HOUSE OF REPRESENTATIVES

Wednesday, February 02, 2005

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the Member of Parliament for Couva North (Mr. Basdeo Panday) requesting leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

PAPER LAID

Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Tobago Regional Health Authority for the year ended September 30, 2000. [*The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley)*]

To be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I request a deferral of two weeks for questions Nos. 7 and 9.

The following questions stood on the Order Paper in the name of Dr. Fuad Khan (Barataria San Juan):

Scarborough Hospital
(Cost overruns)

7. Could the hon. Minister of Health state whether there have been any cost overruns so far on the new Scarborough Hospital?

Shortage of Pharmacists
(Recruitment from the Philippines)

9. Could the hon. Minister of Health state:

(a) whether there is a shortage of pharmacists in Trinidad and Tobago;

(b) if so, in what areas;

(c) the reason(s) to recruit pharmacists from the Philippines at this late time?

Questions, by leave, deferred.

Ministry of Education
(Security Breach)

6. Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of Education to state:

(a) whether there was a breach of security in the vault of the Ministry of Education and if examination papers were missing;

(b) whether the services of any temporary staff were terminated as a result of the security breach;

(c) have such temporary staff been investigated and/or charged for this offence and, if so, how many?

The Minister of Education (Sen. The Hon. Hazel Manning): Mr. Speaker, the fraud squad is currently investigating matters arising in question No. 6. It would, therefore, be inappropriate and prejudicial to draw conclusions at this time. However, examination papers were reported missing on December 30, 2004 and temporary seasonal staff working in the examination unit were relieved of their duties, which in the majority of cases were due to come to an end on December 31, 2004. As soon as the investigations into this matter are completed the Minister of Education would report to this honourable House.

Thank you.

CARIBBEAN COURT OF JUSTICE BILL

Order for second reading read.

The Attorney General (Sen. The Hon. John Jeremie): Mr. Speaker, I beg to move,

That a Bill to implement the agreement establishing the Caribbean Court of Justice and for other related matters be now read a second time.

Mr. Speaker, we embark on a debate this afternoon as important as any that has taken place in this House. We are here today simply because one of the critical questions, which were posed by Sir Hugh Wooding 30-odd years ago at the time of the Wooding Commission, has been left unanswered. That question is whether it is right for a country to depend on a third court, far removed in

circumstance and place, for the odd case that might come up where a court of three or four judges may overrule the decision of several judges of the local High Court and Court of Appeal.

Mr. Speaker, my role in this debate today is to lead. I shall take Members through the CCJ legislation and the history of the debate. Other Members on this side shall deal with the broader philosophical issues which must necessarily arise.

The Government comes to this critical day and to this important debate, three weeks almost to the date, after having temporarily deferred debate on the package of legislation, which is intended to give effect to the Caribbean Court of Justice.

When I informed this honourable House on January 10, 2005 that Cabinet had decided to defer debate on the package of bills and to seek to apply to be joined in the Jamaican appeal before the Privy Council; I advised hon. Members that the only purpose of an adjournment in the debate at that time was to allow the Senate an opportunity to be heard in the Jamaican appeal. The reasoning for that was quite straightforward and not sinister.

The region discovered last year that a multilateral approach at the Privy Council, with the pooling of resources that it brings, can often yield dividends. Now, I speak here of the decision which was handed down in late 2003 in the Roodal case on appeal from the Trinidad Court of Appeal. Mr. Speaker, that decision was an odd one for the Privy Council. What was decided subsequent to that decision was to join with Barbados and Jamaica in a joint application to the Privy Council to have the question of the mandatory sentence of death reviewed in the Privy Council.

Mr. Speaker, that approach yielded success and the State of Trinidad and Tobago was successful in the Matthews appeal in having the Roodal case overruled, as was the State of Barbados. At that time the Privy Council assembled its largest quorum, ever, to hear an appeal from the Caribbean. The appeal was comprised of nine members. It took one week and decisions were well thought out and in keeping with what we in this part of the world understood our Constitution and, in particular, the savings clause contained therein to mean.

It is now recent history, as a result, that Trinidad and Tobago and Barbados succeeded in having that appeal succeed. This is what was in contemplation when the Cabinet decided to join the Jamaican appeal. Technically, however, when I examined the papers themselves and spoke with my colleagues in Caricom Legal Affairs Committee, I advised the Cabinet that it would be prudent with the rest of

the region to press ahead, having waited out the oral argument in the Jamaican appeal and instead to distill lessons to the extent that this could be done at the argument stage, which might be useful to us in the legislative exercise on which we embark this afternoon. Mr. Speaker, when, therefore, I said "a temporary adjournment", I spoke literally and that is the explanation for why we are now here.

Mr. Speaker, I will spend the rest of the afternoon addressing the question: Why are we here at all? It is to that which I now turn. To answer that question: "Why are we here at all?" involves an examination of the history of the Caribbean Court of Justice. The culmination of the efforts which have led to the Caribbean Court of Justice really speak to a joint enterprise involving each Prime Minister who has held the reins of power in this country. It involves separate governments, although it involves one State: the State of Trinidad and Tobago. Prime Minister Robinson; Prime Minister Panday and Prime Minister Manning have all been instrumental in bringing the Caribbean Court of Justice to the point where we are able to debate this question this afternoon.

On September 29, 2000, pursuant to the decision of Cabinet under the UNC administration that certain documents would be laid in Parliament at the earliest opportunity and that the then Attorney General and Minister of Legal Affairs make an appropriate statement in Parliament in connection therewith, the Attorney General and Minister of Legal Affairs caused to be laid in Parliament two papers, one of which is relevant to us today, that paper was entitled the Caribbean Court of Justice—Draft Instruments. It comprised the Rules of the Caribbean Court of Justice (Final Appeal Jurisdiction); the Proposed Code of Judicial Conduct; the Protocol on the Privileges and Immunities of the Caribbean Court of Justice and Regional Judicial and Legal Services Commission and the Regulations of the Regional Judicial and Legal Services Commission and the draft bill to implement the agreement establishing the Caribbean Court of Justice. [*Interruption*] I had a quiet word with my colleague; it is really none of your affair.

Mr. Speaker, in a statement in the House on October 02, 2000, the Attorney General and Minister of Legal Affairs stated that his intention behind laying those documents was for hon. Members and the national community, as a whole, to be informed of the matters contained in the draft documents, so that they would have a better understanding of the material facts relating to the establishment of the Caribbean Court of Justice. He went on to state and I quote:

> "The Caribbean Court of Justice would replace the Judicial Committee of the Privy Council as the final Court of Appeal for the Caribbean. Apart from the appellate jurisdiction which this court would exercise, the court would also have an original jurisdiction in the interpretation and application of the Treaty of Chaguaramas.
>
> With the creation of the Caribbean Single Market and Economy, such a court with an original jurisdiction is necessary. There must be a judicial body to interpret the Treaty so that disputes between and amongst States can be resolved.
>
> The original jurisdiction of the Court would also be invoked by national courts of contracting parties referring matters to the Court. The Court, in its original jurisdiction would have exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty."

Mr. Speaker, Trinidad and Tobago, along with most of the other Member States of the Caribbean Community, signed the Agreement establishing the Caribbean Court of Justice on February 14, 2001 at the Twelfth Intercessional Meeting of the Conference of Heads of Government held in Bridgetown, Barbados on that day. Mr. Speaker, I hardly need to add that was at a time when the other side held the reins of power.

At the opening ceremony the then Prime Minister of Trinidad and Tobago in his address to those gathered, while noting that the region's political leadership was yet to convince all the stakeholders that the CCJ would constitute a tribunal of superior credentials to the Privy Council, reassured the Conference of the continuing commitment to and support for the establishment of the CCJ by Trinidad and Tobago. The then Prime Minister of Trinidad and Tobago also informed the Conference that the Government of Trinidad and Tobago would have accommodation temporarily provided pending more permanent accommodation in the shape of a court on Richmond Street, Port of Spain, which he promised would be ready for occupancy by the end of March 2001.

The political party that the former Prime Minister led was actively involved in formulating the policy that resulted in the agreement establishing the Caribbean Court of Justice. This policy includes at its heart, the need for a final Court of Appeal, manned by local talent in the region, to develop local jurisprudence and the need to protect the court from political influence in the same way that our courts are so protected at the domestic level by the Judicial and Legal Service Commission.

Mr. Speaker, that political party now forms the Opposition in the Parliament in Trinidad and Tobago. The former Prime Minister is now the Leader of the Opposition but, of course, there can be no difference in position based on circumstance, so I expect that a position of principle taken three years ago shall prevail today. I expect that we shall all find common ground with respect to the legislation before us today. [*Desk thumping*]

I will now speak briefly to the background of the court. From as long as 1901, that is more than 104 years ago, the *Jamaican Gleaner*, which is known for its conservative stance, said and I quote:

> "…Thinking men believe that the Judicial Committee…"

[*Interruption*] The *Jamaican Gleaner* dated March 06, 1901; 104 years ago. I can provide you with a copy. It said that:

> "…Thinking men believe that the Judicial Committee (of the Privy Council) has served its turn and is now out of joint with the conditions of the times."

Mr. Speaker, that was 104 years ago. In 1947, at a meeting in Barbados colonial governors, all Englishmen, expressed the view that the Privy Council was too far removed from the social realities of the colonies to be effective as a court of last resort. Mr. Speaker, that was 58 years ago.

In 1970, the issue of the establishment of a court to replace the Privy Council as the region's final Court of Appeal in civil and criminal matters was placed on the regional agenda by Jamaica at the Sixth Conference of Heads of Government. The Conference then urged the establishment of a committee of Attorneys General to consider the recommendation of the Organization of Commonwealth Caribbean Bar Associations (OCBAR), to deal with a Caribbean court having both an original and a final jurisdiction in the Commonwealth Caribbean.

That idea was revived again in 1989 and, I might add, again, at the time when Members on this side, certainly, did not hold the reins of power. Some Members on the other side might have held the rein of power. In 1989, when the Eighth Meeting of the Conference of Heads of Government agreed, in principle, to establish a Caribbean Court of Appeal, following a proposal presented by the Government of Trinidad and Tobago at the time—Mr. Speaker, this is as far back as 1989, the Government of Trinidad and Tobago. I speak here of a government which was not comprised of any Members on this side—the Conference of the

Heads of Government supported the concept of a Caribbean Court of Appeal to replace the Privy Council as the Final Appeal Court in the Commonwealth jurisdictions.

At the Eighth Meeting, the Conference, in a far-reaching decision determined that the Caribbean economy, made up of competitive separate island economies, should be transformed into a single market and single economy to create in the region a single economic space in the face of an increasing number of regional economic and trading blocs.

The Conference accepted the offer of the Government of Trinidad and Tobago—this was in 1989—to provide the headquarters of the Court from which it would operate on a circuit basis. That offer was made in 1989 when Members on the other side held the reins of power. In June of 1990, a draft intergovernmental agreement was prepared by the Caricom Secretariat and first considered by a subcommittee of Attorneys General—this was 1990. In 1992, the West Indian Commission, in its report, *Time for Action,* lamented the failure of the governments to establish the court. This was in 1992; eminent Caribbean persons in their report, *Time for Action,* lamented the failure of governments over the years to establish the court.

The Commission noted the need for a regional appeal court to facilitate greater integration and they said these words:

> "Integration in its broadest economic sense—involving a Single CARICOM Market, monetary union, the movement of capital and labour and goods and functional cooperation in a multiplicity of fields—must have the underpinning of Community Law."

The Commission concluded that a Caricom Supreme Court interpreting the Treaty of Chaguaramas, resolving disputes arising under it is absolutely essential to the integration process. And, like OCBAR, it also recommended an original jurisdiction for the court for the purpose of interpreting and applying a revised treaty establishing the Caribbean Community.

In 1992—and by this time Members on this side guided the ship of State—the Governments of Jamaica, Guyana and Trinidad and Tobago communicated their agreement to establish the court. The Government of Barbados, however, only indicated support for the court. Belize, the Bahamas and Member States of the OECS cited constitutional constraints and difficulties and were unable, at the time, to lend full support.

The decision at Gran Anse in 1989 to which I referred earlier as the decision taken when some on the other side held the reins of power, was intended to make good the deficiencies of the 1973 Treaty of Chaguaramas, which established a very limited form of economic integration for the Caribbean and made no provision for a single market and economy.

It was not until 2001—just the other day—when those on the other side decided in the Bahamas that they would replace the Limited Common Market of 1973, formally, with the Caricom Single Market and Economy. That was signed in Barbados on July 05, 2001. Also, Heads of Government signed an agreement establishing the court in Barbados on February 14, 2001, again, when Members on the other side held the reins. Mr. Speaker, with that signature and by that act the Government at the time bound the State of Trinidad and Tobago—[*Desk thumping*]—and the Court, at that time, as an international law person, came into effect.

Mr. Speaker, 11 Member States of the Caribbean Community have since ratified the Agreement. The Agreement establishes the court and vests it with two jurisdictions. In its original jurisdiction the court would, with respect to contracting parties to the Agreement, including Trinidad and Tobago, discharge the functions of an international tribunal by applying the rules of international law in the interpretation and application of the Revised Treaty of Chaguaramas, including the Caricom Single Market and Economy. The Court will, therefore, have jurisdiction to adjudicate upon contentious trade matters that would inevitably arise within the Caricom Single Market and Economy. In this jurisdiction the court would be a court of first and last instance. In its original jurisdiction as well, the court is a creature of the treaty because Articles 211 to 224 of the treaty correspond to Articles 11 and 24 of the Agreement establishing the Caribbean Court of Justice, which speaks to the original jurisdiction of the Court.

Article 211 gives the CCJ compulsory and exclusive jurisdiction with respect to the interpretation and application of the CSME Treaty. Member States voluntarily submit to the compulsory and exclusive jurisdiction relating to the interpretation and application of the revised treaty because their national courts could otherwise place as many different interpretations on the treaty as there are Member States.

…leading to conflicting determinations and legal uncertainty and chaos in relating to the Treaty. That is why you have one court in relation to the original jurisdiction.

2.00 p.m.

Mr. Speaker, the Caricom Community, being an association of sovereign states, must apply the norms of international law. This is different from the law known as Community Law which is applied in the European Community where states have, to a large measure, surrendered some of their political sovereignty by joining a European parliament.

Legal certainty is necessary, perhaps absolutely, for the promotion of investor confidence in any single market and single economy. Member states ought to participate in the regime establishing the court because of the critical nature of the Caricom Single Market and Economy (CSME), and the importance of the extensive rights and obligations that arise in relation to such a regime.

Mr. Speaker, the critical nature of the court in its original jurisdiction springs from the nature of the CSME as creating a single economic space. The CSME would permit the free movement within the region of goods, services, capital and skilled labour. It would also provide nationals of member states of the Community with the Right of Establishment.

Mr. Speaker, the Right of Establishment is an important right. It is a right which would permit those nationals to establish enterprises throughout the community on terms no less favourable than those offered to nationals of the country in which the enterprises are established.

As we have seen, disputes that arise would be settled by one tribunal, an impartial tribunal instead of being subjected to adjudication by the courts in several member states.

Mr. Speaker, I turn now to the final appeal jurisdiction aspect of the Bill. It is intended that the Caribbean Court of Justice will serve as the court of last resort to determine appeals in both civil and criminal matters in the territories of the contracting parties to the agreement. For those parties including Trinidad and Tobago, historical links with the judicial committee of the Privy Council would be severed.

Part IV of the Bill introduces the final appeal jurisdictions of the court and sets out the various heads under which the court would entertain appeals from decisions of the local Court of Appeal. These provisions largely reflect existing provisions in the Constitution which deal with appeals to the Privy Council. In the

exercise of its final appeal jurisdictions set out in Article 25 of the agreement, the court will be the final court of appeal as I have said for both civil and criminal matters from common law courts initially, and eventually for the civil law jurisdictions of the Community.

Under clause 10, appeals shall lie to the Caribbean Court of Justice in its final appeal jurisdiction from decisions of the Court of Appeal as of right in respect of matters where the Constitution at present expressly provides for such appeals. These instances are set out in section 109 of the Constitution. There are provisions which speak to appeals with the leave of the Court of Appeal. Firstly, decisions in any civil proceedings, where in the opinion of the Court of Appeal, the question involved in the appeal is one that by reason of its general or public importance or otherwise, ought to be submitted to the CCJ. Secondly, similar appeals will be entertained by the CCJ wherever and if ever the Constitution is amended for such a purpose.

Clause 12 would permit appeals to the CCJ with special leave of the CCJ from decisions of the Court of Appeal in civil or criminal matters. It is similar to the position which applies now in the case of special leave to appeal in respect of the Privy Council.

Clauses 13 to 18 generally repeat existing provisions of the Trinidad and Tobago Procedure in Appeals to the Privy Council Order in Council, 1962, the United Kingdom Statutory Instrument, 1876 of 1972 regarding applications for leave to appeal, stays of execution, the preparation of the record of appeal, judges reasons in arriving at their decisions, enforcement of judgments and taxation of cost of appeal.

Clause 18(2) seeks to ensure the State's recovery of legitimate costs and the Government is looking at this question in respect of domestic legislation, and it intends to bring legislation to the Parliament shortly on this matter.

The framers of the agreement decided upon this course because, generally speaking, there are no words in regional rules of court which directly speak to costs awarded to the State. Additionally, it is intended to confront the unfortunate perception that there ought to be some special concession in favour of litigants who unsuccessfully bring applications time and time against the State.

Mr. Speaker, if I might turn quickly to Part V which deals with administrative matters and the Regional Judicial and Legal Services Commission. This part of the Bill deals with the administrative aspect of the court and the RJLSC. It deals with

some of the arrangements of the court which are necessary to establish it as an effective, efficient, fair and impartial system for the dispensing of justice. The court is to be located in Port of Spain as was originally contemplated. It is, however, to be an itinerant court. In this respect, the court may sit in the territory of a contracting party to hear matters in both of its jurisdictions and that shall result in lower costs for parties to access the courts. In this regard, clause 19 would see the Registrar of the Supreme Court of Trinidad and Tobago functioning as a deputy registrar of the CCJ. This provision would also appear in the enabling legislation of each contracting party to facilitate the roving nature of the court. Consequently, subclause (2) would designate the Registry of the Supreme Court as a sub-registry of the CCJ.

Clause 20 has its basis in Article 29 of the agreement and that gives the right of audience to attorneys-at-law admitted to practise law in Trinidad and Tobago before the CCJ. This provision is buttressed by the protection of the protocol on the status, privileges and immunities of the CCJ and the RJLSC. Protection would include immunity from personal arrest or detention in relation to words spoken, written or acts performed in relation to proceedings before the court. It should be noted that limiting the right of audience to attorneys-at-law only, is a departure from the practice in international tribunals where persons other than attorneys-at-law known as agents, for example, trade experts, sometimes represent state parties.

Clauses 21 to 23 would give effect to Article 5 of the agreement and recognize in law the Commission, that is, the Regional Judicial and Legal Service Commission whose functions are in relation to the court strictly administrative. The Commission would be responsible for the appointment of judges of the court other than the president of the court, appointment of the registrar and other officials and employees of the court and for making recommendations for the appointment of the president of the court.

The Commission would also exercise disciplinary control over judges of the court other than the president and other officials and employees of the court and determine the allowances, terms and condition of service of those officials and employees. The Commission’s proceedings, of course, shall not be enquired into any tribunal or court.

Mr. Speaker, the Commission serves an important function in allaying suspicions about political interference with the functions of the court. It is well

placed in this regard because of its composition. Great effort has been made in settling the composition of the Commission in an effort to take on board the view that the Commission should as far as possible, be placed outside the control of the political directorate.

Views of the Regional Bar Associations were taken into account in this regard and the composition of the Commission is set out in Article 5 of the agreement.

Mr. Speaker, the qualifications to be appointed to the Caribbean Court of Justice ensure, to the extent of paper qualification, the highest standards of personnel as judicial officers in the court. To be appointed a judge of the court a person must be or have been a judge of a court of unlimited jurisdiction in civil and criminal matters for an aggregate of not less than five years, or have been engaged in the practice of teaching law for an aggregate period of not less than 15 years. Cognizance shall also be paid to character, intellectual and analytical ability, integrity, quality of judgment and so forth of the candidate.

Mr. Speaker, I take the opportunity to point out that the person appointed as President of the Caribbean Court of Justice has also recently been appointed as a judge of the Privy Council. This, I have said elsewhere, is a testament to the calibre of judges that would comprise the Caribbean Court of Justice and should allay the fears of those among us who have reservations about whether the independence, competence and integrity of the Privy Council can be replicated by our own Caribbean Court.

My colleagues to follow in the debate shall carry on this theme at some length. This court and what it symbolizes for the people of this region, and in particular the people of this nation, which has evolved from Crown Colony to internal self-government, to Independence and to Republican status is really the last step to be taken before we can be and are truly independent.

The people of Trinidad and Trinidad and Tobago should expect in these measures unity across the political landscape. That unity has been forthcoming in the labour which has brought us here today. [*Desk thumping*] I have demonstrated that. The court is the work as I have said, of everyone, of every government that has held the reins of power in this country.

Mr. Speaker, there is little doubt that the Opposition when last in Government was fully supportive of the region's movement towards the CSME and this court. The intention of this piece of legislation is to establish the Caribbean Court of Justice in Trinidad and Tobago as the final court of appeal and the court of original jurisdiction in relation to the CSME. This is an opportunity for the true independence of our nation.

Mr. Speaker, this is an opportunity which should not be lightly missed by any of us in this Parliament. [*Desk thumping*] I seek the support of all hon. Members in this House present today, and with those words, I beg to move.

Question proposed.

Mrs. Kamla Persad-Bissessar (*Siparia*)**:** Mr. Speaker, here we are, Carnival Wednesday, prior to big celebrations in Trinidad and Tobago. In fact, on my way here I saw on the Brian Lara Promenade a lot of exciting things taking place with the Sunshine Snacks and all I have heard from the hon. Attorney General is the robber talk that pervades the Carnival season.

This Attorney General came to this Parliament a short while ago, after we had been informed by the Leader of Government Business that the debate on the Caribbean Court of Justice Bill would take place in this Parliament, and on the day that that debate was supposed to take place the Attorney General came to this Parliament to do only, what I would say, mislead the Parliament and mislead the nation. He was asking for this debate to be adjourned in order to intervene in proceedings that Jamaica had before the Privy Council.

Mr. Speaker, that debate was adjourned. They have the majority and they used that majority as they often do and adjourned the debate. The Attorney General comes here today and has really given us no explanation why he has changed his mind and flip-flopped his position to bring this Bill for debate today. He has not presented any convincing argument as to why he has come back. The real reason why he has come back to do it is because what he proposed to do then he knew, or he ought to have known as an Attorney General, that there was no way that Trinidad and Tobago could have become a party to any proceedings that were before the Privy Council at the behest of Jamaica. No way in law would that be allowed and he knew, or he ought to have known as an Attorney General. And if he did not know he should have taken advice that what the Privy Council was adjudicating upon were the decisions of the courts below in Jamaica. If he were not a party down below in the courts, what on earth—and how can one become cockroach in fowl business? How can he go there? And he comes and cites the Roodal case—[I*nterruption*]

I want to complete my point because it is very important. He mentioned the Roodal case and what accompanied the case and they all went up to the Privy Council, but the most important point was that Trinidad and Tobago was a party in the Roodal case in Trinidad and Tobago, and in Jamaica, and in Barbados they were parties too, so they could have joined those matters and they could have all

gone together. But there is no way in law the Privy Council would allow a party who was not down below to join in those proceedings. And he knew or he ought to have known that then, which is what he probably discovered now. That is why he is back here today, on Carnival Wednesday, because they want to get this to carry to their Caricom Heads meeting to say they went to the Parliament and did it. They come in the midst of the Carnival season because they really do not want the people to know what is going on. They really do not have a care or a concern for such a serious issue that they brought to this Parliament. And they misled the Parliament then and have not come today to tell us why it is they flip-flopped, why they changed their mind. They have given us no convincing argument.

Hon. Jeremie: Thank you. You are incorrect in the position which you stated with respect to Roodal. Roodal had actually been heard by the Privy Council. What Trinidad and Tobago intervened in was a Barbadian case, the case was Boyce which had already been determined. The oral arguments had already been concluded by the Privy Council so at that stage, Trinidad and Tobago and Jamaica sought to intervene. So you are incorrect.

Mrs. K. Persad-Bissessar: I am not convinced by what you are saying. The situation in those cases was entirely different from what is happening in the Jamaica case. I have not misled you. The hon. Attorney General used Roodal. That is the case he mentioned and he spoke at length about Roodal.

Mr. Speaker, the hon. Attorney General has not shared with this House why he has changed his mind. I thought that is what he was going to tell us when he got up. Why did he change his mind then and come back? Why did he flip-flop? He owes us an explanation.

Hon. Jeremie: It might be that the Member for Siparia was not present at the time but I was at lengths—I am not talking about that statement, I am talking about the explanations which preceded. You probably came in late. I said the reason we decided to intervene was because of a favourable experience with the Roodal case. The Roodal case had already been decided by the Privy Council. After the Roodal case the opportunity presented itself in short order when the Barbados case of Boyce came to the Privy Council. So we took the opportunity when the Boyce case was before the Privy Council to intervene and my advice is, and was, that it was possible for us to intervene at this stage. And if you had listened to me you would have heard that this was a strategic decision taken by the legal affairs committee of Caricom. We decided after oral argument. It is all in the *Hansard* and perhaps, you came in late.

Mrs. K. Persad-Bissessar: I am still not convinced. He has still not told us why he has changed his mind to bring back the debate. He has not convinced us at all.

