trial must be heard and determined in 14 days, and if it is not heard and determined the whole system is geared on that. At the present time, the judicial system cannot do that. And the Leader of the Opposition says take away the rights of the poor people; let the insurance companies have their field day; let the rich people have their field day. Although it would mean small lawyers would not be able to practise, you will have to go with big firms, by the lawyer who appeared for him in the case that he has lost. Go to big firms, eliminating small firms and that is what the Leader of Opposition has said.

As a matter of fact, the Opposition has raised in this Parliament that the system of justice should change. The Opposition itself has said that the present system is unfair and we should change it. As a matter of fact, they have said that in the present system when people file a case against the state and the state wins and they have costs, you must not enforce the costs against people. It was said the hon. Leader of the Opposition filed a case in court and when he went to court the lawyers withdrew the case and the judge ordered him to pay costs and the Opposition is saying that must change. You must not allow people filing constitutional motions, to pay the costs. That is an issue which the Commission of Inquiry into the administration of justice would consider and examine, and the people would have to decide, if it is that you must not pay costs against the state in constitutional matters, why do you want to discriminate, therefore, against people who file an ordinary action against the state and they cannot pay the lawyer? Are you going to discriminate against one set of people and treat another set more favourably, when the Constitution forbids you to deny people equal treatment?

Mr. Speaker, I notice that you want to adjourn.

Mr. Speaker: Yes, I did not want to stop you because your 30 minutes have not expired but I did want to say that it is about time for the tea-break.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj: Mr. Speaker, I propose to adjourn the Parliament in any event at the tea-break.

Mr. Speaker, I beg to move that this honourable House do now stand adjourned to Friday March 10, 2000. May I announce that we are not sitting next Friday, so it would be March 10, 2000 at 1.30 p.m.

There is one matter on the adjournment but we would put it for March 10, 2000.

Mr. Speaker: Hon. Members, before we deal with the Motion for the Adjournment, there was a matter which I had given the Member for San Fernando East leave to raise and, by agreement between both sides, they are prepared to allow that to be done at the next sitting, so that the matter would be adjourned.

Question put and agreed to.

House adjourned accordingly

Adjourned at 4.32 p.m.