Mr. Speaker, anyone with respect for democracy in the rule of law knows that there is a golden thread that runs through the legal courts of this particular age, that puts restrictions and limitations on governmental power in order to preclude the abuse of power by government officials and others in the Executive. The court stands as the guardian of the soul of democracy. We have seen it here in Trinidad and Tobago. We have seen several cases where the courts have intervened, where executive power has been abused. We saw it with the Devant Maharaj matter; we saw it with the Marlene Coudray matter; we saw it with the Maha Sabha with the licence. So where a Government uses its power in excess of its jurisdiction—yes, in the Basdeo Panday matter, if you want to mention those and, certainly, in the matter involving the Member for Diego Martin West, the courts will intervene. The courts have that power. The courts stand as the guardian of the soul of democracy. Who we put to guard the soul of the democracy, or what we put to guard the soul of the democracy is a very important decision that we must make. Who will prevent the soul of the nation from being violated? Who will prevent it from being stolen? It is the court.

In a constitutional democracy which is what we have and this had been decided by the Privy Council itself in a case that went from one of the Caribbean territories. Lord Nicholas in that case made it very clear Trinidad and Tobago is different; the Caribbean is different—where there is a written constitution—from Britain in that regard. Because we are a constitutional democracy, the Constitution is supreme and not the Parliament. And so the courts of Trinidad and Tobago leading right up to the Privy Council have the jurisdiction to strike down acts of Parliament for invalidity. British courts do not have that power but that is what happens in our democracy. The Attorney General gave us a nice history about the Caribbean and so on. What happened in our territories is with the dismantling of colonialism and the coming into force of independence, we got a written constitution and that written constitution became the supreme document. Who guards the rights that are contained in that supreme constitution? Again, it is the Supreme Court and so I am saying all of this because I want to point out what is the role, what is the function of a court because we are talking about setting up a court as a final court.

The role of the courts, the role of the whole Judiciary is to prevent the soul of the nation from being violated. So we must choose the guardian of the soul of the

nation very, very carefully. We have a three-tiered legal system, a court in the first instance, an appeal court and then the final appellate court which is the Privy Council. Three strikes and then you are out. That is how the system works. When one hits the Privy Council that is it.

Bernice Lake, a very eminent Queen's Counsel from Antigua/Barbuda, talked about that third tier, the Privy Council as being the archangel which is the guardian, the soul of the nation. So when we talk about removing ourselves from the jurisdiction of the Privy Council, we are looking at a provision that is in our Constitution, one of the most deeply entrenched provisions.

The rights of access to the Privy Council is more deeply entrenched in our Constitution than are the fundamental human rights that are set out in the Bill of Rights. To alter or to infringe justifiably any of the fundamental human rights set out in our Constitution you just need a two-thirds majority. To remove or tamper with the rights of access to the Privy Council you need a three-fourths majority which is one of the largest majorities that were needed. And why was this? It is obvious that the founding fathers of our Constitution viewed this right of access to the Privy Council as an important pillar, as a very strong pillar, as a fundamental pillar of our democracy and that is why they entrenched it so deeply in our Constitution, so we cannot move that Privy Council so lightly as the Attorney General would have us do.

In his arguments he has really not given us any reason why in removing the Privy Council and putting the Caricom Court of Justice we would get better justice, or that we would get true justice which is the role of a court. The court has only to do with giving justice.

Mr. Speaker, over the holidays I had the opportunity to see a very interesting movie, *Troy*. I will share it with you because I was reminded in that movie what would happen with this Caribbean Court of Justice. You will remember that was the film starred the dashing Brad Pitt. That is the film of the story of the face that launched a thousand ships—for those of us who did Latin—and *Helen of Troy*. This whole battle that was taking place had to do with a woman.

In fact, the battle was one for power. It was for territory in the ancient world. Here it was the city of Troy was besieged by its enemies but their walls were so strong that no matter what the enemy did the hordes could not get into the gates, could not get into the city of Troy and Troy withstood all the attacks. The enemy departed and Troy had won.

The citizens of Troy rejoiced in their victory and they opened their gates and came out and they saw a wooden horse, the famous Trojan horse, Mr. Speaker. They were so happy they saw this Trojan horse as a symbol of their victory and of their strength and rejoicingly they took the Trojan horse inside the walls of Troy, and they feasted and feted and satiated eventually; they fell asleep and in the dead of night the enemy crept out of the belly of the wooden horse and slaughtered the Trojans inside the gates, in their city.

2.30 p.m.

This Caribbean Court of Justice is, to me, a Trojan Horse, Mr. Speaker. I will show why. It is put out to us as a symbol of nationalism. It is put out as a symbol of independence. It is put out as a symbol of sovereignty, but within the bars of that Caribbean Court of Justice lie the devastation of democracy as we know it.

Mr. Speaker, it is my view that this will not be a Caribbean Court of Justice; that, indeed, it will become a Caribbean court of injustice and I will disclose my reasons for saying that. First of all, the arguments for the Caribbean Court of Justice—the Attorney General did not really give us the arguments—are in the public domain. The Attorney General touched on this particular one when he talked about independence and sovereignty.

The first argument that Government and others who want the Caribbean Court of Justice as a final court would have us believe is that the Privy Council is a colonial relic; that it is colonialism; that we need to reaffirm our inherent dignity and our worth as a people, and so they bring the Caribbean Court of Justice wrapped up in this flag of sovereignty, national pride, assertions of independence and so on.

The present President of the Caribbean Court of Justice put it this way. He said:

> Is it not time to complete our independence? Establish this court because in that way we are closing the circle; we would be completing our independence.

Sir Isaac Hyatali said that it is offensive to the sovereignty of independent nations and, therefore, politically unacceptable to have a foreign tribunal permanently entrenched in our constitutions as a final court.

The *Newsday* editorial I saw a week or two ago said that any attempt to block the setting up of the Caribbean Court of Justice as a replacement for the Privy Council would come as a clinging to the last remaining direct link in our Constitution with our colonial past.

The nationalism/sovereignty argument is the only reason that has really been advanced for abolishing the Privy Council and bringing in the CCJ as a final court. The argument is endearing because it appeals to our higher order emotions of pride, anti-colonial sentiments and so on. On the surface, it is very appealing, but when we examine it, the first question we need to ask is: Are nationalistic pride and anti-colonial emotions sufficient to dictate acceptance of the Caribbean Court of Justice at the price of a good court which inspires confidence in the administration of justice? Is it enough that we pat ourselves on the back and feel happy that this is something so nationalistic and so sovereign that we take away a good court and replace it with a Caribbean Court of Justice? Should independence and sovereignty mean more to us than justice means to our people? Is it not a fact that independence and sovereignty would emerge as a result of the observance of the rules of justice?

We get nationalism and sovereignty, not because we put a symbol there, but because it comes out of the wheels of justice. That is where it comes from. That is the root. No institution can give you that. You call it the Caribbean Court of Justice and label it sovereign and independent and all these nice words, but if justice is watered down to the level where people's rights can be violated, ignored without proper redress because of the machinations of the political directorate in the administration of justice, then surely the national and regional pride that we feel about independence and sovereignty must give way to the outrage that we feel that justice for our people means little more than how it would look.

So it would look good. That is the way it would look to have a Caribbean Court of Justice. It would look good, but will that bring justice to our people? That should be our concern. Where would we get justice, Mr. Speaker? I will return to that point in a moment.

The argument about nationalism, sovereignty and independence is specious. It is, in fact, a red herring with a strong emotional persuasive appeal to distract us from the real purpose, role and function of a final court. Indeed, this argument alone is sufficient to destroy any support, in my view, for the Caribbean Court of Justice.

What is the role and function of a court? A court has no business with nationalism, sovereignty and independence. That is not the business of a court. They must not set up a court and tell me that they are setting up the court for them to be independent. A court has no business with nationalism, sovereignty and so on. What business does a court have with that? All we want from our courts is justice; nothing less, nothing more. We want justice that will roll down like the

waters; justice that is not just done, but that is also seen to be done. That is what we want and what right-thinking citizens would be satisfied with. That is the business of a court.

A court has nothing to do with flying flags and asserting independence. The day our courts get involved in becoming independent, asserting sovereignty and nationalism, then the courts would not give us justice. There are other institutions of the State that would give that independence and flag flying and so on. That was never and must never be the business of any court. The moment our courts become symbols of anything else; the moment our courts become involved in political currents, cross-currents and undercurrents, from that moment, justice becomes compromised and democracy dies. So the sovereignty argument will not hold water.

I say, further, that it is hypocritical of this Government to come on an argument of nationalism and sovereignty and so on, because they have no credibility to support an argument of attaining sovereignty by establishing an indigenous court. This Government has divested in the hands of foreigners much of our indigenous resources, services, production base and other critical underpinnings of national ownership and control. It is hypocritical of this Government to argue for independence and sovereignty, when they are but mere puppets in the hands of a few powerful business conglomerates that control our economy.

Foreigners own, manage and drive our economy in the same way they do, in the rest of the Caribbean, whether it is banana, oil, tourism or natural gas. All over the Caribbean, foreigners own, manage and thrive. Up to today, whilst this Government promised that it would review and reform the tax regime for the oil, they have not done it yet. This was done several budgets ago and they keep promising. So we are deprived of the patrimony we should be getting from that gas regime. They gave it to the foreigners and they cannot even deal with reviewing that tax regime in spite of their promises. It is hypocritical for the Government to argue on sovereignty and independence given their pattern of behaviour.

Indeed, recently I saw a big headline in the *Guardian*, "Government going foreign to spruce up WASA". They are going foreign to spruce up WASA and they want to talk to me about sovereignty. The Government has gone foreign to spruce up the police service, I understand. I do not know if the man is here yet, but some man is coming to spruce up the police service.

I am not saying that anything is wrong with that, you know. That is the world in which we live now. However, it is hypocritical to come and pin your argument on sovereignty and independence when your dealing in this global village is one of an interlinked world.

Mr. Speaker, the argument, as I said, is specious and I am giving my reasons why. There is no sovereign nation to which the Caribbean Court of Justice would be attached, so it is totally false to say that this is a symbol of sovereignty. The Caribbean Court of Justice is a regional court. We do not have a regional nation. Sovereignty attaches to a nation. There is no regional nation until the Prime Minister and his friends from St. Vincent get together. So, it is nonsense to speak about sovereignty and nationalism.

Above all, the world has changed. The world has moved on and left them. It has passed them by. My colleague, the Member for Caroni East, commented on the Attorney General's mention of 1901 when they wanted to abolish the Privy Council because somebody said they were a few judges sitting so far away. My colleague said that this is a day of instant contact through technology—email, the Internet, the fax, the phone. Communications have reached where the world has become borderless, so that wherever you are in the world there can be communication. That is why I said I had no problem when I heard that the Government had gone foreign to spruce up, because that is the way the world operates now. However, that was not my problem. My problem was hypocrisy. They are talking nationalism and sovereignty on the one hand, but they are practising living in the global village.

The concept of sovereignty today is very different from what it was in the 1960s and 1970s when the idea of the Caribbean Court of Justice in one of its incarnations was first tabled by Jamaica at the Sixth Meeting of the Caribbean Heads of Government that the Attorney General spoke about. The world was different then and the concept of sovereignty was different to what it is now.

In the period following World War II, all over the world, there was talk of nationalism and identity. Nationalism and the right to shape your identity were the key issues in the world. It is interesting, therefore, to note that it is in that period that the majority of the countries that severed ties with the Privy Council did so before 1960 on the tide of nationalism that was sweeping the world.

Jamaican, Dr. Lloyd Barnet, a most eminent Caribbean constitutional expert put it this way.

> "Political sovereignty is at first blush emotionally compelling. However, in a world which is increasingly becoming a global village and in which jurisdiction over important areas of national life is more and more conferred on regional and international bodies, this argument is losing much of its force."

Bernice Lake, eminent QC of Antigua & Barbuda, reminds us that the age today is not so much the identity of people within well-defined national boundaries and the subset issues of national determination and symbols of sovereignty; the age today is of global harmonization and constitutionalization of human rights for the "dignification" of the individual. The impact of global constitutionalization of human rights, Mr. Speaker, is limitation upon sovereignty itself and so it is reshaping expressions of nationalism and sovereignty in today's world.

In today's world sovereignty is under attack and is retreating in the face of the advancing global concerns worldwide for the protection of human dignity.

The factors of our economies, driven by foreign investment, the whole process of globalization, the falling trade barriers, do not point in the direction of our retreating behind our national boundaries with all three tiers of our judicial framework. That is not the way the world is now.

It is my view that the process of indigenization by the creation of the CCJ as our court of last resort has come too late. We are not in the 1960s or the 1970s, when nationalism and sovereignty were the battle cry of the day. We are in 2005. The watchwords are "globalization" and "harmonization". We are seeking, through the Member for Diego Martin Central, to secure the headquarters of the Free Trade Area of the Americas (FTAA). This is the world's largest commercial trading bloc. This is a bloc in which the protection of human rights is the core value of democracy. That is a key component of the FTAA. In all other areas of our national life, we are looking and pushing outwards and beyond, but at the same time, we want to close up the last tier of our final court of appeal.

There are those who argue that as a matter of national identity we should no longer go to this foreign jurisdiction; that there is an aspect of colonial cringe in retaining the Privy Council. That is nonsense in today's age. The reality of the modern world is that, like many countries, we have ceded national sovereignty in a number of ways. We have entered into a number of national conventions. We were here in this when we debated several different regional agreements and bills passed for the Association of Caribbean States (ACS) and the FTAA. There were

others that did not come to the House that we know about. We are a part of the WTO and we are parties to many of the world's multilateral agreements. We are part of that global process.

Many countries have chosen to look outside, to adjudicative bodies, for resolution of disputes. Here we are, Trinidad and Tobago and Barbados, in a fishing dispute about maritime boundaries. Where has that gone? That has gone to an international tribunal. Is that a loss of sovereignty? When we have this Caribbean Court of Justice, is that the court that will adjudicate whether the flying fish belong to us or to them? Is that the court that will adjudicate upon the oil and the gas that Barbados is now claiming in the waters under our sea? Who will adjudicate on that? Would we want those to be adjudicated upon by some outside international body? The way of the world is that global village I am talking about.

We see the sovereignty in a lot of ways, but that has not destroyed us as a nation. Again I say that we will be following a very contrary course. We will be moving against the stream right now if we move ourselves from the jurisdiction of the Privy Council. We are going against the stream at this point in time. The time is not now, Mr. Speaker. The fundamental position is and must be that justice transcends nationalism.

In this age of globalization, all progressive countries seek the best services in the world. That is why they sourced out WASA and they sourced out the police. They seek the best because the world has become a small place, given communication. The Privy Council has proven to be the best in matters of justice and so the issue is not about location, the issue is not about cost, the issue is not about sovereignty, it is about pure and true justice. That is what the issue is. That is the role of a court.

The hon. Attorney General and others have put forward a second argument as to why we need to get rid of the Privy Council and that has to do with the fact that they say that it is far removed and does not have an appreciation of local circumstances, such as social conditions and the views of the Caribbean people. The Caribbean Court of Justice, it is contended, is needed to reflect the moral, social and economic imperatives of our people in the Caribbean. But the Privy Council, they allege, cannot do that.

Mr. Speaker, first of all, this very legislation says that from any of the Commonwealth countries—there are over 50 Commonwealth countries—judges can apply to sit on the CCJ. Where is the familiarity then when you are bringing

them from any part of the world? What familiarity will they have with our jurisdiction?

In any event, the composition of the Privy Council has changed over the years. The Privy Council now has, as one of its judges, the very man who has been selected by them to head the Caribbean Court of Justice—Mr. Michael de la Bastide. He is a Privy Councillor. He is one of the judges who will sit on the panel, so what are they talking about lack of familiarity. We have had other Caribbean judges sitting on the Privy Council as well. There we are.

This argument also ignores the fact that the Privy Council has the benefit of the judgments of a local High Court judge as well as three Appeal Court judges. They can tell me that when they sit there, they do not know what is going on here. When they are adjudicating, they get the High Court decision and then the three Appeal Court judges give their decision and those are what are being appealed. So they will have the benefit of the wisdom and the familiarity of those four judges when they are adjudicating at the Privy Council level.

Mr. Speaker, our system of jurisprudence interprets the law based on evidence and the law is presented in the court. It is not the external circumstances, flavoured by the political will and spiced by emotional values that are taken into account in dispensing justice. That familiarity with local conditions that they are speaking about is not what justice is for. Justice has to do with the evidence and the facts that are presented in the case. That is what is contained within the High Court judgments and the Court of Appeal judgments that the Privy Council sits on.

I am saying that the arguments that they are too far away and that they do not know what is going on here and are doing nonsense, is nonsense. I totally will not buy that argument. Contrary to the view that they are so far away is one of the strongest pillars of why the Privy Council gives us justice. People in the Caribbean respect the Privy Council because of that distance. The highest form of justice is most assured when the judge does not know the prosecutor, or the prosecuted, the petitioner, the respondent, or when the judge is a stranger to the politicians in the State in which the offence was committed. Highest impartiality is from that very distance that they are talking about.

Today, I pay tribute to the Judiciary of Trinidad and Tobago. It has been dispensing justice in our courts fearlessly and fairly. [*Interruption*] Whether the decision went in Basdeo Panday's favour or did not, they are dispensing justice without fear or favour. We, on this side, will resist any attempt by anyone to

intimidate and harass any member of the Judiciary. We will resist and fight any and every attempt to harass and intimidate members of the Judiciary because they are the guardians of the nation, the soul of the democracy, and the State must give them that protection. That strict impartiality is guaranteed. Even the most ardent supporters of the CCJ cannot say that there is not a tremendous advantage of that distance from us that the Privy Council enjoys in dispensing justice.

A third argument that is being put forward with respect to abolishing the Privy Council—taking away our right of access—has to do with the British government withdrawing the services of the Privy Council. I remember when this debate was in the air some time last year, the then Attorney General, Sen. The Hon. Glenda Morean, was reported in the newspaper as saying that Britain would take away the Privy Council; that they were not going to support it any longer. Nothing is further from the truth.

In the first place, at the second UK Caribbean Forum held in London in May 2000, the British government made it clear that the facility provided by the Privy Council would remain, so long as the countries of the Caribbean wished it to do so, without any pressure being exerted by the United Kingdom for countries to establish their own system. The British government made their position clear. It was reported by Selwyn Ryan in 2001, as having been reported in the *Guardian* of May 22, 2000, that the British government at that forum had indicated that Caribbean countries could have access to the Privy Council as long as they wished and that the government would not be exerting any pressure.

We also did our research. The office of the Leader of the Opposition wrote to the British High Commission and this is the reply we received from them, dated September 05, 2003 and received on September 18, 2003. It comes from the Press and Public Affairs Officer, British High Commission, Port of Spain.

> Information with regard to your questions dated September 05, 2003, as follows:
>
> > What is the British government's position on the Privy Council as regards it being the final court of appeal for former colonies?
> >
> > > There are no plans to withdraw the facility of the Judicial Committee of the Privy Council as the supreme appellate authority for Commonwealth states that wish to avail themselves of it.
> >
> > What is the position of the British government as regards the status of the Privy Council in the framework of the British legal system, given that there is now a European Court of Justice?

> The Judicial Committee of the Privy Council, the House of Lords and the European Court of Justice have quite separate jurisdictions. The House of Lords is the highest court of appeal for most matters in the UK. The European Court of Justice is the highest on matters of European Community law. If a question of EC law arises in the House of Lords, that question may, and in some cases must, be referred to the European Court of Justice. The European Court of Justice then answers the questions of European Community law and sends it back to the national court to resolve the matter before it.

You see, there are regional courts, but there is not a single regional court in the world that has the jurisdiction that this Government wants to give to this Caribbean Court of Justice. There are over 200 RTAs—Regional Trading Agreements—in the world and in not a single one of them is there a regional court administering as a final court of appeal. So the argument that the British government wants to take this away is totally incorrect.

Those were the arguments for and I will now deal with the arguments against.

The most compelling argument in favour of keeping the Privy Council is the judicial impartiality and independence that it guarantees. This is, in part, a direct result of the geographic location. That Olympian kind of aloofness is freedom from political pressure and has allowed its decisions, in times of acute political controversy, to bring a calming influence on many constitutional issues in our country. The Privy Council judges are not appointed, nor can they be dismissed or even promoted or denied promotion by our politicians directly or indirectly. The lack of any possibility of political influence on the Privy Council judges has been one of its strongest appeals.

Contrast this now, Mr. Speaker, with appointments to this Caribbean Court of Justice as contained in the Bill and in the treaty. The agreement establishing the Caribbean Court of Justice does not shield the process of selection of judges from political interference. The Heads of Government have too large an opportunity to influence the appointment of the President, who is also the Chairman of the Regional Judicial and Legal Services Commission, as well as the appointment of members of the Commission and, therefore, the whole process of judicial appointments and disappointments to the Caribbean Court of Justice. The Heads of Governments, the politicians, have too large a part in that whole process.

There are numerous examples of the down side of political control of the process of judicial appointments in the Caribbean. Bernice Lake, QC, cites two of

them. She talked about the refusal of the extension of the services of a Justice of Appeal, at the instigation of a Head of Government, with whom her judgments did not find approval. They did not extend that Justice of Appeal's time in office because they did not like the judgments that judge was giving.

For two and a half years the appointment of the Chief Justice of the Eastern Caribbean Supreme Court was embroiled in a political impasse in the selection process. These events obviously would impact adversely on the culture of the courts and the confidence that such a court could give us.

Right here we saw the circus that ensued when a sitting judge was selected to head the commission of enquiry into the airport—a former Chief Justice. That kind of political interference is what I am talking about.

The Heads of Government, Mr. Speaker, have steadfastly taken control of the appointment, discipline and removal of the President of the Caribbean Court of Justice as contained in Articles IV 4, IV 6, and IX 5(1) and 6. Within the provisions here, they have taken steadfast control of appointment, discipline and removal of the President of the CCJ. Even the appointment of an acting President remains tightly within the control of the politicians. The term of office that they are given, Bernice Lake QC points out, that the brevity points to ensuring political dominance over the court. You know, if you are there for a longer time, you do not have to depend upon any political directorate. Security of tenure is a very important issue with respect to the Judiciary.

On top of that, the Attorney General tells us that there is a clause in here that prevents anything done by the Regional Judicial and Legal Services Commission from being enquired into in a court of law. Those nasty ouster clauses! The whole movement in the progressive world in transparency and accountability in governance has been to take away those ouster clauses to allow any action by the Executive to be questioned. Let the courts determine if there has been abuse or misuse of powers.

So there is a judge sitting there and they do not like the judgments he is giving and the Judicial and Legal Services Commission fires him, that judge cannot take it to court? He cannot enquire into the proceedings? If they decide to select Mr. Brown, Mr. Grey, Mr. Singh or Mr. Bernard, he cannot enquire why?

One of the best pieces of legislation this Parliament ever passed was the Judicial Review Act, 2000 under the UNC. That Act allows for the actions of any public officer, any official administering and using public funds and working in

the public to be enquired into in a court of law. Why do they want to take the Regional Judicial and Legal Service Commission out of this? If they do nonsense, let the courts decide. If they do well, let the courts also say they do well. They cannot take them out of the purview of the jurisdictions of the court.

So the Heads of Government, through their constitutional control over appointments to the local Public Service Commission, the Local and Sub-regional Judicial and Legal Service Commission and all the other bodies, have the power to appoint five of the members of the Regional Judicial and Legal Services Commission. The President and the Acting President and so on are only within the domain of the politicians. In addition, indirectly, the way it is framed, the Heads of Government, the politicians, have indirect control of the appointment of members of the Commission and the Commission is going to appoint the judges. It is ripe for political influence and interference. There is a clear danger of that kind of bias and influence.

The composition of the judges thus far appointed, Mr. Speaker, is totally out of kilt with the reality of the Caribbean with regard to Trinidad and Tobago. They have appointed six judges. They say we are calling race, but this is blatant. This is why I want the power to review the proceedings of the Commission when they hired six judges and not a single one of Indo origin. A court must reflect the composition of the public it serves. Even in England now where the minorities are really minor, they have taken the decision that the Bench must reflect the minorities in that nation. How can you sit six judges and not one is of Indian origin? How can that be when half the population in this country is of Indian origin? How do you expect them to have confidence? [*Interruption*] Well, there is Suriname and Guyana as well. They are giving strength to the argument. Thanks for reminding me of them. They do not reflect the population. How can they expect the population to feel confidence in a court of that nature?

I need to know my time please, Mr. Speaker.

3.00 p.m.

Mr. Speaker: Hon. Members, order! Hon. Members, the speaking time of the hon. Member has expired.

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

Question put and agreed to.

Mrs. Kamla Persad-Bissessar: I was on the point dealing with the Caribbean Court of Justice and the political interference that could arise. I spoke about the Regional and Judicial Legal Services Commission. I also spoke about the lack of reflection of the society in the composition of the judges already appointed.

In addition, the three-year term of membership for these persons sitting in the Regional and Judicial Legal Services Commission, means that their tenure will be up in three years' time which, again, will fall within the purview of the particular sitting government. The Government has placed its people within its own term, again, to influence who it wants to put on the Regional and Judicial Legal Services Commission. If it did not like the work of any particular one of them, because they were not of its policy making, it would get rid of them and bring on those it is sure it would have in its hands.

Article IV relates to the removal and suspension of judges other than the President, but there is no provision whatsoever made for the rules of natural justice to operate in the process of removal or suspension of judges. You have the power to remove or suspend them. If you do not like their judgment, because the judgment is against you, what are you going to do? You already control the commission; you would have to tell them to suspend the judge or terminate his appointment. There is no process for removal and suspension. There must be a process. You are dealing with a right. That job is a property right, therefore, there must be the process of natural justice, if you are going to interfere with that right by taking them away or suspending them from the job. There is a startling lack of transparency in the whole process of appointment and removal of the judges of the Caribbean Court of Justice.

Article VII provides that the proceedings shall not be enquired into any court. Clause 23(4) of the Bill gives effect to that part of the agreement. That is the ouster clause I was talking about. In section 23(4), no court can enquire into anything these people do. No one should be above the law. That was the second important piece of legislation passed in this Parliament by the UNC. It was the legislation which removed the ouster clauses pertaining to all the service commissions in Trinidad and Tobago. Before that was passed, you could not take the Teaching Service Commission to court when they did not promote or transfer you. You could not take the Police Service Commission or any of the service commissions to court for abuse of power or acting in excess of their jurisdiction. That ouster clause was removed in this Parliament by the UNC. This is very objectionable. You will be allowing a body to function, but there will be no

redress and no remedy for anybody who is wronged by the service commission. There is no openness and transparency in the selection and removal of members of the Regional and Judicial Legal Services Commission and the Caribbean Court of Justice.

Political control of the appointment process is evident from the view that regional governments expressed it, with respect to the President of the Court. In these words of August 16, 2000 the Heads of Government expressed this view. I quote:

> "Because the Caribbean Court of Justice has to deal with law and policy, the Heads of Government need to express their opinion on the appointment of the President in order to ensure that there is compatibility at the policy level."

Mr. Speaker, this attitude is in total negation and denial of what the role and function of a court is. The role and function of a court can never be one that has to do with government policy in any matter. Here it is the Heads of Government is saying: "I want to be able to control who is the President, how he goes and how he stays. I want to hire him and fire." Why? There must be compatibility at the policy level. No court must have anything to do with the compatibility of government policy; it will act in accordance with the law of the land. You cannot have that interference. This is a negation of the role and function of a court, where the court must work as a balancing force between the tensions of governmental policy, the ordinary citizens of the land and their individual rights.

The search for an appointee as President of the Caribbean Court of Justice, whose attitudes are compatible with government at the policy level, puts the protection of the citizens' rights at risk. In addition, it violates the doctrine of the separation of powers—the hallmark of democracy. It compromises the integrity of the President of the Court because there will be the perception that the attitudes are compatible with government policy. The Government says it wants to choose him because—I am not saying this about the individual—that is the perception. This is because of what the Government has said. The Government has compromised his integrity. He was chosen because the politicians said that they wanted somebody compatible at the policy level with Government.

The Jamaican Attorney General justified the rights for governments to have an input into the appointments, discipline and removal of the President of the Court in the fact that the Lord Chancellor of England is subject to governmental appointment and sits in Cabinet. They can say: "Okay, we want to control this

President. We want to control him, hire him and fire him." What is wrong with that? In England, the Lord Chancellor is a Member of the Cabinet and he sits as a justice, therefore, nothing is wrong with that. Mr. Speaker, that argument reveals a total lack of understanding and ignorance of the law of our own Caribbean States.

I made the point before that the Government's legislative and policy-making powers in a constitutional democracy are very different from what happens in Britain. In Britain, it is the Parliament that is supreme. I mentioned the case where Lord Nichols of Birkenhead ruled that we are different. England has a parliamentary democracy and we cannot compare that parliamentary democracy with a constitutional democracy in this regard and say because England has the Lord Chancellor and the politicians appoint him, we must appoint him. No! In Trinidad and Tobago it is the Constitution that is supreme. We are dealing with constitutional democracy. To argue that if England does it we should do it, you are totally wrong. It is ignorance of the existence of the constitutional law of Trinidad and Tobago.

I also pointed out that the Caribbean Court of Justice is the only one of its kind in the world. There are several regional courts. You may know the European Court of Justice, the COMESA Court, the TJAC Court and the ICJ Court. All these are regional courts, administering and deciding upon laws relating to treaties. Nowhere in the world, I said it before, is there a court where there are two jurisdictions, a final appellate jurisdiction and the original treaty jurisdiction. All these regional courts administer only the treaties that the states have made; trading agreements. What is it about the Caribbean that we are so great in the world that we will be the first of its kind to place into one court an original and a final appellate jurisdiction? Something is very wrong with that! There is not a single precedent in the world. Look at how close the European Community worked with each other in every way, far more than we are working and how we should be working in Caricom. They have not surrendered the appellate jurisdiction to any regional court.

National domestic law is not surrendered to a regional court, nowhere in the world. What is the difference? Only CCJ will hear appeals in both the civil and criminal jurisdictions of members. The proposed CCJ is both a municipal court of last resort and an international court with compulsory and exclusive jurisdiction in respect of the region's organizations laws. This sets it apart from every other court in the world. I searched everywhere, and nowhere can I find this precedent. [*Interruption*]

Mr. Speaker, I will deal with that point. I still have time. I will come back to the issue of political interference, which is a very serious issue. I spoke about the appointments and have shown the direct, long hand of the politicians deep insight, with respect to appointments, removals and suspensions of judges, therefore, breaking any semblance of any independence they could have.

I want to talk more about that. In this scenario politicians have too large an opportunity to influence the appointment of the President, who is also the Chairman of the Regional and Judicial Legal Services Commission, as well as the appointment of members, members of the regional commission, the whole process of judicial appointments and disappointments to the CCJ. This is why I say it is not a Caribbean Court of Justice, but it will become a Caribbean Court of "Injustice" because of that political interference. We have no faith that the CCJ will be able and willing to protect citizens' rights from the intrusion of the State.

Can you imagine, the Appeal Court in Trinidad and Tobago recently ruled about the Maha Sabha licence and remitted the matter back to the Cabinet to reconsider? Could you imagine if you had to appeal to the CCJ, where the judges are in the hands of the politicians? Do you know what that decision is going to be? You can have no faith whatsoever that you will get justice in any of those matters when you appeal them, where the Government is directly involved in the matter. On appeal to the Privy Council, we do not have that fear. There is a pronounced autocratic tendency of this Prime Minister, his sinister records and that of his Government, in matters of justice. We do not trust them. We do not trust him. We do not trust the justice of this land to be in their hands through the Caribbean Court of Justice.

Suzanne Mills pointed out in the *Newsday* recently that the hon. Prime Minister, in his Scarborough sermon at the climax of the PNM election, declared:

> "Whenever I look at Orville London I am reminded of the biblical injunction: This is my beloved son in whom I am well pleased."

She said that this is a Prime Minister, who has elevated himself from father of the nation, then he became the godfather of the Caricom and now he has become God the Father. This is a Prime Minister who thinks he is a law unto himself. This is a Prime Minister interfering in all sorts of matters in which he should not, including the church. We must not forget that this is the Prime Minister who said that he will make sure his sister gets "lock up" if she broke the law. No Prime Minister in the world has the power or jurisdiction, legally, to cause anyone to be "locked up". That is the criminal justice system in the police. This is the Prime Minister

who illegally interfered with the appointments of the NLCB. He illegally interfered with the transfer of Marlene Coudray. This is the Prime Minister who illegally ordered, it is alleged, the release of the Bajan fishermen. I do not know. He has never denied it. That is the allegation. I will give him the opportunity now to say that he was not the person who ordered the release of the Bajan fishermen.

Mr. Speaker, I saw a matter filed in the High Court of Justice on public record, a public document, where a very senior member of the police force—I am not making any statement about it, this is a public document and I will read from the public document. I will not pronounce left or right to interfere with the system of justice. This is public document HCA No. S-156 of 2005 in the matter of Dennis Graham and the Commissioner of Police. When you read what is being said here, it is frightening. These allegations are frightening.

Mr. Manning: Mr. Speaker, is that a matter that is before the courts at this time?

Mr. Speaker: If in my determination, what the Member is saying could have any influence on the court then I will stop her. It is not that Members cannot raise matters that are before the court, you could, but if it is in the view of the Speaker that what the Member is saying could have some influence on the determination of the matter, then that is a breach of the Standing Orders.

Mrs. K. Persad-Bissessar: This is a public document that anybody could go to the court and pay for it and get it. This is a public document in the public domain. In this, a very senior member of the police force talked about the traffic plan in San Fernando. He said:

> "(g) By supporting this illegal project the police service ran the risk of creating or contributing to the public perception that it was becoming too politicized and genuflecting to the ruling party at any and all cost. On this note, I reminded Mr. Paul that recent events had, in my view adversely affected the independence of the police service. These events, which I recounted included the following:
>
> (i) The widely reported allegation that a police prosecutor had caused two Bajan fishermen caught illegally fishing in our territorial waters to walk free…
>
> (ii) The apparent inaction and/or endless delay in investigating allegations of corruption made against officials of the ruling party…

(iii) The allegations by Opposition politicians that senior police officers aligned with the ruling party were misusing their office and powers to target, victimize, harass and intimidate their supporters by searching their homes and business premises. These searches were allegedly being carried out at times when allegations of corruption were made against the government by the Opposition and the media and they had the effect of shifting the spotlight away from the government at what might be a politically uncomfortable time;"

These are the words of Commissioner Graham on oath. It continues:

"(iv) The fact that persons were arrested, charged and prosecuted for 'voter-padding' charges on the basis of statements made by one Mr. Richard Bickram who had since left the protective custody of the State and publicly proclaimed that he was paid and/or influenced by senior officials of the ruling party to deliberately mislead the police service into acting as it did…

(iv) There were many complaints about the fact that the Anti-corruption Unit reported directly to and appeared to be taking instructions from the Honourable Attorney General who is a politician as opposed to the Commissioner of Police. This was instituted during the tenure of the previous regime and continued by the present administration but remains in my view wrong in principle because it violate the chain of command and is conducive to a politically compliant police service;

(v) The ethnic composition of the executive of the police service is such that of its twelve members, only one was East Indian and we should not do anything that could be perceived as 'siding' with the ruling party…

11. Mr. Paul listened to my concerns and responded by telling me that I didn't know 'how to play the game'. He said the PNM was in power until 2007 and he was going to retire in November, 2007 and didn't want to 'rock the PNM boat'. He joked that I was sounding like 'an

> Indian leader' on the issue of the ethnic imbalance in the executive and asked me if I expected him to recommend Indian officers for such promotion while the PNM was in power. He finally advised me that he had authorize the plan and gave the necessary instructions for the police to support the Mayor's plan and that I needn't be part of it, if I didn't want to. I replied that I did not wish to compromise myself and would rather not support such an initiative."

This is what is happening in this country. We do not trust them.

Hon. Jeremie: Mr. Speaker, on a point of order.

Mrs. K. Persad-Bissessar: I have 10 minutes, unless we know the point of order.

Hon. Jeremie: The matter which is—35(6)

Mrs. K. Persad-Bissessar: The Speaker ruled on that.

Mr. Speaker: No, you just raised the point of order.

Hon. Jeremie: Can I elaborate?

Mr. Singh: Not in this House!

Mrs. K. Persad-Bissessar: You have already taken so much of my time, I would ask the Speaker to enlarge my time.

Mr. Speaker: Give me a little time to rule please.

Mrs. K. Persad-Bissessar: I thought you had ruled.

Mr. Speaker: No. I think you have quoted the wrong Standing Order. [*Interruption*] The hon. Member said 36(6).

Dr. Rowley: Try 35(6).

Mr. Speaker: I think the Member is getting confused with the Standing Orders, please continue.

Mrs. K. Persad-Bissessar: I was on the issue of political interference. The way this Government has been operating, we do not trust this Government and the Prime Minister and we do not believe that the time is right for the Caribbean Court of Justice.

In 1987, the Member for San Fernando East refused to support the Caribbean Court of Justice saying that he did not trust the then Prime Minister Robinson. The *Hansard* of April 28 records Mr. Manning admitting that he did

not support the CCJ when he was Leader of the Opposition, because he did not believe the time was right for it. We do not believe the time is right for it. We do not trust them.

Mr. Manning: Mr. Speaker, in 1987 the PNM did not agree. Subsequent to that we have done a review of policy and came to the conclusion that it was the right direction in which to go and we used that as a basis for going to the electorate. In the case of Members opposite, they initiated the thing in 2001. That is the problem. They signed it.

Mrs. K. Persad-Bissessar: We have also reviewed our policy. We do not trust the Government and we will not support it.

Another argument that is a very strong argument against the Caribbean Court of Justice has to do with the costs. There are some arguments that final appeal cost to a litigant will be cut down. At the moment we must remember that the Privy Council did not cost the Government and the people of Trinidad and Tobago one black cent.

Mr. Manning: You want to sponge? An independent country wants to sponge.

Mrs. K. Persad-Bissessar: We do not want to sponge. The Government must tell me why it wants to spend all this money to set up a court. In the first place—I want to quote the good friend of the hon. Member for San Fernando East, Prime Minister Ralph Gonsalves at the Conference of Heads of Government in July 2001, who said:

> "I am yet to be persuaded that it is quite in order to build a judicial superstructure entitled the Caribbean Court of Justice, which envisages the abolition of the Privy Council as the final appellate authority, but leaves the magisterial courts' system in shambles. The ordinary folk in the Caribbean seek judicial redress in the Magistrates' Courts in 90 per cent of the cases."

Up to today, of course, you may know that St. Vincent and the Grenadines is not one of the countries that are moving to remove the Privy Council's jurisdiction. The Prime Minister's friend and ally is getting his priorities right. He is saying that we need to deal with our local system.

Because of the time that has been lost I would give you an idea of what is going on with the Magistrates' Courts. The 2002/2003 Judiciary Report indicated that 434,000 cases are pending in the Magistrates' Courts. During that period

79,000 cases were dealt with but 79,000 were filed. There will always be 400,000 cases going on, unless you do something about it. What justice is there? The later report, 2003/2004 indicated that 465,767 cases are pending. This is a report from the Judiciary of Trinidad and Tobago. Seventy-nine thousand cases were disposed of and 79,000 new cases were filed. In and out is the same. The 400,000 cases will never get disposed of. The Government is going to spend millions of dollars on setting up the Caribbean Court of Justice, but this system is in shambles.

Time is upon us. With respect to the UNC's position, the Attorney General was right when he said that we signed the agreement and we were the ones who agreed to abolish the Privy Council. If the Attorney General had read it properly he would see that the treaty we signed clearly gave us the right not to abolish the Privy Council. That is a very important point. When we signed this agreement, we ensured that there was a clause in it that we did not have to abolish the Privy Council if we did not want to. That is why, when we laid the papers in the Parliament, the Attorney General talked about consultation and made it very clear and said even though we do not have a referendum for the position in our Constitution, we should still consider whether referendum is needed. I think the most important damaging statement was with respect to telling us that we changed our minds. It is quite all right when they change their minds and review the policy. I will give my reasons for not supporting it. When we signed this we reserved the right not to abolish the Privy Council. This is on page 41, Article XXXIX, which states:

> "A reservation may be entered to Article XXV on this Agreement with the consent of the Contracting Parties."

Article XXV deals with the appellate jurisdiction of the court. We are bound by the treaty but we are not bound to abolish the Privy Council. That is the big difference. When we signed, that was there and that was still there. We did not bob and weave and flip-flop in that regard.

The Cabinet of Trinidad and Tobago, under the UNC government, took no decision to abolish the Privy Council. If we did, you would have told me. We did not. We signed the treaty but we reserved the right not to abolish.

I talked about the "ramshackleness" of our Magistracy. At the High Court level, there are 6,000 cases per year pending. Recently, an Attorney-at-Law, Winston Campbell, was charged for an alleged offence and the case was 10 years later. An offence that happened in 1995 was determined 10 years later. Justice delayed! Why do we not take this money and fix our justice system here? We do

not have to spend that money in the Caribbean Court of Justice for "fellas" to fly up and down the Caribbean to hear 20 cases per year. The Privy Council is from the entire Caribbean, but they will hear only 23 cases. What is the Government spending hundreds of millions of dollars for, to deal with 23 cases? From Trinidad and Tobago, it would not be 23 cases; it would be three or five. How many of those judgments have been overturned from here? Have they been out of kilt? Why are we spending all this money?

Look at the opposite of this; in 2002/2003 the Judiciary requested $45.6 million for capital investment projects which included computerization, refurbishing courts and the construction of courts. The Government allocated only $2.9 million. They revised that to $6.6 million. Out of the $45 million that they asked for, the Government gave them $6.6 million.

In 2004, the Judiciary requested $62 million, they were allocated $22 million but only one-third of their request actually came in releases. The Government is starving the Judiciary, but it wants to spend hundreds of millions to set up the Caribbean Court of Justice.

Mr. Speaker, we need to get our priorities right. It is not only the court system that is in shambles; it is the infrastructure, flooding and roads. More babies are dying and there are high food prices. Fifty per cent of our people are living in poverty. This was in a UNDP Report carried in the newspapers. The latest UNDP Report states that 50 per cent of the population is living on less than $12 per day. The fundamental question has to be whether the Caribbean Court of Justice will offer us an improvement to the services provided by the Privy Council. No one could contend that this is the case. In none of the debates up and down the Caribbean has an argument ever been put forward that the Privy Council has persistently erred in its judgments.

Indeed, it is a contrary view that is always present. The Privy Council consists of the highest calibre of the Judiciary, from the British as well as the other Commonwealth countries, including Trinidad and Tobago's own Justice de la Bastide. Together, they comprise a wealth of experience and jurisprudence that is unmatched anywhere. Its administration cost Trinidad and Tobago nothing. There is a deep respect for the quality of justice of the Privy Council, a status which any new court may or may not achieve in any event, only after decades of practice.

The reputation of the Privy Council is a linchpin of great importance and confidence to agreements between Trinidad and Tobago and foreign countries. I agree it was the UNC which signed the agreement. Even though government

agreed to host the court, as I indicated, we said that we were prepared to go out for consultations. The *Hansard* will show that. As I pointed out, at no time did the UNC Cabinet take the decision to abolish the Privy Council.

Thirdly, we are bound by the treaty. The UNC bound us with the treaty. I made that point and I want to repeat it. In Article XXXIV we retained the right to keep our Privy Council. We were not bound by this treaty to remove it. Indeed, we were bound to either keep it or get rid of it. We do not want to get rid of it.

It is not just the UNC that is against the Caribbean Court of Justice. *Caribbean Net News* of November 09 reports that only five member states—they never told us how many of them got rid of their Privy Council—have actually decided to go along with abolishing the Privy Council, they are Barbados, Jamaica, Guyana, St. Kitts/Nevis and St. Lucia. The Prime Minister of St. Vincent and the Grenadines said no. Antigua and Barbuda said no. Dominica announced that it will keep the Privy Council. The Bahamas, Grenada and St. Vincent and the Grenadines all need special referenda. They have to get around with their people and consult. The non-independent British territories like Montserrat will keep the Privy Council because they are British dependencies, therefore, they will not abolish the Privy Council either. How will that work in a Caricom, where some members have the Privy Council and others do not? Up and down the Caribbean, lawyers, politicians, jurists and others are against the abolition of the Privy Council. Suriname cannot submit to the jurisdiction because Suriname does not have a common law jurisdiction. The Attorney General told me that he will take common law first. What about Haiti? Haiti cannot participate in that court. [*Interruption*] Mr. Speaker, I will have to take one minute if I allow the Prime Minister.

Mr. Speaker: The only problem with all this is that your time has expired.

Mrs. K. Persad-Bissessar: Mr. Speaker, I think I have spent enough time indicating to this House that we will not support it.

Finally, the time is out of joint to embark on the Caribbean Court of Justice as a court of last resort. The factors of funding and the likes, at this point, do not permit the enjoyment of this prestige symbol. Our internal climate is such that I have no confidence. We can secure dignification of the individual with the CCJ. I have no confidence that the CCJ can be the guardian of the soul of the nation, which is the role of a court.

I thank you.

The Minister of Housing (Hon. Dr. Keith Rowley): Mr. Speaker, thank you for the opportunity to enter and make some observations in this debate. As I sat

here listening to my colleague from Siparia, I must say I am amazed at the ability of some persons to know one thing and say something else.

I remember my grandfather "fell out" with a cousin of ours, a "fella" called Solomon. My cousin Solomon made a statement to my grandfather that "a man who cannot, give his word and take it back is no man at all". My grandfather took that to mean that that is the position of a scamp and got very annoyed with Solomon from thereon in.

This afternoon we have heard the most amazing statements from our colleague from Siparia, absolutely amazing. Probably the most amazing statement made this afternoon is when my colleague from Siparia said the UNC never intended to abolish the Privy Council. We were all here. She said the UNC signed the treaty, but they never intended to and the Cabinet never took any decision. Mr. Speaker, I want you to hear me. [*Interruption*] Are you finished? I thought I heard my colleague from Siparia say: "The UNC signed the treaty. We never intended to abolish the Privy Council and" take note, "notwithstanding what the Prime Minister said, the UNC cabinet never took any decision to abolish the Privy Council." What is the purpose of the treaty that they signed?

Secondly, is it that we are being told by a former Attorney General of the UNC that the intention was to maintain the Privy Council as well as a Caribbean Court of Appeal? Is that what the court was supposed to be; one of consultation? We are now being told, according to UNC's understanding, we were going to have a Privy Council and we were going to have a Caribbean Court of Appeal. That was not what we were told. The public records are there, both in Parliament and in the press, as they printed the statements and the positions—when the UNC Attorney General, Ramesh Maharaj, embarked on a crusade to hang some of their friends—they were making it quite clear that the Privy Council was something of the past and should be replaced. It was out of that development that some persons today were quite erroneously seeing the CCJ as a "hanging court", because of the position they took at that time. Official positions were taken by our UNC government at the Caricom Heads of Government, regarding the position of the Government of Trinidad and Tobago, with respect to the jurisdiction of the court. It is there in the record.

The Member got up and prattled at a thousand miles per hour and said that she never intended to. That, in no way, would erase the fact that in the records of the Caribbean, this country—and more importantly in the minds of the people of Trinidad and Tobago—the treaty we are discussing now and the Caribbean Court

of Appeal was meant to replace the Privy Council. No amount of fancy footwork could change that.

I am not entirely in a position to refute what the Member said with respect to the number of cases in the Magistrates' Court. [*Interruption*] I am not reading that. The Member wants us to believe that there are over 400,000 cases pending. Assuming that there are 100 magistrates in the country, and there are 40 magistrates in this country, are you telling me that each magistrate has a caseload of 10,000 cases? I am not in a position to refute that, but I find that a little difficult to swallow. If that is so, then that is another issue.

Notwithstanding everything the Member said, she made a case against the Caribbean Court of Justice. That reminds me of high school days. In those days, there were debates in high schools and notwithstanding what your position on the matter was, when you pulled the subject, you were asked to argue for or against it. What has happened this afternoon is that the Member, notwithstanding her position on this matter, today as an Opposition Member, has pulled to debate against and sought to make an argument against it.

I want you to know, Mr. Speaker, that all the arguments she raised dealt with the shortcomings and the negatives—as she tried to imply there are, with respect to the existence of a Caribbean Court of Justice—that must have been there when she served as a member of the committee. As a former Attorney General, the Member for Siparia was a participant in the bringing into being of this thing. She was a member of the legal affairs committee that dealt with these issues and having dealt with them, agreed, as a region, to move forward with the treaty. Here was our colleague, at that stage when these issues were raised and dispensed with, agreeing to the position and coming into being of a treaty that is being prepared and agreeing to sign it on behalf of the people of Trinidad and Tobago. The Member, this afternoon, spent 75 minutes hypocritically trying to give you the argument that this thing is bad for the people of Trinidad and Tobago and it ought not to be supported. Mr. Speaker, it is pure politics. She believes nothing that she said. It is pure politics and it is a pattern. In this case, what is being held hostage is the important institution; the Caribbean Court of Justice.

I remember when I was in government before and my colleague from Siparia was in the Opposition, we came to the Parliament to do a simple change with the fiscal year. We wanted to change the financial year from January to October. They agreed outside of Parliament that it was a good thing to do. When we came to the Parliament, notwithstanding the common sense of doing that and the agreement to do it, in an attempt to embarrass the Government, they refused to

support it. I think that was in 1992. We came out of office in 1995 and they came in 1996 and they brought the same Bill to the Parliament and, notwithstanding the arguments they made to oppose it, they brought the same Bill to the Parliament and passed it with our support, because we are consistent on our position. That was the financial year.

We saw the same thing with the Police Reform Bills. Notwithstanding all the crocodile tears about crime, criminals and police in the country, they created the Bill and we supported the creation of the Bill. When they came to the Parliament, they opposed it because something happened. They found themselves in the Opposition and the position we are seeing today is a political position, meant to deal with their opposition status. All the so-called intellectualism that you are hearing is pseudo-intellectualism, meant to justify a hypocritical position.

I want to ask the Member, when she was participating in the proceedings and the setting up of the mechanisms by which judges were going to be appointed—let us for argument, assume that we have lost our marbles in this country and they remained in office and were supporting this Bill to create the court—by what mechanisms were they going to appoint judges then? The same mechanism for the appointment of judges that she is today seeking to destroy and pooh-pooh and talk about Indians, is the same mechanism that my colleague from Siparia agreed to; the appointment of a body called the Regional Judicial and Legal Services Commission. That is the identical arrangement that they approved and accepted for the appointment of judges. On that body—incidentally, as she mentioned the "Indianness" and African presence—sits one of our very experienced persons Mr. Lalla; a person who, for many decades sat as Chairman of the Public Service Commission and the Police Service Commission. Today the Member is here trying to give you the impression that Mr. Lalla, as a member of the Regional Judicial and Legal Services Commission, is discriminating against Indians by not appointing Indians to the commission. That is the gutter to which the UNC goes. They seek to invoke race in every single issue in this country. Nothing is new; nothing under the sun.

There is a section in the Bible—if you read there are pages and pages—which states A begat B, B begat C and C begat D. Do you know that section? Good. The DLP begat the ULF and the ULF begat the UNC, but nothing has changed. The Member raised the same argument this afternoon and used the identical words. When confronted with the level of hypocrisy, she resorted to a simple statement: we do not trust you; the element of trust.

Mr. Speaker, cast your mind back to our independence debate when the Select Committee Report was laid in Parliament for the draft Constitution to make Trinidad and Tobago an independent country, the DLP's spokespersons, cast in the same mould like our friend from Siparia made the same argument that we could not and ought not to have independence, we are to remain a colony of Britain "because we do not trust you". Let me read for you the response of Sen. Rojas who, after hearing that all the time in the debate and outside, spoke in the Parliament. It is important for us to go back to our history to understand what happened this afternoon and that nothing has changed in this country. Mr. Speaker, I am talking to you, the Member could run as fast as she wants. I am talking to you and the people of this country. Listen to what Sen. Rojas had to say on May 15, 1962 when we were debating our draft Constitution on moving forward to break the bounds of colonialism; an independent nation. After he heard many of the likes of our friend from Siparia, he had this to say:

> "Today we are moving from colonialism to a measure of freedom and independence and I am happy for it, happy because I have had the opportunity to associate myself, in whatever limited way, with the shaping of independence for Trinidad and Tobago.
>
> Those of us in the labour movement can pride ourselves on the fact for over a quarter of a century we found ourselves in the vanguard of the struggle for self-determination…
>
> We are living in a revolutionary age, in an age of advancement, and we cannot any longer entrust our destiny and the destiny of our children into the hands of strangers."

He was talking to Members of Parliament in Trinidad and Tobago who were opposing independence on the grounds that we do not trust you. He went on to say:

> "It is advanced as the reason that the United Kingdom can afford us more protection, more facilities to move freely in the world. Yes, that is quite all right; but we must make up our minds to take our courage in both hands, and even at great odds establish ourselves as a free nation, free and independent, regardless of the size of the Territory."

That was Sen. Rojas exhorting independence to the predecessors of the UNC who were opposing independence. He went on to say:

> "There is no racial disharmony in the country. I happen to be well in with many races in the country, and so I am quite sure are many other

> people well in with many races in this country; Indian, Chinese, Negroes and all else. And we are fully aware of the fact that there is absolutely no racial disharmony in this country… Whatever the racial disharmony that is raising its ugly head at the present time, it is because it is created by the very people who are shouting from the housetops about racial disharmony for political reasons. It suits their political purposes to raise the question, and they will continue to raise it in order to influence those powers that be now at the present time, and which we are trying to get away from as soon as possible…
>
> Racial disharmony is being emphasised for political objects and political purposes. I sat here in the Committee stages and had to constrain myself very often; my patience, my tolerance. We heard all sorts of things about partition, what is going to happen to the Indian community, and things like that…those questions are going to be raised in order to mislead the powers that be, in order to bring about the changes which those persons who are enunciating racial disharmony declare to be their policy."

Those are the words of Sen. John Rojas, Head of the OWTU in 1962, in the Parliament of Trinidad and Tobago, opposing persons who were opposing independence. They talked about partition of Trinidad and Tobago. Sen. Rojas concluded by saying:

> "…I have no fear about the question of racial disharmony forming any bar to those who will have to decide upon the new Constitution in the United Kingdom.
>
> …Get rid of the fears and doubts in your minds at the present time and let us take a plunge into independence and self- determination. I have never had a taste of independence. I want to taste independence; I want to taste it. I want a taste of freedom, real freedom and independence, and therefore I stand to support the Draft Constitution as it is."

Sen. Rojas was speaking to people who were opposing independence.

I want to ask you, if you go to Frederick Street, San Fernando, Scarborough or Chin Chin and take a poll in this country, how many persons do you expect to stand in opposition to our independent status? At the time when we were debating the Constitution to bring us to independence, there were parliamentarians just like my colleague from Siparia who were making the identical arguments, invoking the racial boogie. As Sen. Rojas put it; it is not common sense, not reality, it is pure political expediency. What has changed?

Between the UNC advocating this position, signing our country on to it, supporting it all the way, the only thing that has changed is that the UNC has lost political power in Trinidad and Tobago. That is the only thing that has changed.

Do you know when I knew my friend from Siparia had a hand in it? I had the opportunity of serving with the then Opposition Leader, political leader of the PNM at the famous Crowne Plaza discussion; 18/18. Do you remember that story? We went to Crowne Plaza with clean hands and we said whoever the President appointed we will support. That was the PNM's position. I was a member of that team. I think my colleague, Sen. Yuille-Williams, was there. That was our position. But then we said, because of the situation; 18/18, whoever the President appointed, the PNM will support. That was the Balisier House position when we went to Crowne Plaza. I could tell you, throughout our dealings in Crowne Plaza, that was our position.

However, we were saying that we should have election in 18 months. The President will appoint a prime minister and we would agree that in 18 months we would go back to the polls. Strangely enough, the other side was saying: "No. We want election in three years." I said to the PNM's political leader at the time, it has to be that he has it in his craw from some so-called source that he is going to be the prime minister. "How could you, not knowing who would be the prime minister in an 18/18 situation, not want to support election in 18 months and advocating three years?"

It turned out that the then prime minister was being advised by no other person than the Member for Siparia, who was telling him that the President had no choice but to appoint the incumbent as prime minister. With that piece of legal advice, they were negotiating for election in no less than three years. Of course, to add to the authority she invoked—you recall the spectacle of our colleague running up to the President's House to offer the President advice as to what he must do and the President rebuffing her and sending her to a social scientist to get her act together? I am making the point to let you know that what she said today; trying to give the country and the Parliament legal advice and talking about jurisprudence; she has a record of providing bad advice. [*Desk thumping*]

She made the point after my colleague, the Attorney General, very properly and concisely presented the Bill. Our colleague from Siparia said: "You have not convinced me." Sure, he did not have to spend hours trying to convince us. All he had to do was convince us to put the argument that they put before. They had already convinced us of the rectitude of this cause. It was the UNC government that convinced us and the rest of the country that this is to be followed. It was their advocate. We did not require the Attorney General to come here this afternoon to convince anybody.

All he was doing was carrying on an assignment that there is agreement on this side; an assignment that they had convinced us of. For the Member to say: "You have not convinced me". There is no virginity in this argument.

My colleague said that it is going to be a Caribbean Court of "Injustice". When did she discover that? When did the Member discover that the structure of that treaty, the structure of the appointment of judges and the range of authority of the court, was going to be a court of injustice? Strangely enough—apparently they do not caucus—in trying to kiss up to the Bench, she is going to court tomorrow.

Mr. Speaker: Be careful with that.

Hon. Dr. K. Rowley: It was you who made the ruling and I am following your ruling. In trying to butter up the court because she is going there tomorrow. She made—[*Interruption*]

Mrs. Persad-Bissessar: Point of order. No, no. The Member is imputing improper motives.

Mr. Speaker: I think those words "to butter up the court" are really inappropriate. You can use better language than that.

Hon. Dr. K. Rowley: Mr. Speaker, I cannot think of a better word than butter. Butter is a nice, smooth thing. She tried to margarine the court. Our colleague from Siparia espoused her full support and total confidence in the Bench in this country. That is not what the leader said.

Mrs. Persad-Bissessar: That is his problem.

Hon. Dr. K. Rowley: That is his problem? Tell him that! That is not what the leader said. The leader is on record as saying that the UNC cannot get justice in this country in the court or anywhere. When they want to nasty the country's name, the leader could tell the world that the UNC and its members cannot expect justice in the Magistrates' Courts, the High Court, the Appeal Court, in the Parliament or the Police Service. That is the leader speaking, but today she broke ranks with the leader and espoused her total confidence in the court. I was so glad to hear that, because when the court rules I expect no brooking of that ruling.

Mr. Speaker, the Member was so hypocritical that it went to the ridiculous. Think, at this point in time, we can complete our independence by having our final court of appeal being with us here in the region. It was the President of India who visited us in this country and sat in this space that you are sitting in—I am

not sure if that chair was there—and said to us—in giving us the benefit of India's experience and India's position, knowing that we were grappling with the Caribbean Court of Appeal—said "in India the Supreme Court of India is supreme". This was his way, very diplomatically, of saying to us that sovereignty, away from the UK, is not a loss of anything. He said: "I would have you know that in India, the Supreme Court of India is supreme."

Just like those of little faith, those who think the worst of our ability to govern ourselves and to run our affairs thought that independence would have been a disaster, so it is today those who believe that a CCJ would be to our detriment and even those who do not believe it and advocate that we should not go that way. Time will show that this is the best thing for the region. Even the "Doubting Thomases", there may come a time when the matter is not for them to doubt, because it may be thrust upon us.

I heard her reading the response to a question that was asked of a UK source who said that there is no plan to abolish the Privy Council for Commonwealth countries that want to access it. What did you expect them to say? They are so naïve. Did you expect anybody in England at this time, outside a British Government's position, to come and tell you, yes, we intend to? Let me draw your attention to the fact that when I was going to school, all of us could aspire to go to a British university, almost by right. Over time, even after we became independent, we were still accessing British universities. Margaret Thatcher did not give us any notice. We heard on the BBC that as of tomorrow or a similar time, British universities will not be available to Commonwealth people like ourselves. We were foreigners in Britain and the rules changed; overnight.

4.00 p.m.

Mr. Speaker, so to come here in the Trinidad and Tobago Parliament and say that somebody told you—and reading with authority and aplomb—that we do not intend to abolish the Privy Council is to be naïve. When they intend to chase us, they will chase us with little notice, and then we will have no choice but to make our Supreme Court supreme.

Hon. Member: That is our court.

Hon. Dr. K. Rowley: I heard the mutterings: "That is our court." In other words, at that time, you prefer to have a Trinidad and Tobago court as supreme, but all along—speaking with forked-tongue—they espouse Caribbean regionalism; very convenient to talk about the Caribbean. In fact, sometimes they

quote Dr. Eric Williams when it suits them. I wonder if they will ever quote Dr. Williams in his writings with respect to a Caribbean nation. That was a phrase that Dr. Eric Williams used all the time. Out of that concept of that Caribbean nation came Carifta; Caricom and now the Caricom Single Market and Economy (CSME). In the Member's spurious arguments this afternoon, she raised the concept of the CSME without acknowledging and accepting that an integral vertebra of the backbone of the CSME is the Caribbean Court of Justice (CCJ). You cannot have Caribbean unity without the rolling waves; you cannot have the CSME functioning in the way that it should function, if you are opposing the CCJ. [*Desk thumping*] This is all part of our development. You have been consistently opposing our development either through lack of confidence, or through malice and spite. In this case, it is through political expediency.

Mr. Speaker, I am sure that if the UNC was in Government today, this afternoon they may have been in some reception toasting somebody in the CCJ as an accomplishment on the part of it, because they would have supported it, and it would have come into being. The PNM was not going to oppose it; and it would have been functioning. In fact, how did we get the headquarters of the CCJ in this country?

Mr. Manning: Precisely.

Hon. Dr. K. Rowley: In other words, she would have us believe that they were telling our Caribbean brothers at the Caricom Heads level that we do not intend to abolish the Privy Council; we do not intend to support this matter; but put the headquarters in Port of Spain. She would have us believe the argument that Trinidad and Tobago made at all those many prep com meetings was that we were not in favour of a Caribbean Court of Appeal, but what we were in favour of is the headquarters in our city, and we will fund it and make it available to you, as it has been available and empty as a result of their obstruction. How could anybody in the country take our colleagues on the other side seriously? How could they? So, because they have lost office, the court is now the worst possible thing; and it is now the Caribbean Court of "Injustice"; and the judges are racial.

With respect to that racial argument, when my colleague from Siparia saw it fit to count ethnic heads on the Bench, and come to the Parliament to talk about how many Indians were not appointed there, my colleague was raising the prospect of racial injustice. That was the only reason. I would like to caution Members on the other side who like to go down that road, because the next level down that ladder into that hell hole is a level that says: "When I appear in court in Trinidad and Tobago and I see a judge on the Bench that is not of my ethnicity, I

cannot expect justice." That is what they are saying. I want to caution them, do not go down that road. When you go down that road there is no way back. In order to make the argument, they have used the kitchen sink.

Again, my colleague said to my friend, the Attorney General, that he has not convinced her. I can say to her that she has convinced no one of anything other than her insincerity and hypocrisy. [*Desk thumping*]

Mr. Speaker, the argument was taken to a ridiculous level. My colleague, in seeking to make an argument, sought to equate the hiring of technical expertise from a foreign country to assist the Water and Sewerage Authority (WASA) with its technical problems. She said that we want to bring in foreigners for WASA, and we want a CCJ where foreigners can deal with our jurisprudence. Now, how ridiculous can one get? There is no country in the world that does not use expertise from outside its borders. No country in the world! Therefore, to use an example of expertise for WASA in this debate is to be ridiculous.

Mr. Speaker, at the time when I was in high school, my teachers were Welsh, English and Canadians. I guess if my colleague had the opportunity she would not have made the argument that she could not make that we cannot have local teachers; we have been accustomed to foreign teachers; and how can we put our children into the hands of local teachers.

My colleague went on to say that there is no sovereignty in today's world, and that the concept has changed. There is no change in the concept of sovereignty. What has changed is that sovereign nations have agreed to meet on common ground with international bodies of all kinds and they pool their resources and they seek their interests. Sovereignty remains supreme. [*Desk thumping*] So, if you believe that sovereignty has changed in any way, you turn up in anybody's country without a passport and you will find out.

We are here as a number of disparate islands with all the constraints that there would be for our development. We have sought and continue to seek to pool our resources in the region—identifying that we have that commonality of purpose and ancestry—to work as a unit. That unit is our Caribbean nation. There is a long way still to go. Very soon we are going to find ourselves coming to our senses and having a single foreign affairs face, speaking for Caribbean countries, as we speak to the outside world. We have not reached there yet, but we could aspire to that.

However, with respect to the playing of cricket, our West Indies Cricket Team has demonstrated to us the strength of the Caribbean as a unit. That is our

expression of Caribbean oneness, even though within it there are separate units. If we can get our economy; if we can get our foreign affairs; and if we can get our whole approach to doing business to work in a unit which the people of the region can identify with—as they have identified with the West Indies Cricket Team—we would have achieved our objective of creating that Caribbean nation. [*Interruption*]

Mr. Speaker, my colleague talked about the powers that this Government wants to give to the CCJ. We have touched no component of the powers of the CCJ. That is the same set of powers that they signed on when they signed the Treaty. [*Desk thumping*] The CCJ will not be a creature of this Government; it would be the regions' court of justice where we are expected to participate as one of many. So, for a Member of Parliament to get up here and talk about the powers that this Government wants to give to the CCJ is to be misleading, or to have read and not understood. I did not believe that my colleague from Siparia, who was a participant—I may say a midwife—in bringing this matter into being, would have come here today and talked about powers being given by this Government. We have accepted the powers that my colleague has given to the CCJ—as she agreed in the prep com meetings; as they agreed at the Heads of Government meetings as outlined in the Treaty. All this Bill seeks to do is to give life to the Treaty that our colleagues have signed. The only thing that stands between their position and our position is a copious dose of hypocrisy. [*Desk thumping*] That is the only thing.

In my colleague's contribution, she sought to invoke fear when she quoted—I did not get the authority, but my colleague was quoting from some authorities—from somebody who said that there were too many opportunities for Caricom Heads to intervene in the process of the appointment of the president. The Member went on to develop her argument by saying that there was some authority saying that Caribbean Heads—in our democratic tradition—would have been elected by the people.

One does not get to become a Caricom Head because one wants to become a Caricom head. You get to become a Caricom Head because you are the head of a government in your country, and that government is elected by the people. My colleague had agreed then with her other colleagues that the Regional Judicial and Legal Services Commission (RJLSC) would choose the president. They were recognizing that these Caricom Heads represent the coming together of the representation of the people of the Caricom countries. So, do not come here and say that Caricom Heads have too much involvement. If they have involvement, they are politicians, and whenever there are politicians involved in justice we are

going to have problems. That is absolute nonsense! There is a talk show host who is famous in Trinidad and Tobago for the word "poppycock".

They would have you believe that what we are trying to do is novel and dangerous and, in the next breath, they will tell you that they are leaving the country because of crime. Where are they heading? They are heading to America. Some people will go to Toronto, but most of them are going to America.

Mr. Speaker, do you know how they pick judges in America? At one level, they get elected by a ballot box and you have to vote for them. At the Supreme Court level, no person can become a Supreme Court judge—in America where they are running to—unless the President nominates that person. So, here you have the head of a political party sitting in a political office, nominating a person to become a Supreme Court judge. That is how it is being done in America. [*Interruption*] They have hearings and the hearings are before politicians in the Senate. [*Desk thumping*] Do you understand? The politicians in America pick the judges. We are being told here that when Caricom Heads meet—under the same mechanism that she has agreed which is the JLSC—to appoint a president, the Indian people will not get justice. That is what she was saying this afternoon.

Dr. Nanan: Mr. Speaker, on a point of order; Standing Order 36(7).

Mr. Speaker: Hon Members, if there is one Member of this House who likes Standing Order 36(7) is the honourable Member for Tabaquite, and he is right. [*Desk thumping*] Hon. Members, the speaking time of the hon. Member for Diego Martin West has expired.

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

Question put and agreed to.

Hon. Dr. K. Rowley: Mr. Speaker, I will never question your ruling. I hope that I am not being told that the word "she" is not a parliamentary word. There are times in the construction of your sentence that you must use the word "she". Mr. Speaker, I am sure that you would have observed that on many occasions, I referred to the Member as my colleague from Siparia, but there are times when I used "she", and "she" is meant as no disrespect, but the construction of my sentence would allow me to use the word "she" from time to time.

Mr. Speaker: I fully understand what you mean. I am sure the Member for Tabaquite also understands.

Hon. Dr. K. Rowley: Mr. Speaker, I was saying that in America, the politicians sitting in session are the ones who would question and approve the Supreme Court judges after an appointment by the head of the ruling political party. I do not think that anybody can say convincingly that America does not have a proper judicial system, and that one cannot expect justice in the American courts. They are talking about going there when they say that they are going to run from Trinidad and Tobago.

Mr. Speaker, my colleague from Siparia said—and these were her words—that this issue of the CCJ is about "pure and true justice". She made the case when she said that "pure and true justice" can only be had from the Privy Council. That was the argument that the Member was making. How colonial can one get? That is the most colonial statement made in this country since 1962. [*Laughter*] Mr. Speaker, that is like saying that everything that we have aspired to, as an Independent nation, is of no value; and all the standards that we seek to upkeep in this country are of no value.

When the Member made that statement, she went on raising her sword and said defiantly that the UNC will not allow anybody in this country to terrorize or challenge—these are my words—the judges; they will defend the judges. At that point, my jaw dropped. I could not believe that I was hearing a former UNC Cabinet member, standing in this Parliament, purporting to wave a sword in defence of the Judiciary, when the history of this country will show that when they were in government, they terrorized the Judiciary. [*Desk thumping*]

Hon. Member: It was Ramesh.

Hon. Dr. K. Rowley: It was the UNC government in terrorizing the Judiciary that had a Commission of Enquiry into the Judiciary, having imputed a number of improper motives; allegations of bribery. We were told that the Chief Justice had accepted a bribe from some Dole Chadee. That was a UNC Cabinet minister telling the country that! Today, another member of that Cabinet comes here and purports to hold up a sword and says: "We and I will defend the Judiciary."

In fact, so embattled was the Chief Justice by the slings and arrows and the barbs that were coming at him, he broke the tradition and went public in his discourse with a UNC attorney general, to let the country know that the Judiciary was under attack by the Executive. [*Interruption*] You could say Ramesh; Ramesh could say Kamla; but it was the UNC. [*Desk thumping*]

It was under the UNC that the longstanding tradition of judges who were allowed to travel, were put under country arrest. They stopped them from travelling. [*Laughter*] They also did something very frightening. The Member had a lot to say about how the same mechanism that was approved by the UNC for the appointment of judges—we heard today that mechanism could see judges being thrown out of office willy-nilly, if one does not like their decisions. I can tell my colleague that is a UNC trait. You know, she knows of what she spoke. It was a UNC government that did not like a decision and had the judge attacked—cast your mind back.

When the prime minister, head of the UNC as he was, interfered with the award of contracts for the telecommunications demonopolization, and CCN took the then government to court and won, when Justice Mendonca ruled—they did not like the judgment—that the then prime minister was discriminating against CCN—he ruled that the UNC prime minister must have nothing to do with any telecommunication matter under his portfolio. It was the first time in the history of the Commonwealth, or anywhere in the world that a prime minister was circumscribed by a court with respect to his own portfolio. They did not like the ruling.

Mr. Speaker, what did they do? At the same time, Justice Mendonca was just given a house in Federation Park. He had started to fix up that house to move in and they sent uniformed soldiers to occupy the building and put him out of the property. That was the UNC at work! They used our army to terrorize that judge. Today, the Member comes here with the unmitigated gall and says: "I will defend the Judiciary with my life and…." What? Hypocrisy at its worst! [*Desk thumping*]

In seeking to make a case—not for your benefit or our benefit, but for the benefit of members of the public who may be gullible enough to think that they have some argument against this Bill—that there is something in the Bill that will work against the public interests, and that they are defenders of the public interests; nothing could be further from the truth.

What we are going to see here in this debate is not whether we will convince them, but whether they will stand up in full public view and be counted as persons worthy of the term "honourable". [*Desk thumping*] I will have my colleague know that we are not impressing—I have included myself—anybody outside with those kinds of fancy footworks and lack of principles that seem to be prevailing on the other side from time to time. If we believe that by making these arguments we will convince any other than the hard core into believing that an argument in

Parliament can sway them into thinking that we on the Government side are trying to pass a law against their interests, all they will say in the end is that they cannot trust these politicians. Today, my colleague from Siparia made a good case in this country as to why politicians should not be trusted. [*Desk thumping*]

When she said that they are not supporting the Bill because they cannot trust—my colleague raised the idea of trust, and trust is important. How can the public trust you if in one term you spent a lot of the government's time and the government's resources advancing this position by signing a treaty. This is a Treaty that they have signed; a Treaty that binds our sovereign country. Our word should be our bond. They have signed that Treaty and they come to the Parliament today and speak in total opposition to the very Treaty that they have signed. [*Desk thumping*] There is no trust in that and the public will not be impressed; the public will put all of us in the same basket and say: "Them politicians cannot be trusted." Do you understand? We are not impressing anybody with this. You first have to be trustworthy. The PNM can demonstrate to this country that you do not have to sacrifice principle to move from opposition to government.

Hon. Member: You had Robinson to do it.

Hon. Dr. K. Rowley: Robinson? That is the same Robinson who gave you government with 17 seats. [*Desk thumping*] With your 17 seats you would have never seen the corridors of power, and the country's money would have remained where it belongs. [*Desk thumping*] When they had 17 seats and Robinson made them government, he was okay; but when he had to seek for moral and spiritual values and could not find it among them and moved them out of office, he was the worst thing in the country. [*Desk thumping*]

Mr. Speaker, even after we have been to the polls once, twice and three times—the electorate voted resoundingly for the People's National Movement—they are still talking about Robinson. [*Desk thumping*] We have been to the polls. This Parliament was voted in by the people of this country and the results were 20/16. That is why we are here and they are there. [*Desk thumping*] [*Laughter*]

Mr. Manning: You took a long time to tell them that. [*Laughter*]

Hon. Dr. K. Rowley: If my colleagues on the other side would like to change their position in this Parliament, the first thing that they would have to do—I am not asking them to repent for anything—is to decide whether they want to take their jobs seriously. They should come to the Parliament and conduct the people's

business according to their oath of office. That is all they have to do. If something is right, say it is right; if something is wrong, say it is wrong. The Government is here to account to the Parliament, and you could criticize the Government; you could put your ideas forward; but do not sacrifice the country's name as part of your political expediency. [*Desk thumping*] Our country's name is at stake.

Mr. Speaker, an old woman said—the Americans used this saying during their civil war—"Shoot if you must this old grey head, but save your country's flag." She was saying that she will give up her life to defend her country, because her country meant something to her. They must stop badmouthing the country. We have our problems—we have our ragamuffins, yes; we have our murders, yes; we have our kidnappers, yes; but save our country's name. That is within your ability. You may have no ability to stop the killers; you may have no ability to stop the kidnappers; you may have no ability to stop much of the wrongdoings in the country; but it falls within your ability to save our country's name. [*Desk thumping*]

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea and we will resume at 5.05 p.m.

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Hon. Dr. K. Rowley: Mr. Speaker, I wonder if you could give me an indication as to how much time I have left.

Mr. Speaker: You have 15 more minutes.

Hon. Dr. K. Rowley: Mr. Speaker, thank you very much. I will not be very long. Actually, I was just winding up when we took the tea break. There are a couple of other points that I would like to touch on. My colleague on the other side raised the point with respect to the question of interference, if the politicians do have some nexus with the dispensing of justice. Again, I had some difficulty with that matter.

It was during the debate on the creation of the parliamentary committees that very powerful arguments were made about the JLSC and others having to report to the Parliament in a situation where we think that we have some separation of authority. In fact, contrary to what my colleague was saying; there is a thinking in some legal quarters that the committee processes that we are trying to use in the Parliament where the JLSC is supposed to report to the Parliament somehow impinges on the independence of the Judiciary. It was the political voice of the

then government that created the idea and supported it through legislation to say that the Parliament, which is made up of politicians, should have some oversight with respect to the JLSC.

Mr. Speaker, in one breath, we were told that if the Heads of Government are in any way involved with the processes or the mechanism that will control the appointments in the CCJ then something is fundamentally wrong, when they supported legislation that was brought into the Parliament—an established piece of our constitutional wall that was not in the Parliament before—and they are now saying that it must come for political scrutiny. You could say what you want, but the Parliament is made up of politicians and politicians have agendas, and as we saw today, those agendas, from time to time, would sacrifice principle for their agenda. In Trinidad and Tobago, we are talking here about the JLSC being made to report and account to politicians but, in the same Parliament, we are arguing that politicians must have no role whatsoever in the judicial process. We cannot be talking from both sides of our mouths at the same time. We must take a position.

One of the other things that I found strange in the Member's attempt to build up this argument to oppose something that my colleague and my other colleagues believe in is to raise the question of cost. That is absolutely a nonstarter. We cannot apply the question of cost to the dispensation of justice, because if we do that: where do we stop?

Mr. Speaker, I am sure that you are aware that on average a murder case in this country could cost the State upwards of $5 million. If we are so concerned about cost then we could do one of two things: we should not prosecute murderers, or we could point them out in the district on the day that the event takes place and shoot them, because it is too costly to have trials. Trials are expensive. By the time the trial is finished in the Preliminary Court and in the High Court—there are also numerous appeals—millions of dollars are spent on every one of those murder cases. We can never raise the question of cost with respect to the provision of justice.

I am sure that when my colleagues signed on to this CCJ, cost was not an overriding consideration. Yes, we have to be cost effective; we have to be efficient, but justice has a cost; it has a price. If we try not to pay that price in dollars and cents; we could pay it in blood. We did not invent that.

Mr. Speaker, the question of cost was also raised when we gained our Independence. People said that it would cost too much money to operate a government in this country, because we will have to pay for a prime minister and

also pay for a cabinet and so forth. These are the same questions that were raised. We were told then that the British was paying for those things, and since the colonial secretaries were in charge; the Queen was paying their salaries; so why are we going to have a government that we will have to pay for. That was the identical argument with respect to cost. They were applying a cost to Independence. So, as the French say: "The more it changes the more it remains the same." These same arguments were made in 1962 when we gained our Independence, and they are being made here today with respect to the CCJ.

Mr. Speaker, I must say that we in the PNM believe in the correctness of our position, because we arrived at this position by sober judgment and we support this position. As a Government, we know that there are persons who are going to object and the Opposition must have its say but, at the end of the day, the Government is required to provide the country with leadership and direction as we are doing today.

We know that with time, when emotion is being taken out of the argument and when agendas are no longer viable, men and women who are reasonable—as most people are—will come around to supporting the position as they did with Independence—Independence was good for us—I do not know what time or what year or what day. Eventually they will come around to the understanding that the CCJ is good for us and they will quietly support it at some time in the proceedings.

Mr. Speaker, all I am doing today is asking my colleagues on the other side to reverse their recent position and to revert to their original position of principle and support the very Bill that they brought to this Parliament. It is not too late to do that.

In fact, if you think that people will say that you are flip-flopping, they will think worse of you to hold your ground without reason, because the ground that you are trying to hold now is not solid ground. All that is happening is that you will be seen to be holding this Bill hostage for political expediency as you did with other Bills. I am not here to cast aspersions on your political fortunes, but as my parliamentary colleagues, I can comment on the position as I did, and that is you are holding this Bill hostage.

Of course, in doing so, we have the ridiculous state of affairs where in Trinidad and Tobago—on your initiative—we have the headquarters of the CCJ. When you hold this Bill hostage, you are saying that our country must be embarrassed at the international forum, and people could come in and conduct

their court, but it is not our court. It is our Caribbean; it is our Caricom; and it is our CSME. What you are doing is depriving us of part of our development. [*Desk thumping*] You have been guilty of many other things, but this one is a little too serious to play politics with. You are playing politics with the whole question of the forward march of Caribbean unity and Caribbean integration. [*Desk thumping*]

Mr. Speaker, I will end on this note by asking my colleagues to reflect on their oath of office and put duty before politics; and put country before self. I thank you. [*Desk thumping*]

Dr. Roodal Moonilal (*Oropouche*)**:** Mr. Speaker, thank you very much. I almost dozed away over the last 10 minutes or so. I could not believe it was the same speaker we had before the tea break. There were really two tunes: the first tune was much more loud, vociferous, attacking and condemning; and the second tune was more moderate and remotely harmonious. Having heard both selections, I like the latter selection more. The Member for Diego Martin West could make the finals with both.

Mr. Speaker, the matter before us today is a critical item on the legislative agenda and it has a particular history. The Attorney General outlined, in some detail, the history of the matter. There are several issues that have already been raised by speakers on both sides. If I were to summarize thematically some of the issues; we had issues dealing strictly with the law; the structure of the court system; with legal procedures; and with judicial appointments.

Outside of the domain of law, there were other issues that were raised dealing with our political history; a concept of sovereignty; and the relevance of sovereignty in the modern period.

Speakers also raised the issue of sincerity and integrity of Members of the House in coming to debate this matter. So, there were several issues that were raised: social, legal, political, historical, party and so forth.

Mr. Speaker, I want to go on record quickly to commend the Member for Siparia for a brilliant, professorial, eloquent and content-heavy contribution. This Member placed on record about 10 pertinent issues dealing with law, society, politics and so forth. I thought that the Member lifted the debate to a certain level. [*Desk thumping*]

I want to apologize to the Member for Siparia, because I am going to lower the debate now. After hearing the Member for Diego Martin West, we really

cannot operate at the level that the Member for Siparia placed us at the beginning of the debate. She placed this debate in a particular context; in a particular framework; and she asked pertinent questions. The Member asked the Attorney General to please stand and explain his position vis-à-vis this matter being adjourned earlier which involves a case at the Privy Council in London, and which was filed in the Court of Appeal in Jamaica.

The Attorney General called my name 100 times and could not explain what really went wrong. I am not in a mood for a case now. All that we wanted on this side was to hear the Attorney General give us his considered opinion, and tell us that the matter was at the Court of Appeal in Jamaica—it went to the Privy Council with leave from Jamaica—and the Government of this country applied and sought to be a party to the matter.

The former attorney general told him that this was not possible in law. The Attorney General then stood and pronounced on the Roodal and Brathwaite cases or something like that. We are still waiting for that explanation. I want to tell the Attorney General, in his absence, that I have a receptive mind. If the Attorney General comes with a compelling and sensible explanation for that adjournment—being a party to a matter at the Privy Council—I will accept that, but do not evade the issue. This was a strong issue that was raised by the former attorney general. The Attorney General then went off on a tangent about sovereignty.

5.20 p.m.

Mr. Speaker, what is amazing about this debate, it happened before with the CSME debate. In this debate if you do not support the Government you hate Trinidad and Tobago, we do not like the country; that we would be here living among this crime wave is irrelevant, but we do not love Trinidad. If we do not love the PNM and support them, we do not love Trinidad. That is where this debate has a way of reaching. They take this brush to paint Members of the UNC and by extension our supporters, because we did not drop from the sky in reaching here, we did not scale down the wall, we came based upon a mandate from our constituents. We are representatives as you are, and when we speak we bring the views of constituents. If you feel that this is not the view of the Member of the people in Oropouche, put your candidate in the next election and then we will go to the public and say, "People of Oropouche, CCJ, Moonilal did not support", but the PNM candidate will say, that the people of Oropouche think differently and let the people give a referendum on that. I want to condemn this pattern on the part of the PNM, that it is only the PNM that loves Trinidad and

Tobago, nobody else loves Trinidad and Tobago. Because we speak out on certain issues of equality, on governance, on integrity, whatever, we do not love.

Another introductory point I want to make is that this country is only a few years older than I am, so this is a young country and before Members on the other side would want to attack with venom and launch personality attacks on persons for speaking in this House, understand that the country is young, newly independent in the context of the world, and debates like these are also functional. When the Member for Diego Martin West who spoke before me, said that Members on this side are repeating arguments from 1962 at the independence discussion and so on, and it is more or less the same argument, I want to tell him if that is so, I am proud, because that means that those issues have not been settled, the society has not settled on the issues. If it is that the society had settled these issues there would be no need to go and deal with them again. So that is not an evil, diabolical, shambolic argument. This society has outstanding issues and the Parliament is the place where we debate, and come to terms with each other's differences.

I want to make a reference to Vision 2020 and I want to say what really is Vision 2020 in the context of this piece of legislation. The Member for Siparia made another telling point, I took note. She said justice trumps nationalism, very profound. She said justice trumps a concept of nationalism, and the Member for Siparia would know, whether it is in the former Yugoslavia, whether it is in Sudan, Dafur, whether it is in Zimbabwe, there are strong nationalist sentiments, but is there a strong justice system? And that is the point the Member was making. That justice must always trump that concept of nationalism, and the basis of this justice must be equality. Those to me are salient issues and if those are the issues we put on the table and people say we do not love Trinidad and Tobago, so be it, but those are important issues.

I want to make another point, and I run the risk of every Member on that side flinging words, shouting, hooting and banging tables. This country is only a few years older than I am—I made the point before. I have travelled to almost every Caricom territory over the last 10, 15 years and I want to tell you in case you did not know, I feel comfortable in Point Fortin, Arima, Tobago, San Fernando, Diego Martin. I enjoy these Caribbean islands, but I have no intrinsic feeling, no bond or no sacred binding with Barbados, Jamaica, Antigua. I love those people, I have friends all over there, I care for them. If there is a problem, I would call a colleague to find out, I heard you had some rainfall or something. Let me say also

that I have been to Guyana, many times, so just in case you come with this weird analysis. I have been to Guyana too, many times. I have no great bond or inner calling about this. I want you to understand my position as well as I hear yours. So the position I am putting forward: I studied in universities, I went to Mona and Cave Hill, attended meetings all over. I have travelled extensively in this region, including the Dutch. What I am saying to you is that I love the people in Diego Martin, Point Fortin, Arima, Tobago, but I am not sure I buy into this mega project of union, one nation, one this, one that. I buy into developing Trinidad and Tobago, and I want to tell you, this obtains with Guyana too, just in case you kind of cross wire here and you tell me something about race and so on. Guyana is a nice place, I love going there, but I have no one unity, one nation with anybody; I have one nation with Trinidad and Tobago, that is my position.

When we hear arguments about this historic project and so on, I do not know where in my history it came from. But I certainly do not have that compelling drive. If Members on the other side wish to talk on this matter, that is their right, they are entitled to their belief. I have a concern with economics in the region, in the hemisphere, but speakers on the other side want to introduce this mega ideological, political project of one nation, one unity, one court of justice, one market, one Parliament, one everything. I have not bought into that and maybe the Members on the other side will convince me.

The other matter to raise is that they talk about the Judiciary and the importance of the Judiciary and pour scorn on us and want to make personal attacks. The Member for Diego Martin West said and misinterpreted, misrepresented, mis-stated, in fact he missed when the speaker from Siparia was speaking. The Member for Siparia never said that the judges appointed are racial; she said there was an imbalance. In the Caribbean we speak about that; Members of the PNM jump up and say, look at that, race, race, race, they talking one group and the next group. I have had the opportunity to reflect on a document from the department for Constitutional Affairs of the United Kingdom. It is a discussion policy document entitled: *Increasing Diversity in the Judiciary Consultation Paper 25, 2004* and what is amazing is that this country that has a claim to a legal system and really has provided the Commonwealth with our canons of law, our philosophy and our political theory and so on, and they date their judicial intelligence back to the Magna Carta.

In 2004, the big issue they are facing is diversity in the Judiciary? We must not talk about, we do not love Trinidad. Imagine in the United Kingdom—and I

was fascinated, I will deal with this a little later—you would be amazed to know it was only in 1994, just ten years ago, that the Judiciary there and the politicians and the public policy makers started to reflect seriously on the matter of diversity in the Judiciary. They had no data on diversity and diversity is not ethnicity alone, it is gender, male, female, disability, ethnicity; it is everything when they use the term "diversity". But could you believe a country like England in 1994 really took seriously the issue of diversity in the Judiciary, and produced a report in 2004 that highlights the problems caused by a lack of diversity in the Judiciary? Why it happened? The people who were becoming lawyers, the solicitors and the barristers and so on, there was a blockage there of groups coming into the legal fraternity.

Beyond that in the United Kingdom as many of you have travelled and particularly those of you in the legal profession would know, in England, to become a high official, it was a closed unstructured system of what is called "secret sounding", where barristers who have been practising, they would know a judge and the judge would recommend them seriously, and the Lord Chancellor would make the appointment; depending on the position would consult the Prime Minister, and so on. This is the United Kingdom that has now felt it necessary to open, to explore their entire systems and structures as they relate to judicial appointments, and they have now proposed a judicial appointment commission—transparency, openness, a structured approach. If someone was turned down as an applicant, you must have reasons why you turned down someone. This is the United Kingdom, it began in 1994, a position paper, 2004.

In Trinidad and Tobago when we raise these salient issues, we do not love Trinidad and Tobago. You know what they are saying here—it is very interesting and important. In the United Kingdom they have found that the ethnic minority is 8 per cent, more or less. But the representative of this ethnic minority in the Judiciary is only 3.4 per cent. The female population of the Untied Kingdom is 51.3 per cent, but women composed only 24.9 per cent of the Judiciary, so it is 2:1, the discrimination, and they have looked at this and said no, this is not good enough for that society and they outlined here in this book important issues. They made a good point here, they said: We are not introducing the issue of diversity and seeking to attract more women and minority groups to be in the Judiciary not because the judgments are bad, it is not because the judges are biased or the system is in some way not functioning; it is because they recognize that to deal with their social reality, with the multicultural make-up, with their different values; their different groups of people bring to the court house—

A lot of this British legal heritage is based on reasonableness, where you have to pretend that you are "an ordinary man" and you interpret the law based upon that reasonableness. A lot of it is based on that. If your Judiciary cannot reflect your social reality, how will you ascribe to those values? Those are important issues that the United Kingdom is facing. When we bring these issues in Trinidad and Tobago with a much more intense multicultural make-up, we do not love Trinidad and Tobago; we do not love the country. In the United Kingdom they will simply not tolerate having minorities, women, disabled persons, and so on, debarred by unstructured systems from their Judiciary and their judicial appointments; it has to do with their human resource.

I want to tell the Member for Diego Martin West and our friends on the other side, if in 2004 there are citizens in this country who trust Lord Woolf in the United Kingdom—imagine a man goes by the title Lord Woolf—you trust Lord Wolfe, but you do not trust a wolf in sheep's clothing in the Caribbean, there is a reason for that. It is because of this history of divisiveness, of alienation, of inequality and the perception of inequality in Trinidad and Tobago. It is because of this and I say that not as a joke, Lord Woolf, Lord Chief Justice, there are citizens of Trinidad and Tobago who will prefer "Lord Woolf". Why is that so? It is very important. Why is that so? Is it the politicians? If we take the politicians out, is it the politicians? Is it the party? Is it the UNC? Why after 43 years of independence, citizens of this country—and I am not going to say the majority, minority 51:41—will tell you that they prefer their matter go to the Privy Council and have Lord Woolf preside than Lord something else in Trinidad. That is the reality we need to contend with.

But you know how you contend with these realities, not by telling the group that is complaining they do not like Trinidad and Tobago. That is not the way. The Member for Laventille East/Morvant, the Minister in the Ministry of National Security would do well to stop clowning around on serious issues, if only because he holds an important office. Mr. Speaker, this country will not develop, there will be no Vision 2020, if 16 Members in the Parliament who may represent 40 per cent or whatever of the population, prefer Lord Woolf to Lord Laventille East/Morvant; there will be no 2020 vision. And let us face that reality. We need to build institutions that are that independent, that are protected by the Constitution that are kept in check by the courts in societies like ours, where half the population does not trust one party, the next half do not trust the next party. I am not going to pretend that in the PNM constituencies they love the UNC. But if

that is your reality you must build the institutions to give people that sense of belonging, of faith, of trust in the Judiciary and in other areas of life.

The Member for Siparia made another important point to the House, but certainly not to the opposite side. When the Member said that it is the court in the final instance that must uphold our rights and protect the soul of our democracy. It is the court; it is the Judiciary that must do that. We, unfortunately, went into a debate on the appointment of the Judiciary. The Member for Diego Martin West raised a few points concerning the American political and legal system. In that system, the American President is Head of Government, but he is also Head of State; both are fused into one, there is no Majesty and Prime Minister. The American President whoever he or eventually she will be, they are both Head of Government and Head of State. They nominate Supreme Court judges go before a congressional sub committee of politicians and they will confirm—I think that is the term they use—they have confirmation hearings and so on, at which some measure of democracy exists because you see the judge in front of you. We all remember the case of Clarence Thomas, when he experienced the intensity of a confirmation hearing.

So the American system seeks to confer transparency, openness by the congressional method, public hearing. In the British system, and this document deals with it, the British Prime Minister and the Lord Chancellor, who is now called the Secretary of State for the Department for Constitutional Affairs, they are now talking about removing some powers from the Prime Minister, so that the Prime Minister with some judicial appointments in England and Wales will not have to bless and to conquer with a selection. It is now the Secretary of State, Department for Constitutional Affairs and increasingly if their Constitutional Reform Bill is passed in the next Parliament under the new government, it is really the Lord Chief Justice who will play a more integral role in the appointment of judges. The Lord Chief Justice, not even the former Lord Chancellor who was a member of the Cabinet. In that jurisdiction they are looking closely at removing this power from the Head of Government to appoint judges, to give it to the head of the Judiciary to do that, but with some consultation of course, with the Minister responsible for justice, in this case the Secretary of State.

The world seems to be going in that direction. Britain has a very old traditional, legal heritage, a bureaucracy, a way of dealing with things, conventions and practices and so on. And whereas in 1778 or 1888 it would have been fine for the Prime Minister to just sign a paper and appoint judges. Today the world has changed, people are calling for openness, transparency; people want reasons why

you deny me a job. That is what people are calling for all over the world. These are the issues we should discuss. How do we make the appointment of these judges more transparent, more open, subject to some type of public scrutiny?

This morning I opened the newspaper, I noticed a gentleman took an oath of office at the Head of State of Trinidad and Tobago and the gentleman is now a judge at the Caribbean Court of Justice. There are others. There is a President of that court and so on. Unless I am mistaken, the population as a whole did not even see first-hand, far less participate, in any type of deliberation, in any type of selection process. These are the issues that must engage a society that is serious about development and First World country status, and not "we hate Trinidad and Tobago". If we talk this, that means we do not like the country or some group in the society has some national sentiment and so on.

In 2005, I want to tell the gentlemen and ladies and my friends on the other side, anybody who stays in Trinidad and Tobago loves Trinidad and Tobago, anybody who here loves here, and this habit the other side has of attacking Members here, that we are not patriotic, somehow when you look at this side you do not see Trinidad and Tobago, you are not patriotic. That really is rubbish and it is reducing this debate from the serious issues that the Member for Siparia raised to really trivial proportions. Sometime ago in this debate a piece of information came out, which I thought was very important and I stand corrected if I am wrong.

In 1989 or thereabout the then leader of the Opposition, the Member for San Fernando East went on record as raising concerns with the CCJ and indicated to the effect that, the country then, was not ready for the CCJ. Now if in 2005 someone stands on this side of the House and says we are not ready for that, we hate Trinidad and Tobago—and to tie that with the point made by the Member for Siparia which they choose to ignore, and they will ignore all evening, all night until tomorrow morning, they will ignore. The Member for Siparia said that we may support an original jurisdiction, but at this time not the final appellate jurisdiction to replace the Privy Council and I will come to the changes as soon as the Prime Minister has his say.

Mr. Manning: Thank you very much, Mr. Speaker. I thank the hon. Member for Oropouche for giving way. The option of saying that they do not believe we are ready for the CCJ is an option not available to hon. Members opposite. They have already signed an agreement, agreeing to the court in both jurisdictions. Had

that not been so, the Caricom heads would never have agreed to locate the CCJ headquarters in Trinidad and Tobago. That is the reality.

Dr. R. Moonilal: I want to continue on this point because this is what I believe the debate should be. Debate is not public speaking. The Prime Minister has raised an interesting point, I think, and I want to rebut the point and raise a matter consistent with that and I think this is a debate. I want to quote from the former Attorney General and Minister of Legal Affairs, Hon. Ramesh Lawrence Maharaj, Monday, October 02, 2000 and in dealing with this matter of the Caribbean Court of Justice. The then Member for Couva South had this to say:

> "Mr. Speaker, those are the instruments. In conclusion, I wish to note that the Judicial Committee of the Privy Council has been the final appellate court of the Caribbean since 1833; when Trinidad and Tobago was still under British rule.
>
> In having a Caribbean Court to replace an institution which has been with us for 167 years, it is important for governments to ensure that the public would have confidence in such an institution. In discharging that obligation to the people of Trinidad and Tobago, the Government of Trinidad and Tobago is not only making these documents available to Members of Parliament, but will take steps to ensure that these documents are available to the public at large.
>
> Mr. Speaker, I think I should also put on record that the Attorneys General…met, approximately four weeks ago, with some law associations of CARICOM to consult with them in respect of the court and they propose to meet again with the law associations of the Caribbean to further those discussions."

The point I want to make is that it was not a done deal at this point, 2000. This was not a done deal then, according to the then Attorney General. We ignored that part of it, that the Attorney General said that given the role of the appellate court the Privy Council had played in the Caribbean as a whole, there was a need to take this to the population to discuss it; they were using the term public education and so on. There was a need to take this matter to civil society, to consult the public, to embark on a campaign of public education and get your population to buy into it.

So it was not a deal signed and we agreed to everything, remove the Privy Council and establish the CCJ, and the Member for Siparia made this point. That is the second point they would ignore. The first point they would ignore is that in

1989 their position was different. The second point they would ignore is the difference between the original and the appellate jurisdiction. The third point they would ignore would be the statement of the hon. Attorney General at that time.

Mr. Valley: Mr. Speaker, reading the document—I have it here—one sees clearly that the Attorney General admitted to the idea of the Caribbean Court of Justice, both the original and appellate jurisdiction, and he was making the point that there was need for a public education campaign. The further evidence in that view, as you said in October 02, 2000, but in 2001 there was further evidence of that.

The fact that we started the Caribbean Court of Justice (CCJ) building, spending a lot of money on it, is further evidence. [*Crosstalk*] The $6 million that we spent on the CCJ building; just go to Richmond Street. [*Crosstalk*]

5.50 p.m.

Mr. Ramnath: Show us the signature.

Dr. R. Moonilal: Member, I do not mind if you interrupt me, but you cannot interrupt the Member for Couva South when I am speaking.

My friend from Diego Martin Central invited me to place on record another quote from the then Attorney General. I think he is calling for it. The AG said:

> "I should mention that one of the matters which has been raised by the lawyers, and also members of the public is that governments, although in countries which do not require to have a referendum…"

And some countries require a referendum for them to give effect to this change.

> "…have been asked that even in countries where a referendum is not required, that governments should consider not treating this matter as a strict legal issue, but should allow the people of the country to participate in showing their views."

Showing their views, not necessarily giving the Government's view. It is the same debate we had with the political union talk; more or less the same issues.

Mr. Speaker, they must come around to three points which they placed on their radar. The statement of the former Attorney General and the issue of diversity cannot be swept under the carpet. Interestingly enough, there is now a group called "The Principle of Fairness" led by brilliant men, by children of the soil. This group has enlisted dozens of non-governmental organizations and community-based organizations, militant trade unions. They have consulted with

political parties and they have signed all these groups onto this campaign, acknowledging that in this country there exists discrimination, a lack of fairness and a lack of equality. These groups have signed on, so to ignore it now is your own politics.

When I look at television I see children's faces all telling me that they belong or something like that. In fact, we should get faces like that in the Judiciary. The argument on the other side rests on two pillars: one is that it is a case of the UNC changing its mind. When they changed their mind from '89 to '94, they did that, quote/unquote, to revise policy. [*Crosstalk*] To review policy? If the UNC changes its mind, "dey doh like Trinidad and Tobago." When they stood in the House and said that members of the Judiciary should be included under integrity legislation, they stood. "Den dey come again and say well is time to take them out of de integrity legislation." That is not flip-flop; that is not changing their minds. It is only when members on this side adopt a different position five or six years after, that means we are, somehow, unscrupulous.

The Member for Siparia raised the important issue of the propensity and inclination of the executive leadership in this country to meddle and interfere in the justice process, in the criminal justice system and to undermine the rights of public officers in this country. I mean no disrespect to the Member for San Fernando East, but it just happens that the Prime Minister's name is now appearing with monotonous frequency in the courthouse on the representations and depositions of public officers. Your name is just appearing too often. He knows I mean no disrespect, no ill will. Your name, Sir, is just appearing too often. [*Crosstalk*] Every Monday morning public officers are at the courthouse; judicial review. When you ask, "Could it be another minister this morning?" No, it is the Prime Minister. [*Crosstalk*]

Mr. Speaker: Order!

Dr. R. Moonilal: Whether it is Marlene Coudray, Devant Maharaj or Dennis Graham.

Mr. Manning: "My name call in Dennis Graham?"

Dr. R. Moonilal: I have a copy of the deposition of Mr. Graham. [*Laughter*] I have a copy for the Member for San Fernando East, the Prime Minister. At every turn, the Prime Minister is finding himself in the records of the court. As if judicial review was not bad enough, in a criminal matter before the court, you know the court records now have—and I say this with respect—Patrick Mervyn

Augustus Manning. [*Crosstalk*] That is a foreman. It is an Unemployment Relief Programme matter. Now the Prime Minister's name is not only in judicial review. I think you are unlucky; it cannot be that you just happen to be violating the law everyday. [*Interruption*]

Mr. Manning: Mr. Speaker, I would like to advise my friend from Oropouche that I am not unlucky. I am a very lucky man; it is just that my name is easy to call.

Dr. R. Moonilal: We do not mind his name being called, but not by some of these nefarious, unscrupulous and suspicious characters that find themselves in the jurisdiction there.

I come back to the point that in a country where the head of the Government is personally and intimately fingered, identified in undermining the rights of public officers, the citizens will not have faith in the Executive. When that Executive gets close to the Judiciary, it is a greater cause for alarm. If the Prime Minister had managed, over the last three years, to avoid the courthouse and his name appearing there, maybe it would have been a different story today, but he did not. I am not saying this to bait you into telling me, in your view, how many things the UNC did wrong; it was the UNC in this, that and the other case. "Everybody have dey case now."

Mr. Manning: What is your case?

Dr. R. Moonilal: A case of beer. [*Laughter*] I am not saying this for the Members on the other side to jump up and say, "The Member for Oropouche said this, and the Members for Couva South and Tabaquite," and so on. You are in Government now; you do not know about tomorrow. You were not there in 2001 and before to 1995; you are there now. The population looks to you for government.

I make this point, as it relates to the Police Bills: If ever the UNC must be credited, it is for standing strong on the Police Bills and denying this Government control over the police service. [*Desk thumping*] We were gloriously vindicated when we read what Mr. Graham had to say. That was vindication of the highest order, where the police officer referred to the interference of the Executive in the management of the police service. This is another myth that we have. In the British system, as the Member for Diego Martin Central would know, interference is not writing a letter and saying, "Dear Sir, do so and so." It is your conduct; it is how you speak; how you talk to people; your approach; how you instill fear; how people have an apprehension of you.

When you call a police commissioner to ease up the mayor or whatever it is—I do not know, they will determine that in the courthouse—and you are accused of that, the perception out there is that you are undermining the police force. This is a Prime Minister—with great respect to him—who began his term with a controversy over calling the Marabella Police Station. Do you remember that? Your perception record is horrible. If they did perceptions of corruption— Our citizens take note of this fact. [*Interruption*]

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

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

Question put and agreed to.

Dr. R. Moonilal: Thank you Members on both sides of the House.

Mr. Speaker, I never thought the day would come when I would have to say something that remotely sounds as if I am in agreement with the Prime Minister of St. Vincent.

Mr. Speaker: Order!

Dr. R. Moonilal: On this matter, it looks as though he has a point; "like he ketch meh dis time." He raises the question of constructing what he called this legal infrastructure, but not dealing with your own courthouse. This is also another pattern of the Government. The Minister of Health would give us a speech about CAT scans being available to everybody and forget "dat it have no bed in the hospital," [*Laughter*] but CAT scans are available.

The Member for Siparia quoted from a report, *The Judiciary of the Republic of Trinidad and Tobago Annual Report 2002/2003*, at page 112, and did some simple Arithmetic. She added up all the outstanding matters at courthouses in Arima, Chaguanas, Chaguaramas, Couva, Mayaro, et cetera and the figure came up to 434,482 outstanding matters. The Member for Diego Martin West "bawl"; he said, "No, dat cyar be so." We have the report in our hands, but it is a denial of a gross level of incompetence. The weight of incompetence is the same weight of corruption; this is the incompetence that we talk about.

The very brilliant Member for Laventille East/Morvant, the crime fighting junior Minister, should have told us, "Look, there were 434,000 outstanding

matters, but we have been able to clear the backlog down to 300,000," or whatever; that is what he should have done. [*Crosstalk*] Instead he engaged himself in tomfoolery.

Mr. Ramnath: You did not pay your mortgage!

Dr. Khan: Three years!

Dr. R. Moonilal: They ridiculed the Member when she raised this matter of the Magistrates' Courts. [*Interruption*]

Hon. Jeremie: Mr. Speaker, on a point of clarification. The backlog in relation to the Magistrates' Court and the Judiciary is a matter for the head of the Judiciary and not for the Executive or any member of the Executive.

Dr. R. Moonilal: Will this Attorney General be kind enough to tell me whether a backlog like that, a matter for the Judiciary, is not a public policy issue? [*Crosstalk*] It is not a private matter. [*Crosstalk*] A Judiciary has to be resourced.

Mr. Speaker: Order!

Dr. R. Moonilal: In setting up the Supreme Court in the United Kingdom, they are looking for building and finding money now. In the UK now, the biggest issue is getting the right amount of resources for that Supreme Court. So resources are a matter of public policy. Taking care of the backlog might be a matter for the Judiciary. To select whether the Prime Minister's case goes to San Fernando or Arima, before which judge and so on, is a matter for the Judiciary. In sourcing resources to the Judiciary—the Judiciary has no money—does the Judiciary collect taxes? Does it have a contingency fund? It is the Government of Trinidad and Tobago. In fact, one of the intricacies of our political system is that while the Judiciary is independent, consistent with the notion of the separation of powers, it depends for funding on the Executive. It depends on the Parliament to approve funding and it is the Executive that will take a policy decision on matters of money. So to stand, Mr. Attorney General, and tell us that it is a matter for the Judiciary, you are almost suggesting whether it is 400,000 or 800,000 is irrelevant; that it is their business. [*Interruption*] No, no, I gave way to you already.

Mr. Speaker, that is consistent with another approach by the Government. Someone is killed, that is drug related; that involves a crime; that is shady. Someone is kidnapped, that is a family member doing that; it is some family mischief. The last time I checked, murder and kidnapping were against the laws

of Trinidad and Tobago. We do not run a plural legal system; there is no plurality of laws; notwithstanding a gentleman in the court calling people for flogging. There is one system of law. If a family is involved in mischief and kidnapping, that is kidnapping. If people are involved in drugs and they kill, that is killing; it is homicide, which is unlawful. Eventually you may bring statistics to tell us that we did not have 260 murders; we really had 100, the rest was mischief. We cannot operate on that basis.

I am very, very cautious when I hear the Member for Laventille East/Morvant and the Prime Minister as well responding to this crime rate by suggesting to us that it is not really crime, but something more under the table. Whatever it might be under the table; it is a crime. People should not kidnap their brother or sister either. People who are involved in illicit activities, whether drugs or ammunition, should not kill each other; that is against the law; all forms. If you break the law, you break the law; you cannot dismiss that and say it is okay.

With the Police Bills, they accused us at the same time of supporting crime and not loving Trinidad and Tobago. I do not know what we have to do again. [*Crosstalk*]

Mr. Speaker: Order, please!

Dr. R. Moonilal: Within months they were caught with their pants down, when, at representations made in the courthouse, it became clear that members of the Executive and the Cabinet were systemically undermining the rule of law. In matters of the Judiciary and law and order, the United Kingdom is an attractive resource and research base, because they really do have a lot of material to look at. We wish we could get some from Canada, Australia, and New Zealand, but I am sure the speakers to come would have done all that research.

In the UK as well they are now spending more resources on data management, research dealing with the Judiciary and crime. I want to stay on the issue of the Judiciary, since this is the matter before us. If we conduct a survey in this country to ask citizens, "Do you have confidence in the Judiciary, the Director of Public Prosecutions, and the Anti-Corruption Investigation Bureau?"—notwithstanding the Market Opinion Research International (MORI) poll.

Mr. Singh: They are working for the PNM.

Dr. R. Moonilal: They have destroyed the very good name of the MORI poll; in any event, that is a very big organization. What do you think would be your feedback, your polling data, if you ask a good breakdown of citizens who

represent this country, their views on the Judiciary? It is not the issue of whether they are doing a good or bad job; it is the perception that people have of them; that is an important fact to confront. I talk to citizens, as all of you do. I may see people in a different part of the country to you, but we do talk to citizens. They have no faith in an office that is important to the criminal justice system to do investigations and so on. There is now a public challenge as to the integrity of the Integrity Commission. What has happened when a society cannot trust its Integrity Commission? [*Crosstalk*]

As to how many people signed forms, is another matter. [*Crosstalk*] How members of the public and the media know which minister of Government did not sign their name? Is that not a matter of serious concern?

Hon. Members: No! [*Crosstalk*]

Dr. R. Moonilal: A newspaper reported that it was not the declaration of interest; that it was the other documents. The declarations are public; the other documents are not public. Those are important issues to come to terms with. The point I am making is that these institutions lack credibility. In the context of that, we have not come to terms with the public perception of the Judiciary; the public perception of the main actors in the criminal justice system. One question we should put on the poll is: What is your degree of faith in the goodly Attorney General? Who knows, he may score very high; but that poll has to be in Oropouche. [*Crosstalk*] Those things are important. We only concentrate on the popularity of the Prime Minister, because everybody watches the elections; so everybody wants to know whether the Member for San Fernando East is a 29 or 24 per cent; but we do not concentrate on the Attorney General and institutions. What is the public perception of institutions? [*Crosstalk*] The Attorney General knows himself, he wears an identity tag.

Dr. R. Moonilal: These are important questions, important issues. If today Members on this side stand and declare openly that we have no faith and trust in Members on the opposite side, you "cyar" beat us into submission. You could talk how much you want; you cannot tell us that we hate Trinidad and Tobago. What rubbish we hear from the other side! As if they built Trinidad and Tobago. They talk about developed country status, the only thing in this country that looks as though we have that status is the Piarco International Airport. [*Laughter*]

Hon. Member: Get away with that!

Dr. R. Moonilal: What else? Well, the stadia.

Mr. Singh: TTPost!

Dr. R. Moonilal: Let me apologize immediately to my colleagues on this side of the House. I touched a nerve there, but TTPost is correct, Member for Caroni East. [*Crosstalk*] He built a Lego wall.

At the heart of this matter is a lack of trust and faith. The Government will do well to understand that the basis of that is not hatred, spite or malice. I hope, Mr. Speaker, that I never have to sit here again and hear utter garbage about who loves, or does not, Trinidad and Tobago and who should go and read his oath. [*Crosstalk*] You have 10 commandments too; you should read them every morning. [*Crosstalk*] I suspect that you have less than 10. [*Crosstalk*]

Mr. Speaker, please, you have to protect me from the Member for Diego Martin Central; he wants to bring some knowledge to the table. [*Laughter*] I will be happy to make available to the library of the Attorney General this document called *Increasing Diversity in the Judiciary*. It is also for his own use, to understand some of these problems in the context of the United Kingdom, where they do not have the intense multi-cultural character of Trinidad and Tobago.

Sen. Jeremie: Thank you, we have it.

Dr. R. Moonilal: You have it already? I never got the impression that you had seen it. I am sure colleagues on this side will have other compelling arguments to add. We also wish to hear the speakers on the other side and to look carefully at their arguments. Many of us on this side are not here with closed minds, but are amenable to discussions and debate.

Thank you.

The Minister of Science, Technology and Tertiary Education (Hon. Colm Imbert): Mr. Speaker, I will be exceedingly brief, because unlike Members opposite, I have read the Bill, therefore, I will deal with the issues before us.

Before I get into that, listening to the Member for Oropouche, I know it hurts him. It hurts the hon. Member—I do not want the Member for Tabaquite to jump up and refer to Standing Order 36(7). I know it is hurting hon. Members opposite deeply, to the core, but I cannot help but get the feeling that they are unrepentantly unpatriotic, anti-Trinidadian and anti-Caribbean. [*Desk thumping*] I have to agree with the Member for Diego Martin West, who is of the opinion that every time somebody is killed in Trinidad and Tobago, the Members opposite jump for joy. Then they go abroad to Canada, New York and London and

publicize it. I cannot help agreeing with the view of the hon. Member for Diego Martin West and come to the conclusion that they are unrepentantly unpatriotic.

We had to listen to: Where is the diversity in the Judiciary? They have no faith and trust in the judges in the Caribbean Court of Justice (CCJ) and the Regional Judicial and Legal Services Commission. I ask the Members on the other side: Where is the diversity in the Privy Council? Where is the ethnic, religious and cultural diversity in the Privy Council? "Is pure Englishmen inside of there!" There is no diversity in the Privy Council, but according to the Member for Siparia, because of the diversity, which is the Anglo-Saxon/Norman blood that comprises the majority of the members of the Privy Council, you are guaranteed pure and true justice. [*Crosstalk*] What colonial poppycock! [*Laughter*]

We heard the Member for Oropouche speak about the former Attorney General. He referred to some statement the then Attorney General made about circulating the documents relating to the court to the public. We also heard the Member for Siparia say that there was no Cabinet decision agreeing to the appellate jurisdiction of the Caribbean Court of Justice (CCJ). I have to say to the Members opposite, if that is true—and it is not—then the Member for Couva North, in his capacity as Prime Minister of Trinidad and Tobago in 2001, had to be a mad man.

The Member for Couva North on February 14, 2001, in his capacity as Prime Minister, affixed his signature to the Agreement establishing the CCJ at Bridgetown, Barbados and bound the Government and people of Trinidad and Tobago; unless he was stark, raving mad or otherwise disoriented. I know that there are some people who might want to hold that point of view, but I do not think so. I think that he was extremely sober and knew exactly what he was doing when he affixed his signature then. He had all his wits about him. He was neither disoriented nor stark, raving mad.

He was authorized by a Cabinet decision, as is required, to affix his signature and, thus, bind the people and Government of Trinidad and Tobago. All Prime Ministers from the beginning of our form of independent government have always had to seek Cabinet approval either before or, subsequently, through ratification, in order to bind the country to international treaties and agreements. So unless the hon. Member for Couva North was stark, raving mad or he was at large or completely wild, then the Member for Siparia was simply not speaking the truth.

There is a Cabinet decision authorizing the Member to sign the Agreement establishing the CCJ.

Let me go into the Agreement, because it appears that Members on the other side have no idea what is in it. They have not read the Bill or the Agreement. I will go straight to Parts II and III of the Agreement. In the Caribbean Court of Justice Bill, one of the pieces of legislation, clause 4 states under the rubric:

> "Jurisdiction and Powers
>
> The Court shall be a superior court of record and shall exercise both original and appellate jurisdiction conferred on it by this Act and the Constitution in accordance with Parts II and III of the Agreement."

This clause did not appear like a genie from a lamp by magic. It appeared because it was a faithful evolution of the Agreement signed by the Member for Couva North in 2001.

Let us go to Part III of the Agreement, signed by the Member for Couva North, where it speaks to the appellate jurisdiction of the Court.

> "In the exercise of its appellate jurisdiction, the Court is a superior Court of record with such jurisdiction and powers as are conferred on it by this Agreement or by the Constitution or any other law of a Contracting Party."
>
> 2. Appeals shall lie to the Court from decisions of the Court of Appeal of a Contracting Party as a right in the following cases:"

Which means any Caricom member State.

> (a) final decisions in civil proceedings…;
>
> (b) final decisions in proceedings for dissolution or nullity of marriage;
>
> (c) final decisions in any civil or other proceedings which involve…interpretation of the Constitution of the Contracting Party;
>
> (d) final decisions given in the exercise of the jurisdiction conferred upon a superior court of a Contracting Party relating to redress for contravention of the provisions of the Constitution of a Contracting Party…;

(e) final decisions…jurisdiction conferred on a superior court of a Contracting Party relating to the determination of any question for which a right of access to the superior court…is expressly provided by its Constitution;"

And so on and so on and so on.

Mr. Ramnath: We agreed to that?

Hon. C. Imbert: The then Prime Minister of Trinidad and Tobago, the Member for Couva North, signed this Agreement.

Mr. Ramnath: Nonsense!

Hon. Imbert: "Is mad people!" Let me read it again.

Mr. Ramnath: We signed a lot of treaties.

Hon. C. Imbert: This Agreement is the agreement for the establishment of the CCJ; it was signed on behalf of the Government and people of Trinidad and Tobago by the then Prime Minister, who was Basdeo Panday, the Member for Couva North, on February 14, 2001 by authority of the then Cabinet of Trinidad and Tobago, which was then under the control of the party represented by hon. Members opposite. So the UNC government authorized the UNC Prime Minister to go to Barbados in February 2001 and sign this. This says that the Court shall be an appellate court for matters coming out of courts of appeal of contracting parties in civil matters and so on. [*Crosstalk*]

The Member for Siparia was at pains to try and fool us, trick us, into believing that they never intended that this court would be an appellate court. It is so infantile! It is so childish! The record is there. The Agreement is there, lodged in the Caricom Secretariat with the ink, in the hand of the Member for Couva North. What is all this foolishness about?

When you go further into the Agreement, it talks about the establishment of the Regional Judicial and Legal Services Commission, again, assented to by the hon. Member for Couva North by the authority of the then Cabinet of Trinidad and Tobago under the UNC. This is how the Regional Judicial and Legal Services Commission will be established:

> "There is hereby established a Regional Judicial and Legal Services Commission which shall consist of the following persons:
>
> (a) the President, who shall be the Chairman…

(b) two persons nominated jointly by the Organization of the Commonwealth Bar Association…and the Organization of Eastern Caribbean States…Bar Association;

(c) one Chairman of the Judicial Services Commission of a Contracting Party selected in rotation…

(d) the Chairman of a Public Service Commission of a Contracting Party…"

I guess this was how Mr. Lalla came in there as a member of the commission. It continues:

(e) two persons from civil society nominated jointly by the Secretary-General of the Community and the Director General of the OECS…

(f) two distinguished jurists nominated jointly by the Dean of the Faculty of Law of the University of the West Indies, the Deans of the Faculties of Law of any of the Contracting Parties; and the Chairman of the Council of Legal Education; and

(g) two persons nominated jointly by the Bar or Law Associations of the Contracting Parties."

Mr. Speaker, you are intelligent. Where inside of there does it say that the Regional Judicial and Legal Services Commission will be appointed by any government? I am going to go back.

> "two persons nominated jointly by the Organization of the Commonwealth Bar Association…and the Organization of Eastern Caribbean States…Bar Association;"

"It have" no government in that; that is private.

> "One Chairman of the Judicial Services Commission of a Contracting Party…"

In our case that is our Chief Justice, who is appointed by the President. "It have" no government in that.

> "The Chairman of a Public Service Commission of a contracting party;"

He is appointed by the President; no government in that.

> "Two persons from civil society nominated jointly by the Secretary General of the Community…"

That is the Caricom Secretariat; no government in that.

> "and the Director General of the OECS;"

No government in that.

> "two distinguished jurists…" [*Interruption*] [*Cell phone rings*]

Sorry, Mr. Speaker.

> "nominated jointly by the Dean of the Faculty of Law of the University of the West Indies…"

No government in that.

> "two persons nominated jointly by the Bar or Law Associations of the Contracting Parties."

What this means is that out of all the persons on the Regional Judicial and Legal Services Commission, not a single one is appointed by any government in any Caribbean territory. There are appointments by bar associations, university professors and civil society. So what is all this nonsense about the Government on this side being able to pick the commission and select the judges?

After the Regional Judicial and Legal Services Commission is selected, it then select the judges. It is not we, it is them. They are picked by lawyers. I mean, that has to be a mistake. [*Laughter*] It is a private joke, Mr. Speaker. They are picked by bar associations, the Faculty of Law in the University of the West Indies, the Organization of Eastern Caribbean States (OECS) Bar Association, civil society and that kind of thing. They pick the commission and then the commission picks the judges together with the President.

The hon. Member for Couva North, as Prime Minister, signed this. And what disturbs me about Members opposite is that they know the regional commission is selected by non-politicians. [*Crosstalk*] If you go further into the Bill before the Parliament, it speaks to the Regional Judicial and Legal Services Commission and states at clause 22:

> "…shall consist of the persons who shall be appointed in the manner and for periods set out in paragraphs (1) to (7) of Article v and paragraph (2) of Article VI of the Agreement."

I just read from Article V. Article VI is the first appointment of President and members of the commission and says:

> "For the purposes of the first appointment…the members of the Commission…shall make a recommendation for the appointment of the President."

After the members have been selected, they then recommend the President; nothing to do with government. I fail to see any merit in any of the arguments on the other side that the judges and the commission that appoints the judges will be, somehow, contaminated by some kind of nasty political hand that will find its way into the selection of judges.

The hon. Members opposite agreed to this. Are they saying that if they were in power, that is what they would have done? They would have terrorized all these people: civil society, bar associations and so on and, thereby, somehow get them to put their pick inside of there? When I listen to everything said, when I hear the hon. Member for Oropouche carrying on and ranting and raving about alienation, discrimination and favouritism in the selection of judges, was it intended by hon. Members opposite that in setting up the commission in this way, free from political interference, there could be some way they could get involved in discrimination, alienation and favouritism? They set it up. They established the system in this way? They decided how the judges would be selected. They agreed to the whole framework for the court. They are the ones who affixed their signature establishing the fact that the court would have both an appellate and original jurisdiction. Everything inside this document is a creation of the UNC. What we are doing in the Parliament today is simply incorporating into law the provisions of this Agreement.

Mr. Speaker, this is where the despicable mentality of persons comes into play. The Member for Couva North, authorized by his Cabinet, signed this document where it said that the court would be the final court for all these appeals coming from appeal courts in various contracting states and that the commission will be established in this way. Having signed that, they know that it has to be incorporated into domestic law. Once there is a domestic law inconsistent with the provision of the Treaty, then that law will supersede the Treaty. The Member for Caroni East knows what I am talking about, that unless the provisions of this Agreement, which was signed by the Member for Couva North, are incorporated into our domestic law with this Bill, then if there is any provision within our law, such as the requirement for the Privy Council to be the final appellate court, that will be superior to the provisions of the Agreement.

They know that they bounded us to this; they signed this and set us on a path; lobbied for the court to be in Trinidad and Tobago; won the lobby to get it here; established it on Richmond Street; put the sign on it— Mr. Speaker, if you go down Richmond Street you will see the sign on the blue building, Caribbean Court of Justice. They did all of that. They know that by withholding their vote in the Parliament today, they are frustrating the incorporation of this Agreement, which they signed, into our domestic law and frustrating the very principle of the establishment of the CCJ. [*Crosstalk*]

Original jurisdiction my foot! I have just read into the record that according to Parts II and III of this Agreement, which you signed, you agreed that this court would be the final appellate court, in a host of matters. You agreed to that. [*Crosstalk*] They could jump high; they could jump low; they could come here and speak untruths; they could come with a tissue of untruths. There is a saying which says that you can take back the spoken word, but you cannot take back the written word. In the Caricom Secretariat there is a copy of this Treaty signed by Basdeo Panday on February 14, 2001, in his capacity as Prime Minister of the UNC government of Trinidad and Tobago. He cannot take that back and he did not know he would be on that side. As my hon. colleague from Diego Martin West put so eloquently, all that has changed is that we are here and you there; that is it.

All the froth and carrying on, pseudo-intellectualism, bleating and crying about victimization, alienation, diversity and all this nonsense, flies in the face of the signature of the Member for Couva North on this document, which is identical word for word to what is in this legislation before the House. They should have nothing to say. All that has happened is that they are on that side; they are no longer in government. As the hon. Member for Diego Martin West said, if they were in government we would already have attended a celebration for the inauguration of the Caribbean Court of Justice, which would already have replaced the Privy Council as our final court of appeal.

I thank you, Mr. Speaker.

Mr. Kelvin Ramnath (*Couva South*)**:** Mr. Speaker, I never thought that the learned Minister of Science, Technology and Tertiary Education would have spent so much time in tedious repetition, about a matter that, clearly, he was not qualified to speak on. It tells you the fate of our aspiring leaders in the country, who have to be led by the Minister of Science, Technology and Tertiary Education, whose capacity and capability have been so clearly demonstrated here today. It appears as though all the years in Government have not done anything to expand his brain power.

The Member for Siparia identified a number of countries that signed the Treaty and she included their very close friends, the islands of St. Vincent, Antigua, Barbuda, Dominica and so forth, several countries in the Caribbean that have not, up to today, replaced the Privy Council, while they are willing and eager to have the court as an original jurisdiction.

The Member for Diego Martin West was clearly unprepared for the debate. He did not even have a copy of the Bill in front of him while he spoke, went on an excursion to Toronto and Queens to talk about unpatriotic people in Trinidad and Tobago and made accusations about Indians having problems. I want to ask him whether he is prepared to call the Prime Ministers of St. Vincent and Antigua unpatriotic, whether he is prepared to call all those Prime Ministers who have not agreed to the abolition of the Privy Council unpatriotic? I think this matter was eloquently dealt with by the Member for Oropouche.

When you sign a treaty, you undertake to go to your people, your Cabinet and your country to get their concurrence with respect to supporting the provisions of that treaty. That is why treaties have exclusion provisions, reservation clauses. In this Bill there is a reservation clause which allows us, as a country, to decide whether we should go for the original jurisdiction or whether we can go without supporting the Privy Council. [*Interruption*] I will find it for you in a little while; Article 25. So if as a Parliament we decide that we are going to exercise the reservation, for the time being or for a length of time, not to abolish the Privy Council, the Parliament can decide that we can accept the court as an original jurisdiction.

The blocs that are developing around the world are very well known to hon. Members opposite. It is clear to me that they did not come here prepared to debate this piece of legislation. They came here, as one minister in another place had to say, to bring what they call "cattle boil legislation". For the purpose of the record, on page 38, it talks about reservations. The Bill before us clearly states that a reservation may be entered to Article 25 of this Agreement, with the consent of the contracting parties. Article 25 speaks about the appellate jurisdiction of the court. So whether the former Prime Minister signed the Agreement or not, and I take it that he did, according to what is coming from the other side, we have a responsibility as a country to debate this piece of legislation and to decide what we want as a people, in Trinidad and Tobago.

Members on the other side can spend all the time they want in this debate to give the impression that we are disloyal, that we do not stand up to our word or

that we are backing down from a commitment; that will not help them to get our support for this piece of legislation. [*Desk thumping*] The reason for that is not because of the politics of bad mind; they know about that politics of bad mind.

The Prime Minister of today admitted that he did not support the establishment of the Caribbean Court of Justice when he was the Leader of the Opposition and I was sitting on the other side. His reason was because he did not trust ANR Robinson as Prime Minister of the day. He does not trust the Prime Minister of the day, once he is in Opposition, but he reserves the right to withdraw or give his support whenever he chooses to do so. Not a single Member on that side would answer the point raised by the Member for Siparia, who delivered such a significant discourse on treaties; who so eloquently articulated the position of the loyal Opposition of the UNC. We keep hearing from that side that we are backing down from a position.

Mr. Speaker, this is such a fundamental issue with respect to our democracy, that Members of the Government should have educated the country and their party members and not expect them to be mere rubber stamps; they have failed to do that. I was watching cricket on television and I saw advertisements with people from the other islands saying, "I will now be able to work in other parts of the Caribbean; I will now be able to live in Trinidad and Tobago," because I do not think there will be any migration up the islands; the migration will be down to Trinidad and Tobago, because of our fortunate economic well-being.

I saw during the breaks in cricket, advertisements one after the other extolling the virtues of the Caribbean Single Market and Economy. I see in Trinidad how many schools built by the UNC are now being opened by the Minister of Education. I see in Trinidad an airport that has given us the impetus to be a First World country, being advertised and spoken of by the Prime Minister as an important part of our tourism industry. Every day I see newspapers in Trinidad and Tobago carrying full page ads about what the Government claims to be doing. I see nothing coming from the Government with respect to educating the population about what the single market and economy is all about.

I am not surprised at the hollow diatribe that has come before us today from the Government Benches. They themselves do not know what the CSME is about, except a few Members on the Front Bench. They do not know the significant aspects of it and why this legislation is important; not a word. The Member for Diego Martin West spent one hour and 15 minutes just seeking to attack the integrity of the Member for Siparia and making all kinds of spurious allegations,

but he never referred to a section or a clause of the Bill or sought to give an exposé on the attributes of the Caribbean Single Market and Economy. I hear more about the European Community, because they use their media to telegraph these important developments in Europe. We closed down the media so that we could have control, so we could bring our friends to run it, so the propaganda machinery, which includes the MORI poll and some other company from Britain that is coming to run the new station, will be talking only what the PNM wants the population to hear.

6.50 p.m.

Mr. Speaker, the Minister of Science, Technology and Tertiary Education should take responsibility. Are we getting a programme of education at the University of Trinidad and Tobago (UTT), the University of the West Indies, John S. Donaldson Technical Institute and San Fernando Technical Institute and, indeed, all the tertiary institutions? Are we going to see programmes that will educate our craftsmen, tradesmen and university graduates about the benefits of this Caribbean Single Market and Economy (CSME)? But no; all we have heard in this debate so far, is that Mr. Panday signed an agreement and the UNC is now backing down.

The hon. Leader of the Opposition, in a debate in this Parliament, stood and made it absolutely clear when he signed the agreement that he had to go back to Trinidad and Tobago to consult with his people. The former Attorney General, Ramesh Lawrence Maharaj—[*Interruption*] Yes, an agreement was signed in principle! [*Crosstalk*] I have dealt with the reservation clause. [*Interruption*] The reservation clause is built in. Mr. Speaker, they do not understand what treaties are like and they are in government. God help this country under these people.

Mr. Speaker, when you follow what is happening in the European Community and its expansion, and you listen to the possibility of Turkey and Ukraine coming into the European Community, you would never hear any one of those countries relinquishing their sovereignty. You would never hear any of those countries saying we are going to have a European court of appellate jurisdiction. That is not on the agenda! France, Germany, Italy, Spain or Britain will never give up their right of final appeal to any European court!

Mr. Speaker, the agenda in this country is formulated by an insatiable appetite for power by the Member for San Fernando East. Trinidad and Tobago has become too small for him to govern so he has set his eyes on the wider Caribbean. He will learn one day that Barbados and many of the other Caribbean islands are not going to share his vision about a Caribbean nation.

When my friend from Oropouche spoke about his discomfiture with this notion of a Caribbean nation, he spoke for many people. They have not consulted with the people! Mr. Speaker, polls that should be taken before they come to the Parliament to say that they want to abolish the highest court of appeal in this country will indicate that that is not what the people want. They want the Minister of Works and Transport to spend some time fixing the roads in the country, cleaning the drains and rivers and so on.

I ask this Government, through you, Mr. Speaker: What is wrong with the present system of justice? Why do we need to change? That is a simple question? What is wrong with it! [*Interruption*] I have no problem. In fact, as a citizen of this country, I will be happy—if I ever have to—to have my appeal heard by persons who do not know who I am. I am happy to have my appeal heard on the basis of justice, as the Member for Siparia said. Mr. Speaker, the quality of our Judiciary and the quality of the judgments that are coming out in the courts have to do with the fact that every judge is concerned that his judgment is going to be the subject of an appeal by an impartial tribunal called the Privy Council.

Mr. Speaker, why should we be against being reviewed by our peers? Members have repeatedly indicated that we are talking about 1,000 or 1,500 years of jurisprudence that we have become accustomed to, as members of the Commonwealth that we rely on judgments coming out of New Zealand, India, Canada, the United Kingdom and South Africa and so on to develop our judicial system. Mr. Speaker, they want to set up a coconut court of justice here! [*Interruption*] Do not get me vex here this evening. [*Interruption*] Signed, what? If he signed it and decided to withdraw, I support him 100 per cent. I have a right to speak and if only I speak from my conscience I will never support such a piece of legislation until you can prove to me that you in the Caribbean are capable of making dispassionate judgments.

Mr. Speaker, the problem is that the Government closes its eyes; the Government pretends that it is not—[*Interruption*] I do not trust you!

Mr. Valley: You do not trust yourself!

Mr. Speaker: Order, please!

Mr. K. Ramnath: I joined this Parliament at age 27 in 1976 and I have had the opportunity to work with the first Prime Minister. The first Prime Minister of this country would have never allowed such a thing to happen because he understood very well the development of the Caribbean and he understood what such an institution would do to democracy. If we abolish the Privy Council we are

going to put an end to democracy in the Caribbean and I will tell you why. They know in their hearts what I am talking about! They are concerned about democratic institutions but their political expediency takes precedence. [*Interruption*] You have to support the Prime Minister otherwise you would not be there. If I am not supporting my Prime Minister I will go, as I went before and, I will go again! I am an intellectually independent man! [*Interruption*] I am too well bred to join that side.

Mr. Speaker, when Burnham raped the democracy in Guyana, I do not think most of them were in the Parliament but the Prime Minister was. When Gairy raped the democracy in Grenada the PNM never lifted a finger! They allowed Gairy to roam Grenada like a madman with his Mongoose Gang. When Burnham raped Guyana, particularly the Indians, you said nothing! Do you know what the Prime Minister, when he was Leader of the Opposition said to Robinson, when Robinson was the Prime Minister and was speaking on the Guyanese matter? He said: "Do not touch that." I swear that I am repeating his exact words: "Do not touch that." Ask His Excellency Mr. Bharath Jagdeo why he wants the Caribbean Court of Justice. He wants it because it is better than what he inherited. But we do not have to have that! [*Interruption*] You have the chancellor of Guyana on the court, somebody who studied by candlelight doing some solicitor's exam—not that I have disrespect for such a thing—an uneducated person, by and large, who ended up as chancellor because of political appointments by the Public Management Consulting Division (PMCD) but you all cannot accept that. It is okay to rape the Indians of Guyana; you have no problem with that! [*Crosstalk*] I do not belong to your side!

Mr. Speaker: Order, please!

Mr. K. Ramnath: I do not share your views of discrimination! I am a democrat! I will never allow somebody like you to be treated—

Mr. Valley: You are a racist!

Mr. Speaker: Order! Please, please!

Mr. K. Ramnath: He cannot take the jamming but that is the reality. A civil war developed in Guyana; the Constitution was raped in Guyana and none of these Caribbean leaders stood up and said that it was wrong! They gave Burnham money—hundreds of millions of dollars—to conduct his rampage!

Mr. Speaker, the history of Caribbean leadership with respect to using the philosophy of "might is right" is before us. The people of Antigua took it for a

long time and they finally made a wise decision, which had nothing to do with race. My point is that you simply do not remove an institution that has been tried and tested, and replace it by another institution that you know nothing about.

When the UNC introduced the Commission of Enquiry into the Judiciary, it was a result of the ranting and ravings of the Chief Justice. The Chief Justice spoke about the interference by the Attorney General, and he went to make a pedestrian speech on the steps of the Hall of Justice because he could not control the vote. Ask them whether they allowed the Chief Justice of this country to control the vote. One of the principles of Cabinet government is that taxpayers' money has to be controlled by the Parliament and the Cabinet Ministers, not by some functionary, as well-intentioned as he might be.

When the UNC took a decision it was based on his complaints; he complained up and down the place. I do not know why they feel that this gentleman has a divine right. What amazes me, Mr. Speaker, is that out of the chambers of Pollonais Blanc de la Bastide & Jacelon have come two appointees to the Caribbean Court of Justice. [*Crosstalk*] Well, when you know the truth you will come and speak it. What is interesting is that—I have the greatest regard for Mr. Nelson; he is supposed to be a bright person. Mr. Nelson was picked by the Judicial and Legal Service Commission to the Appeal Court but never served a day as a judge—in the Magistracy, which is not unusual—in the High Court; he was catapulted to the top. It is rumoured that he was the choice for Chief Justice of the country. As much as Mr. Nelson is a distinguished jurist, we have to make sure that when we are appointing members of the Caribbean Court of Justice that we take steps to ensure that the procedure by which appointments are made is totally above board.

I heard the Member for Diego Martin East—I am so disappointed that a man who has a responsibility for educating our children—spend all his time talking about the independence of the service commissions; how no politician gets involved but he does not read the Bill. It says:

> "The President (of the court) shall be appointed or removed by the qualified majority vote of three-quarters of the Contracting Parties on the recommendation of the Commission."

[*Interruption*]

Mr. Speaker, the Commission, which was appointed, now goes to the contracting parties.

They are of the view that people are foolish and uneducated. What is even more degrading and insulting is that I am now asked to vote to put this into law and they have already picked the judges. This is not law—

Mrs. Persad-Bissessar: The President's salary is US $60,000 per month; I wonder if people know that.

Mr. K. Ramnath: How much money?

Mrs. Persad-Bissessar: The President's salary is US $60,000 per month, and for what?

Mrs. Robinson-Regis: Nothing is wrong with that.

Mr. K. Ramnath: Nothing is wrong with that. I would like you, my dear friend from Arouca South to get US $40,000 a month because you are a good Minister. [*Laughter*]

Mr. Speaker, I am being asked to support a piece of legislation to establish a court, which has already been established, the Service Commission has already been established, the judges have already been picked and we are here like rubber stamps. That is the contempt with which you hold this Parliament. You could hold your party that way, it is okay. You could ill-treat the people of Tobago and then you could mamaguy them and carry 10 ferries for them—[*Interruption*] You have won an election with the Community-based Environmental Protection and Enhancement Programme (CEPEP) contractors and a waste of company funds and you believe the whole Parliament and the country is like that.

Why did you not bring this piece of legislation before you appointed de la Bastide and Nelson and all the other people? You are asking us to retroactively support the decision of the Commission. Somebody took the matter to court. When the Service Commission was being appointed a matter was raised in the court but because of some technicality—[*Interruption*] But the principle remained, it was not whether the Chief Justice had the power to swear them in or not, the principle was that this Parliament and the governments of the various islands did not approve the legislation but you went ahead and set up your kangaroo court because you have no respect for the Parliament. You expect, just as how you stole the election that you could come here and govern in the same manner.

Mr. Speaker, I want to raise the issue that the Member for Diego Martin West raised. When Mr. Robinson, with his two seats, wanted to get into government he formed a coalition with the United National Congress after the 1995 election. He was not President; he was a politician aspiring to high public office. He formed a

coalition government that took him to the position of senior Minister Extraordinaire and, ultimately, to the President of the country. When Mr. Robinson conspired with the Member for San Fernando East and the PNM to remove the UNC from power, it was an unpatriotic act and a denial of our democratic rights. Mr. Speaker, it was based on the Constitution—I do not know what part of the Constitution—"on spiritual and moral values". [*Interruption*] Of course it is best for you.

As a result of that these people who now claim to be legitimately elected were catapulted into office with $16 billion to spend and to conspire with criminal elements in the society so that they could prepare themselves for the election, which they claimed they won 20/16. You do not have a mandate to abolish anything in the Constitution of this country. [*Desk thumping*]

Mr. Speaker, I have to congratulate the Member for San Fernando West, her father hon. LFS Seukeran and certain people who might be related to the eminent Speaker for standing at Marlboro House and demanding certain entrenched provisions to be put in the Constitution so that people, like the PNM, would not abuse the power. Mr. Speaker, they went to the Marlboro House Conference after they put chute voting machines in a society that could hardly read and write. Mr. ANR Robinson, in Tobago, got more votes than there were registered voters. He is not in this business only yesterday. Where were his moral and spiritual values when the number of votes he got exceeded the number of registered voters? [*Interruption*] Go and do some research.

Mr. Speaker, I do not want to deviate. [*Interruption*] I really want to speak on this debate. This concerns my future and my children's future. It concerns my grandfather who came from India.

Mr. Valley: Your grandfather came from Couva. [*Laughter*]

Mr. K. Ramnath: Mr. Speaker, do you understand why, like the Member for Oropouche, I have a closer affinity to the people of India than I have for the people of Grenada or St. Vincent? My point is that this is a very important piece of legislation that has to do with democracy. We have not, as a people, demonstrated our capacity to make important judicial decisions independent of political interference. Go to Guyana and ask the people. It has nothing to do with the educational attainment of our judges; it has nothing to do with their backgrounds; it has to do with the smallness of the society and the impacts that such smallness has on the decision-making process.

Mr. Speaker, this is a good barometer of how this country has used us. I heard the Member for Diego Martin West talk about betraying the people and the

country; we should all, as politicians, be careful. He talked about a grey-haired woman who would have preferred her head to be shot than the flag to be burnt. Mr. Speaker, look at the press gallery and see if there is anyone listening to what we have to say. Look at the public gallery to see how many people are sitting there in one of the most important debates in the country. The Government waited until Carnival time when everybody is busy—[*Interruption*] I, too, have to go to one tonight. [*Laughter*] I have two tickets for Moka here; do you want me to give you one? It is $500 for one ticket; so do not think I do not go to fete; do not think Carnival is for you alone.

Mr. Speaker, let me make it clear. The Government should put closure to this debate. We should embark on a public education campaign—tell those who are pushing in the Caribbean to wait—about the significance of Caribbean Single Market and Economy (CSME); the original jurisdiction; the implications for the original jurisdiction and for the appellate jurisdiction and if need be, let us agree to amend the legislation—if that is agreeable to Members of the Parliament—to approve the legislation for original jurisdiction and call a referendum on the issue of abolishing the Privy Council.

You cannot use your majority in the Parliament, or even use our support to get the required majority and have credibility to remove such an important part of the Constitution. We have repeatedly indicated to you that you have—I heard one Member talk about scamps in this Parliament, people who do not keep their word. Our word is the Constitution! Our word is enshrined in the constitutional provisions of the Constitution of Trinidad and Tobago. You have to come to terms with the fact that you are coming, from time to time, to amend certain parts of the Constitution. You want constitution reform on your terms! No, we must want it on the basis of the terms set by the people of Trinidad and Tobago. The Constitution is a contract between the people of Trinidad and Tobago and the State. Do not worry about election.

Ask the people of Europe when they wanted to join the European Economic Community whether they did so, on the basis of what the politicians wanted or they did so, based on a referendum. Ask the people of Europe when they decided to go for the Euro currency as opposed to keeping theirs whether they went because the politician said so or whether there was a referendum to deal with that. Why do you not follow basic principles of democracy and let people decide on their future? This is not a simple matter! This is a matter that has to do with confidence and credibility; whether people feel they will succeed in a judicial

review motion against the Prime Minister or any member of the Cabinet if we go before the Caribbean Court. Those are issues we must be concerned about. Do you think those Caribbean justices at that level really want to upset any Prime Minister? We are lucky—and we should set an example—that in Trinidad and Tobago we have judges who stand up to the Government. They stood up to Mr. Panday and to the Member for San Fernando East. [*Interruption*] Why do you not give the licence to the Maha Sabha? Mr. Speaker, two judges; the High Court and the Court of Appeal gave a judgment and they are hiding behind the statement where the judges said: It is wrong but I cannot direct you.

Mr. Speaker, let me once again repeat that you do not tamper with the Constitution in this manner, particularly when it comes to the rights of citizens to secure justice for themselves and their families. I do not know what is driving these Members opposite to want to simply make such a fundamental decision. They have taken no samples. I thought probably the Market Opinion Research International (MORI) poll would have been used to sample the views of the population with respect to this important decision. At least they could have tried and then we would have tested it. [*Interruption*] Why do you not call a referendum and let the people decide? [*Interruption*] No, I am not ready. I am not interested in what the Attorney General has to say. I am interested in whether the people who are appearing before the magistrate will get a fair trial. I want to know that when you trump up charges, Mr. Attorney General, and your special hit squad that you have reporting to you—[*Interruption*] Does the hit squad not report to you? Does the Piggott group not report to you? Are they not residing in the office of the Attorney General? [*Crosstalk*]

7.20 p.m.

I want to know that when you trump up charges—[*Crosstalk*] You know, I sat here from 1.30 p.m. and tolerated all their insults. Since the unconstitutional removal of the UNC from office, we have experienced a spate of political trials. We have seen conspiracy between the police and the Attorney General's office; we have seen conspiracy between the police—

Hon. Jeremie: Mr. Speaker, Standing Order 36(5).

Mr. Speaker: The Member has raised a point of order. It is, sort of, borderline, but it is broad enough just to scrape through. But be careful, Member for Couva South.

Mr. K. Ramnath: I am not commenting on the proceedings of the court in such a way as to influence the outcome. If you read your Standing Orders you would know.

Hon. Jeremie: The Member is imputing improper motives. I am not in any conspiracy.

Mr. K. Ramnath: The hon. Attorney General is a visitor to this House and he must conduct himself in such a manner.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

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

Question put and agreed to.

Mr. K. Ramnath: Thank you very much, hon. Members.

I am very serious about this. Every time we have debates in this House, you hear about thieves and about moneys being siphoned when the UNC was in power. So they have already given their judgment; they have already tried and executed all these people whom they claim stole money while the UNC was in power. They have tried and they have dealt with them. They know the answer; they know the outcome. So when politicians who hold high office can make judgments on the character of people without allowing the judicial process to be completed, you wonder how much confidence you can place in these politicians and, ultimately, their decisions to change the course of justice.

So that you read in the newspapers about the number of people who are charged, and you also read in the newspapers that these people and their counsel are claiming that they are the victims of political victimization, and they have a story, too. My story is that they should be given a fair trial; they should be allowed to appear before the courts of the land and feel confident that they would be given the best hearing, trial and justice.

When you have leaders in the Caribbean—in these small islands—who are the recipient of all kinds of assistance, handouts, soft loans, and so on, coming from Trinidad and Tobago, you ask yourself whether they are capable of being independent in terms of how these institutions are going to operate. In spite of what the Member for Diego Martin East says, that there will be no interference, I have sufficiently demonstrated to you that the history of the Caribbean is fraught with examples of abuse of power and there is need for those people and the many people who are appearing before the courts to feel that they would be given a fair trial.

You must not trivialize this point and believe that those people who are going to sit on the final court—[*Interruption*] I am not here to speak to you. You can leave, if you like. Do you see the attitude on a very important issue? He has heard enough. He is God. [*Interruption*] Thank you very much, Member for Pointe-a-Pierre, so I will speak to you.

Miss Lucky: I will listen, actively.

Mr. K. Ramnath: So these people who are facing political charges, as indicated by their lawyers, have now a fear that there would be political interference in the Caribbean Court of Justice and, therefore, we have to take into account that concern and that fear. We have to take into account the fears of the people across this country.

Let me give you an example of something I am concerned with. There are about 1.2 million Indians in the Caribbean—Indo-Caribbean people—from Suriname, Guyana and Trinidad and Tobago. These are people who have a socio-cultural system of existence; these are people who are concerned about their right to co-exist; these are people who are concerned about their rights to practise their business, their professions and cultural activities and a Caribbean Court of Justice does not even have a single judge of East Indian extraction.

Hon. Member: That is not an issue.

Mr. K. Ramnath: That is not an issue, when there is a built-in bias in these societies against people of East Indian origin? From the moment you begin to talk about the rights of Tobago, that is nationalistic. When you are talking about the rights of citizens who were born here, that is a race argument. They do not understand the connection between race ideology, culture and socialization. You have to be a Carnival person to be a Caribbean person.

Mr. Valley: Nobody said that.

Mr. K. Ramnath: You have to be of African origin to be a Caribbean person.

Mrs. Robinson-Regis: You just said you are not a Caribbean person.

Mr. K. Ramnath: You have to be, according to them. You are immigrants if you are not one of those, and that has been their attitude in Guyana, Suriname and in Trinidad and Tobago. [*Crosstalk*]

Mr. Speaker: Order!

Mr. K. Ramnath: You will have your time to reply. You will have ample

opportunity to reply but you cannot prevent me from telling this House what my constituents have instructed me to say here today. [*Desk thumping*]

When you fire 10,000 people in the sugar industry and you put 60,000 people on the breadline, they expect to have justice. The Member for Siparia spent most of her contribution talking about something that is important, and that is justice, which is above institutions, territories and boundaries. But, you know, they do not want to debate these issues. They are important issues for national development.

Until such time as non-Indians appreciate the role of Indians in the society, there could never be the unity that is required to build this country. [*Desk thumping*] But you want to bury your heads in the sand. You believe you have a divine right to rule. You want to create an African aristocracy in the country and you do not care who leaves the country in hordes, because they are being kidnapped all the time. They leave in hordes and go to Toronto, New York, Queens, Miami, and so on. That is not of concern to them. Let them go. That is their attitude, and then they say I am not nationalistic.

You have to come from a heritage that created their wealth from rape and plunder. You have to come from a colonial heritage, or you had to be enslaved to be a national of Trinidad and Tobago, as defined by them. I make no apologies, Member for Diego Martin Central—none. I contribute to this nation as much as, or more than, you.

Mr. Valley: You were like that since you were 10 years old. I know you.

Mr. K. Ramnath: I know when you walked bare back in McBean, eating mangoes. The only thing about me is, I remember my past and you do not. You have become a victim of the colonials, with your jacket and tie and your identity badge. That is what you have become, and you come here to talk about us being colonial. We are talking about justice.

I want to remind them that there must be justice in the selection of judges. I want to refer to an application made to the Caribbean Court of Justice by the honourable Justice Mr. Mustapha Ibrahim and I want to read a testimonial—parts of it—from Mr. Tajmool Hosein, eminent counsel, QC; respected jurist in the country. He said:

> "I have known Mr. Ibrahim since he was admitted to the bar in 1962."

Mr. Valley: How did you get that?

Mr. K. Ramnath: Now you are questioning how I got it? How I got it is my business. [*Crosstalk*] I continue:

> "He practiced at the civil bar for a few years and joined the AG's Department as Crown Counsel. He prosecuted in criminal courts. He was granted leave to pursue a Master's degree at Cornell University. He worked at Texaco as a Senior Legal Assistant. He was appointed…" [*Crosstalk*]

You see the disrespect from the Member for Diego Martin East? He has no respect for Mr. Justice Mustapha Ibrahim. He is making a lot of uncomplimentary remarks about a distinguished jurist:

> "Mr. Ibrahim was appointed a Judge of the Supreme Court in 1980, a position which he held for 10 years. He has been my junior in several cases…"

This is Mr. Tajmool Hosein, eminent counsel.

> "and applied himself in doing the required research and providing competent assistance in that capacity. I have also appeared before him as a judge and I was always impressed with his familiarity with the issues involved and his ready appreciation of the arguments presented, and the competence.
>
> I feel that given Mr. Ibrahim's experience, both on the bench and otherwise, he will be an asset if appointed as a member of the final Court of Appeal for the Caribbean and I recommend him accordingly."

Miss Seukeran: Mr. Speaker, I would like to ask my colleague a question.

Mr. Speaker: Well, you have to ask him to give way.

Mr. K. Ramnath: Yes, go ahead.

Miss Seukeran: Member for Couva South, with the greatest respect, since I have the greatest and highest regard and respect for Justice Ibrahim, who I think is one of the finest judges in the Caribbean, can I ask you if you have the learned gentlemen's approval to have read that in the Parliament?

Mr. K. Ramnath: Go and ask him yourself.

Miss Seukeran: I will. But I would like to know if you will tell me whether you have that approval.

Mr. K. Ramnath: I do not have to account to you, Member for San Fernando West. I am glad that you have the greatest respect for him. So do I.

"June 28, 2004

Dear Mr. Justice Ibrahim,

This is to advise that your application is under active consideration." That was the last he heard from them and the court has been appointed.

I ask a government that is supporting the establishment of a Caribbean institution, a government which must recognize the plurality of the Caribbean, that understands the contribution of the various cultures and races, whether it thinks it is right to have a court of the highest jurisdiction without the presence of a single East Indian, where that community is represented by a considerable number of people in excess of one million. Is that the way?

The Member for Oropouche took a lot of time to explain the development of the system in Great Britain, the concern about minor rights. You go to Canada, the same thing is happening. In fact, in British Columbia there was a Prime Minister of East Indian origin, because people are recognizing the importance of all our citizens. But you are not supposed to raise these issues; you are supposed to acquiesce and condescend to the mainstream politics. And it bothers them, because you are not supposed to talk about this.

Mr. Valley: Mr. Speaker, I just wanted to ask the Member whether all the members of the courts have been selected; how many are there, and whether he is assured that there are no Indo-Caribbean jurists among the lot.

Mr. Singh: There is none among those appointed.

Mr. K. Ramnath: You know, Mr. Speaker, I thought my hon. friend who has responsibility for the Single Market and Economy would answer the question, instead of asking me. [*Interruption*] I am hearing some extraneous noises emanating from the back. If we have a proper Court of Justice we will recover moneys that the National Insurance paid to people to acquire mortgages.

Mr. Hinds: What about the airport money?

Mr. K. Ramnath: The airport money is before the courts. [*Crosstalk*] They shall also find out where the money from Project Pride went to, where $150 million was spent; and Labidco, where the Director of Public—[*Crosstalk*]

Mr. Speaker: Hon. Members, we are coming close to the end of the debate, let us do it with some sort of dignity, please.

Mr. K. Ramnath: The Member is obviously very upset, but I thought that he would take the time to find out from the service commission whether they have completed their exercise.

But the point I am making is: Are you satisfied that we have taken all steps to ensure that there is adequate representation of the people in the Caribbean? That is the question that we must ask.

Mr. Valley: Mr. Speaker, I hope that the commission which is doing the selection would choose persons based on their competence, professionalism and integrity, as long as they are from the Caribbean. Whether they are black, Chinese, white or Indian, I "doh" care!

Mr. K. Ramnath: Sit down! Sit down! So Indians have no integrity; Indians are not competent. But you understand how I have brought some life to the Parliament at quarter to seven on the eve of Carnival? That is what upsets them. They do not want to face the facts. We do not have a perfect system in Trinidad and Tobago. We have a President who is appointed by the Prime Minister; we have a President who appoints the Chief Justice and we have a Chief Justice that is head of a Judicial and Legal Service Commission who appoints, with others, the judges under him. I am not in support of such a system.

When the Member for Diego Martin West raised the issue of the system utilized in the United States, I was about to ask him whether he would not recommended such a system for this country, but he was doing so in reply to the Member for Siparia, who was talking about the democratic process. I would like to make sure that we are advanced in the Caribbean Court of Appeal to what we have existing today even in our own jurisdiction. That is why there must be a full-scale Constitution reform initiative, so we can look at all the institutions to see whether they are functioning in the best interest of the people of this country. As my friend from Oropouche said, do not call me a racist because it offends you. Investigate it. I am not unpatriotic. I was born here and elected to live here and raise my family here, and not one of you can challenge my integrity and loyalty to Trinidad and Tobago.

So let us use this opportunity to question whether the new institution is going to be better than the one we currently have, and if we are so convinced, let us go to the population and let the people decide. It is the people who must decide who their final Court of Appeal must be. You did not go with that in the election, so you cannot even claim that your 20/16 victory had to do with an issue of the removal of the Privy Council. But, you see, what they have done is to come here

and harp on the issue that the former Prime Minister signed a treaty, and the former Prime Minister signed treaties. There have been a lot of treaties signed and there has been no implementation of these treaties, and they know that very well. So I ask them to listen to what the people are saying.

Having spent most of my time in my introduction to the debate, I now come to the substantive part of the debate, and that is—

PROCEDURAL MOTION

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I beg to move that this House continue to sit until the completion of the debate.

Question put and agreed to.

CARIBBEAN COURT OF JUSTICE BILL

Mr. K. Ramnath: Could you indicate to me if I have half an hour left, Sir?

Mr. Speaker: You have eight minutes left.

Mr. K. Ramnath: The Member for Diego Martin Central is certainly awake tonight. He was the one who accused the former Prime Minister of bringing Indians in the coast guard and could not prove it. That was not unpatriotic, you know.

Anyway, I want to spend a few minutes on the original jurisdiction. It has to do with all the trade agreements that we have established in the Single Market and Economy, and so forth. I read in the newspaper that the Prime Minister of Jamaica had a concern about the price of natural gas and was claiming that they should be able to buy natural gas, quite understandably liquefied natural gas, at a price that was sold to companies in Trinidad and Tobago, and worse yet, at T&TEC price, which is a highly subsidized tranche of gas. Then I heard the Prime Minister of this country say that that was one of the first issues he would refer to the Caribbean Court of Justice.

Hon. Member: The Jamaican Prime Minister said that.

Mr. K. Ramnath: It was the Trinidad and Tobago Prime Minister. I ask myself whether this Government knows what it is doing. I want to find out whether the claim by Barbados with respect to their rights to fish in Trinidad and Tobago waters will be removed from the International Tribunal under the Law of the Sea, and placed within the jurisdiction of the Caribbean Court of Justice. I want to find out the claim by Guyana that the archipelagic lines which have been

drawn around Trinidad and Tobago, Guyana and Venezuela, are lines which did not take into account the Exclusive Economic Zone 200-mile limit from Guyana; whether those issues—[*Crosstalk*] I am not talking here about stadiums which were built and disappeared in Grenada; I am not talking about judgments of Emile Elias against a certain contractor. That might go before the court as well. I am talking here about important issues that have already been raised in the Caribbean.

When you look at the reserves found by Chevron/Texaco in the Deltana Platform Field and you look at the BG/Texaco find on the border, amounting to 7 trillion cubic feet of gas, and the negotiations which must take place with respect to unitization of the fields, you ask yourself, would Guyana now have a matter of significance to bring before the Caribbean Court, or Barbados, that has some ludicrous claim to the energy resources of Trinidad and Tobago?

What are the implications for Trinidad and Tobago and our sovereignty? You are anxious to go and set up courts whose judgments you will have to accept when these courts give their judgments, because you cannot appeal to anybody at that point, and you could very well compromise your sovereignty and your enormous reserves of oil and gas and fisheries.

I did not say that we are taking the issue of natural gas pricing in the Caribbean to the Caribbean Court of Justice. It was the Prime Ministers of Jamaica and Trinidad and Tobago who said that, and I am very interested as a citizen and one who is concerned about the oil and gas industry, to find out what are the possible consequences of judgments given against Trinidad and Tobago as far as our most important natural resource is concerned.

If you think that the Caribbean Court of Justice is only about sugar, bananas, about jeans that are imported into the islands and the sewing of labels, and so on, we are dealing here with very important and far-reaching matters, and I expect that the Attorney General will tell us something about the jurisdiction of the court and whether the matters I have raised will constitute a legitimate complaint before the court and the likely consequences to Trinidad and Tobago if the parties who bring these matters succeed.

Finally, knowing the enthusiasm of the Member for Diego Martin Central for the FTAA and the location of the headquarters here, I want to find out from him whether he has considered the loss of our petroleum markets in the Caribbean—our regional markets—where we get the highest prices for our products, when you

so eagerly and enthusiastically seek to get into arrangements which could have far-reaching consequences for your people.

Mr. Valley: I am looking for new markets.

Mr. K. Ramnath: You cannot find new markets. Mr. Chavez has an initiative which is better than the Caricom Oil Facility that you are offering. I know that your Caricom Oil Facility—and I give you credit for that—is intended to make sure that we are not re-colonized by Venezuela, because it is very easy to offer attractive prices to the English-speaking Caribbean and you can lose your market. But I would like to tell you that clean fuels which will cost you billions of dollars, will now have to compete with sources from outside Trinidad and Tobago within the FTAA and could result in loss of our premium markets in the Caribbean, and whether, as a government, you are looking at these issues, and how the Caribbean Court of Appeal in its original jurisdiction can handle some of these issues.

With these comments, I would like to end my contribution. [*Desk thumping*]

The Attorney General (Sen. The Hon. John Jeremie): Mr. Speaker, the hour is late. The points which have been raised in opposition can be dispensed with, in my view, in relatively short order.

The Member for Siparia, in my view, discussed the substantial issues at length, and most of the other speakers who followed took their lead from hers. I begin with the point which she made on the reservation. She read from the agreement establishing the court in respect of the reservation point, but there is a fundamental and cardinal error involved in that which I hope to clarify now.

Reservation is not a term which is a domestic law term; it is a term which has the significance in international law. It is defined in Article 2 of the Vienna Convention on treatise of which this agreement was one, as a unilateral statement, however phrased, made by a state when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effects of certain provisions of the treaty in their application to that state.

In simple terms, this means that where a state is satisfied with most of the treaty but is unhappy about one or two particular provisions, it may, in certain circumstances, choose to be bound by the provisions which it accepts. If it does not accept certain provisions of the treaty, it enters a reservation. The CCJ Agreement was signed by my friends on the other side on February 14, 2001, at the 12th Intersessional Meeting of the Conference of Heads of Government held in

Bridgetown, Barbados. There was no reservation put forward by Trinidad and Tobago with respect to Article XXV of the Agreement, entitled the final Appellate Jurisdiction of the Court.

To introduce ratification at this stage is therefore nothing more than a red herring and I regret to say that its inclusion in the debate by the so-called learned Member for Siparia—I am using the words of the Member for Couva South—was, to say the least, wrong in law.

With respect to the second substantive point raised on the tenure and the removal of the President of the court, Article IX 4 sets out the grounds of removal. These are almost identical to the provisions under section 137 of our Republican Constitution. Article IX 7 states that a tribunal should be appointed and that tribunal should be governed by the law relating to the commissions of enquiry.

In addition, Article IX 5(1) says that the President shall be removed by the heads on the recommendation of the commission. That is not political. It is on the recommendation of the commission and there must be a prior investigation by a tribunal. The Member for Siparia should know of the case of *Rees v Crane* in which it was held that the right to natural justice, as she so glibly spoke—that right to be heard—applies to the process of removing a judge, and the right applies before a tribunal is even appointed. That is to say, at the time the representation is made to investigate the question of removal, at that stage there is a right to natural justice. So that question, too, is in itself a non-question.

There was one point raised in the closing stages of the debate by the Member for Couva South. That point relates to whether the Caribbean Court of Justice would have jurisdiction in relation to the fisheries matter and the limitation matter now engaging the tribunal under the United Nations Convention on the Law of the Sea (UNCLOS). The short answer to that is, no. The reason for that, of course, is that the Caribbean Court of Justice is not envisaged to have any jurisdiction with respect to delimitation matters. Trinidad and Tobago is a proud signatory to the UNCLOS and we are bound by the dispute resolution mechanisms of UNCLOS. So that, too, is a non-issue.

I might add that the Privy Council today does not have jurisdiction with respect to such matters. Those matters go to UNCLOS. So to speak of it in this context is, in itself, again, a non-issue. As of last night, the position of Caricom States which signed the treaty and lived up to their treaty obligations are as follows:

Barbados has come on in its original and final appeal jurisdiction; Belize has come on in its original and final appeal jurisdiction; Dominica has come on in both jurisdictions, as has Guyana and Jamaica, although there is a case before the Privy Council. St. Vincent and the Grenadines has come on only in its original jurisdiction. The only states which are outstanding at this time, apart from Trinidad and Tobago, are Suriname, in its final jurisdiction; St.Vincent and the Grenadines in its final jurisdiction and St. Kitts and Nevis in its final jurisdiction.

The people of the Caribbean have given expression to a fundamental human impulse in this matter, and that impulse is a desire to be independent and to be free, to define for oneself one's values, one's norms, one's court systems and one's jurisprudence. Political independence is a necessary matter, but judicial independence is another necessary matter. In his book, *At the Rendezvous of Victory*, CLR James says:

> "Now, as always, let us stand for independent organization and independent action. We have to break our own chains. Who is the fool that expects our jailers to break them?"

Mr. Speaker, with these few words, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Valley: Mr. Chairman, the amendments that are before Members are simply to take in the points raised by Members on the other side and simply to have the Bill passed in this original jurisdiction form. That is the whole purpose of all of these amendments, that we will pass the Bill in its original jurisdiction form, because we realize that Members are not ready yet for that important step.

Why do we not take a break for half an hour?

Mr. Chairman: The committee will resume sitting at 8.40 p.m.

8.10 p.m.: *Committee suspended.*

8.47 p.m.: *Committee resumed.*

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. Valley: Mr. Chairman, clause 2 is to be amended as circulated, which reads as follows:

A. Delete the definitions of "appeal", "Court of Appeal", "judgment", "record" and "relevant judgment".

B. In the definition of "Court", delete the words "Article III' and substitute the words "paragraph 1(a) of Article III".

Mrs. Persad-Bissessar: I want to suggest that you have to have a further amendment by virtue of what you would be doing in clause 6, where you are going to get matters referred from a tribunal to the Caribbean Court of Justice. You would need in this interpretation section, a definition of that court. What you have now in your interpretation section is "Court", which is the Caribbean Court of Justice, but you have no definition of which court you are speaking about.

Mr. Valley: No definition for?

Mrs. Persad-Bissessar: For "court", as referred to in your new clause 5 that you want to put in:

> "Where a court or tribunal is seized of an issue whose resolution involves a question concerning the interpretation…of the Treaty…"

And so on; it can be referred to the Caribbean Court of Justice to get a determination.

Mr. Valley: Not necessarily.

Mrs. Persad-Bissessar: But we should include it here.

Mr. Valley: I am told that if you were to look at section 78 of the Interpretation Act, it says: "court means any court of Trinidad and Tobago of competent jurisdiction".

Mrs. Persad-Bissessar: Fine. We understand that, but because you have a definition here of "court" which means something else; you have "'Court' means the Caribbean Court of Justice", that you need to differentiate the two.

Mr. Valley: No, no, but it is different, because this court here is upper case court, whereas in section 78 it is lower case.

Mrs. Persad-Bissessar: But you still need to do it. Secondly, I want to say why we further want you to do it. It is our view that we would like to limit these

referrals only to the jurisdiction of the High Court and not to the Court of Appeal. If it is that a treaty matter arises in the High Court, you deal with it there. If that matter goes to the Court of Appeal, you would refer again? It will be the discretion of the court, but we would like to limit the word, "court" to mean only the jurisdiction of the High Court.

8.55 p.m.

Mr. Jeremie: It is not necessary. Are you referring to clause 6?

Mrs. Persad-Bissessar: We are talking about your new subclause (4) of your amendments. We should do it only to the High Court because you do not want to tie up the two tiers of the local system. If it should come up, deal with it at the High Court level. Why wait for it to reach the Court of Appeal level to go with it?

Secondly, our Magistrates' Courts are already so overburdened, why do you want to further delay those kinds of proceedings? And the likelihood of a Treaty obligation falling within those magisterial proceedings will be very minor, so leave it for the jurisdiction of the High Court that a litigant can have this access.

Mr. Imbert: [*Inaudible*]

Mrs. Persad-Bissessar: Yes, and it still goes to the Appeal Court. So you do not want to put the two courts inside there. I hope your leader will agree that I am right as you do.

Do you agree to that?

Mr. Jeremie: No, we do not.

Mrs. Persad-Bissessar: Then tell us why?

Mr. Jeremie: We think that the Interpretation Act is clear, it applies to any court and that is the policy the Government—

Mrs. Persad-Bissessar: Okay, that is one issue, but I have raised a second issue, hon. Attorney General, and we are respectfully suggesting that it would serve the same purpose of the justice that you want to get if you limit it to the High Court. Can you address that second issue?

Mr. Jeremie: It is not the intention of the Government to expressly restrict the matter to the High Court.

Mrs. Persad-Bissessar: Why? Give us an explanation.

Mr. Jeremie: There are matters, for example, before the Industrial Court, what would be the position there? We prefer to rely on the expansive terms of the Interpretation Act and we would not favour such an amendment.

Mrs. Persad-Bissessar: You just do not like it. Let us say we agree with you and an issue comes up, the Industrial Court will be covered. Why do you want to tie up the Court of Appeal in this? If the matter is before any of the other lower courts, deal with it there. Why wait for the appeal level? What is the point?

Mr. Valley: Provision for all the regions, I understand.

Mrs. Persad-Bissessar: That does not mean because everybody is doing it, it is right and you should do it.

Mr. Valley: Then we should have a real good reason if we have to make a change.

Mrs. Persad-Bissessar: Well, you have your majority.

Mr. Valley: The important thing is we would listen and take the point. As long as it makes sense, we will take it.

Mrs. Persad-Bissessar: Are you suggesting that it does not make sense?

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3 ordered to stand part of the Bill.

Clause 4.

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

Mr. Valley: Mr. Chairman, I beg to move that clause 4 be amended as circulated:

4. A. Delete subclause (1) and substitute the following subclause:

"(1) The Court shall exercise the original jurisdiction conferred on it by this Act in accordance with Part II of the Agreement."

Question put and agreed to.

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

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. Valley: Mr. Chairman, I beg to move that clause 6 be amended as circulated:

6. Renumber subclause (4) as subclause (5) and insert immediately after subclause (3), the following subclause:

"(4) Where a court or tribunal is seized of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, the court or tribunal shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment."

Miss Lucky: Mr. Chairman, I have a concern. Attorney General, with respect to the amendment as proposed for clause 6 where it says that in any court or tribunal where a matter concerning the Treaty is raised, and a Judge exercising at his discretion determines that he would have it sent to the CCJ, when the CCJ gives its decision or finding on that particular point, it would mean that the High Court judge—and I am using the High Court as an example—would be bound by it.

Does that preclude the particular litigant—and I am using the example of the High Court on that issue of the interpretation coming from the CCJ—from going all the way to the Privy Council on that particular point?

Mr. Jeremie: I do not want to venture an opinion on it, but I suspect that that might indeed be the case.

Miss Lucky: I am concerned about it, Attorney General, especially in light of the fact that the Caribbean Court of Justice in terms of its original jurisdiction, especially when you read clause 9, decisions on those issues become binding. Therefore, in determining whether I would want to support this amendment, are you suggesting that it may preclude such a litigant from going to the Privy Council?

Mr. Jeremie: The point is that the Privy Council would have the right to deal with the issue, but my understanding is that the principle of committee should preclude the Privy Council from engaging in a decision which the CCJ has made a conclusive finding on.

Mrs. Persad-Bissessar: If that is the case, then you need a special majority to do this, because you are then taking away a right that a litigant will normally have in a matter.

Mr. Jeremie: No.

Mrs. Persad-Bissessar: You are saying he has the right to go, but he no longer has the right for the Privy Council to adjudicate and review the matter.

Mr. Jeremie: We did not say that. I said that the Privy Council ought as a principle of committee which is a principle of deference to courts of competent jurisdiction; we are not taking away any right.

Question put and agreed to.

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

Clauses 7 to 9 ordered to stand part of the Bill.

Clauses 10—18 Part IV.

Question proposed, That clauses 10 to 18 (Part IV) stand part of the Bill.

Mr. Valley: Mr. Chairman, I beg to move that clauses 10—18 (Part IV) be amended as circulated:

Delete clauses 10—18 (Part IV) and renumber subsequent clauses and Parts accordingly.

Question put and agreed to.

Clauses 10 to 18 (Part IV) deleted.

Clauses 19 to 23, renumbered clauses 10 to 14, ordered to stand part of the Bill.

Clause 24.

Question proposed, That clause 24 stand part of the Bill.

Mr. Valley: Mr. Chairman, I beg to move that clause 24 be renumbered as clause 15 and be amended as circulated:

Insert after the words “pursuant to”, the words “Article XXI of”

Question put and agreed to.

Clause 24, renumbered clause 15, as amended, ordered to stand part of the Bill.

Clauses 25 and 26, renumbered clauses 16 and 17, ordered to stand part of the Bill.

Clause 27.

Question proposed, That clause 27 stand part of the Bill.

Mr. Valley: Mr. Chairman, I beg to move that clause 27 be renumbered as clause 18 and be deleted.

Question put and agreed to.

Clause 27, renumbered clause 18, deleted.

New Clause 18.

Question proposed, That new clause 18 stand part of the Bill.

Mr. Valley: Mr. Chairman, I propose a new clause 18 which reads as circulated:

Payment from Consolidated Fund	18. Any assessed contribution payable by Trinidad and Tobago in respect of the Court and the Commission pursuant to Article XXVIII of the Agreement shall be charged on and paid from the Consolidated Fund

New clause 18 read the first time.

Question proposed, That the new clause be read a second time.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 18 added to the Bill.

Clause 28, renumbered clause 19, ordered to stand part of the Bill.

Clause 29.

Question proposed, That clause 29 stand part of the Bill.

Mr. Valley: Mr. Chairman, I beg to move that clause 29 be renumbered clause 20 and be deleted.

Question put and agreed to.

Clause 29, renumbered clause 20, deleted.

Mrs. Persad-Bissessar: I am sorry if I crave the House's indulgence to go back to clause 23(4).

Mr. Valley: It is clause 14, as renumbered.

Clause 14 recommitted.

Question again proposed, That clause 14 stand part of the Bill.

Mrs. Persad-Bissessar: Well, it is the old clause 23(4) where you had an ouster clause ousting the jurisdiction of the courts with respect to the proceedings of the commission. I am saying this is very retrograde legislation in transparency and accountability. All around the world, these ouster clauses are being frowned upon and are being left out, and even in this Parliament we have removed the ousters with respect to all our service commissions: Public Service Commission, Police Service Commission, and the Judicial and Legal Service Commission so I am asking that we do the same, be progressive, and stand up for transparency and accountability.

Mr. Jeremie: Mr. Chairman, this is part of our Treaty obligation and we do not see it in any way compromising the transparency of the court. So we are unable to accede to the request.

Mrs. Persad-Bissessar: May I also ask that rules of court in clause 24 be subject to negative resolution of the Parliament so that we can see them? These are things that are going to be affecting our citizens so before they go into law—

Mr. Valley: But it is.

Mrs. Persad-Bissessar: No it is not. You have to put it in the clause.

Mr. Jeremie: This, too, is part of the agreement that we have signed and we—

Mrs. Persad-Bissessar: The Rules of Court do not have to be subject to the negative resolution of Parliament. Can you show me where in the Treaty that is?

Leader of Government Business, you have been in this Parliament long enough, if you have a subject to negative resolution it does not stop you and it is not like you must have a debate on it.

Mr. Valley: The effect is the same.

Mrs. Persad-Bissessar: No, it is not, Minister.

Mr. Valley: If it is gazzetted, because the negative resolution—

Mrs. Persad-Bissessar: Once it is gazzetted, it is law so there is no scrutiny.

Mr. Jeremie: You asked for the clause of the Agreement?

Mrs. Persad-Bissessar: Yes.

Mr. Jeremie: It is Article XXI, Rules of Court Governing Original Jurisdiction, it says:

> "1. The President shall, in consultation with five other Judges of the Court selected by him, establish rules for the exercise of the original jurisdiction of the Court."

Mrs. Persad-Bissessar: Yes. So where in the Treaty does it tell you that you cannot have it subject to negative resolution of the Parliament? The Treaty does not preclude that, and we do it all the time. Be reasonable.

Mr. Jeremie: The point is, this is a regional board and if you have every domestic legislature fashioning different rules of court, then you might as well forget about a Caribbean Court of Justice. The rules of court are going to be uniformed throughout the jurisdictions and it would be a fundamental error for us to make it subject to any sanction in the Parliament.

Mrs. Persad-Bissessar: No, no, no. You should remember you will not always be there. When we are passing legislation, we will not always be in the seat of Parliament so we have to deal with situations as if we are in another place.

Mr. Valley: I hear you, but it has nothing to do with us.

Mrs. Persad-Bissessar: This is our Parliament and it is sovereign, until you give up our Parliament to a Caricom Parliament, this is the sovereign Parliament here. There is no harm.

Mr. Jeremie: When we signed the Agreement we ceded a measure of sovereignty with respect to this matter.

Mrs. Persad-Bissessar: Not with respect to the Parliament.

Mr. Jeremie: About a different world, a world with respect to where sovereignty is less important, well this is one area. The Government feels very strongly about this, it is a Treaty obligation and we are not prepared to—

Mrs. Persad-Bissessar: We are not stopping the Treaty obligation. Member for Diego Martin Central, you sat here long enough and asked for that same provision in so many things.

Mr. Valley: Understand the point I am making. If there is a negative resolution, it has to be on the Table for 40 days, and if something is gazzetted, any Member can bring a Private Members' motion and express an opinion.

Mr. Singh: It is a retrograde step for a forward-looking court.

Mrs. Persad-Bissessar: One day it could be one of our Members, it might be a Trinidad and Tobago judge sitting on the Caribbean Court of Justice (CCJ) who is removed and he has no recourse, for example, like the Member for Couva South pointed out with respect to the money for the gas and where the Prime Minister said he is going to take that course to the CCJ. You get a Caribbean Court of Justice and you have judges who obviously would want to get the lower rate, so all the Caricom judges in that court will rule against Trinidad and Tobago, to give away the gas at T&TEC's rates, or whatever it may be.

Let us say we have a judge who is a Trinidadian, one of our own nationals, what protection do we give him from a Regional Judicial and Legal Service Commission to ensure that if there is an abuse of power on the part of that commission that he has recourse and a remedy in the courts of law? What is wrong in allowing a judge—who could be one of our nationals, for example, the president of the court? Remember now that the Heads of Government can remove the president and if the Regional and Judicial Legal Service Commission acts in abuse of power outside his jurisdiction why do you want to prevent a person from having access to the court to determine whether he was rightly or wrongly treated?

Mr. Jeremie: I would ask my colleagues to raise it at the Caricom level, but this is the legislation that is before us; it is mandated by Treaty and we are all bound by the Treaty obligations which we have signed. They make sense because obviously you cannot have one rule pertaining to one jurisdiction, and another pertaining to another jurisdiction. The court is to be an itinerant court and it has to have its own rules of court, you cannot have rules with respect—

Mrs. Persad-Bissessar: No, no, we are not talking about the rules now; we are on a different issue.

Mr. Jeremie: But you are jumping from one issue to another.

Mrs. Persad-Bissessar: No, I was speaking of the ouster clause.

Mr. Valley: The point is we will have to take it up at the Heads.

Mrs. Persad-Bissessar: That is really not right, and I am glad for your undertaking to raise it.

Mr. Valley: Remember this dates back to 1989 and the time has passed, but the converse is also true. You may want your judges to have the comfort that nobody is looking over their shoulder.

Mr. Singh: Inherent in that comfort must not be the abuse of power.

Mr. Valley: That is why one has to be extremely careful and the people who are put there.

Mrs. Persad-Bissessar: This ouster clause is not about protecting the judges; it is about the Judicial and Legal Service Commission. Just as if the Judicial and Legal Service Commission does something wrong, or the Police Service Commission does something wrong here, we can review their decision. So I take your undertaking that you will raise it elsewhere and I think every Caricom Head should be interested in justice and transparency.

Mr. Valley: We will raise it.

Mrs. Persad-Bissessar: Will you do that before you go to the Senate?

Mr. Valley: No. How can we do that?

Mrs. Persad-Bissessar: When are you going to the Senate, Carnival Tuesday?

Mr. Valley: We will go to the Senate and then to the Heads.

Mrs. Persad-Bissessar: Because once it is passed, you will never take it out.

Mr. Valley: You are judging me by yourself, why are you saying that?

Mr. Chairman: Hon. Members, consequent to the amendments, the Long Title of the Bill is to be amended as follows:

> The words "in its original jurisdiction" were added after the words "Caribbean Court of Justice".

There is no need to put the question to the House pursuant to Standing Order 53(10).

Question put and agreed to.

Clause 14 ordered to stand part of the Bill.

Schedules I and II.

Question proposed, That Schedules I and II stand part of the Bill.

Mr. Singh: Mr. Chairman, do the Schedules talk about appellate jurisdiction and so forth?

Mr. Jeremie: All that is set out in the Schedules is the Treaty Agreement; the Bill gives effect to the original jurisdiction of the court, so there are no changes required in the Schedules.

Question put and agreed to.

Schedules I and II ordered to stand part of the Bill.

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

House resumed.

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

ADJOURNMENT

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I beg to move that this House be adjourned to Friday, February 11 at 1.30 p.m. and I wish to inform hon. Members that on that day the Government plans to debate Bill No. 7 on the Order Paper, a bill to criminalize terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets.

In addition, the Government would like to do Resolution No. 4 on the Order Paper: Be it resolved that this House approve the decision of the President to acquire the lands described in Appendix II to the Order Paper for the public purposes specified.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.21 p.m.