

HOUSE OF REPRESENTATIVES*Friday, April 18, 2008*

The House met at 1.30 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**ORAL ANSWERS TO QUESTIONS****Trinidad and Tobago Police Service
(Advisor and/or Consultant)**

70. Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*) asked the hon. Minister of National Security:

- A. Could the Minister state whether the University of the West Indies or any local organization was invited by the Government since it took office in 2001, as advisor and/or consultant to conduct training of the Trinidad and Tobago Police Service and/or in the fight against crime; and
- B. If the answer is in the affirmative, could the Minister give particulars in respect of each consultant and/or advisor?

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Speaker, hon. Members are advised that since the present Government took office in 2001, a number of local organizations and persons have been invited to conduct training in the Trinidad and Tobago Police Service, as well as other divisions and agencies involved in the fight against crime. These entities, training provided and costs associated with such training are as follows:

Trinidad and Tobago Police Service (TTPS)

Year	Person/Organization/Training Subject	Cost
2001	(1) Quality Consultants (Towards an Integrated Effective Community Policing)	\$ 304,500
	(2) Franklyn Dolly and Associates (Train the Trainers)	\$ 35,000
	(3) Franklyn Dolly and Associates (Conflict Resolution and Anger Management)	\$ 22,000
	Sub-Total	\$ 361,500

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Trinidad and Tobago Police Service (TTPS) *(cont'd)*

Year	Person/Organization/Training Subject	Cost
2002	(1) Trinidad and Tobago Institute of Forensic Services (Criminalistic Aspects of Forensic Science)	\$ 75,000
	(2) Dr. Manfred Jantzen (Strategic Planning Workshops)	\$ 120,000
	Sub-Total	\$ 195,000
2003	(1) UWI—Institute of Business (Performance Management and Appraisal)	\$ 250,000
	(2) Alma Thompson and Associates (Communication Public Relations)	\$ 22,500
	(3) UWI—Institute of Business (Management for Senior Officers)	\$ 130,000
	(4) UWI—Institute of Business (Effective Business Writing)	\$ 20,000
	Sub-Total	\$ 422,500
2004	(1) UWI—Institute of Business (Supervisory Management)	\$ 65,500
	(2) Franklyn Dolly and Associates (Conflict Resolution and Anger Management)	\$ 2,000
	(3) Patrick Zoe (Forensic Investigation on Insurance Arson Fraud)	\$ 75,000
	(4) Grace Talma and Associates (Administrative Professional Workshop)	\$ 30,000
	(5) UWI—Institute of Business (Train the Trainers)	\$ 16,000

Trinidad and Tobago Police Service (TTPS) (cont'd)

Year	Person/Organization/Training Subject	Cost
2004	(6) Alma Thompson and Associates (Telephone Etiquette and Media Releases)	\$ 22,500
	(7) Franklyn Dolly and Associates (Conflict Resolution and Anger Management)	\$ 22,000
	(8) Patrick Zoe (Forensic Investigation on Insurance Arson Fraud)	\$ 75,000
	Sub-Total	\$ 308,000
2005	UWI—Institute of Business (Project Management)	\$ 96,000
	Sub-Total	\$ 96,000
2006	Caribbean Identification Services (Crime Scenes First Responders)	\$ 38,400
	Sub-Total	\$ 38,400
2007	(1) Dana Seetahal (Advanced Prosecutors' Training)	\$ 174,888
	(2) Camilleon Consultants (Events Management)	\$ 41,400
	Sub-Total	\$ 216,288
	Grand Total	\$1,637,688

Trinidad and Tobago Defence Force (TTDF)

2007/2008	University of the West Indies Leadership and Management (Certificate Programme)	\$1,288,813
2007/2008	University of the West Indies (B.Sc. Leadership and Management)	\$1,326,816

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Trinidad and Tobago Defence Force (TTDF) (cont'd)

2007/2008	University of the West Indies (M.Sc. Strategic Leadership and Management)	\$1,220,350
	Grand Total	\$3,835,979
<u>Forensic Science Centre (FSC)</u>		
2003	Mr. Clive Thomas (Analysis of Seized Drug Material)	\$ 50,000
2003	(Examination of Stolen Motor Vehicles/ Serial Registration Number Restoration (Arson Investigation)	\$ 12,000 \$ 12,000
	Sub Total	\$ 74,000
2005	Mr. Ernest Massiah (Firearm and Toolmark Examination) (Firearm and Toolmark Examination) (Firearm and Toolmark Examination)	\$ 30,000 \$ 60,000 \$ 64,000
	Sub-Total	\$ 154,000
	Grand Total	\$ 228,000

Hon Members are reminded that a major part of the transformation and modernization of the security forces is the strengthening of capacity within the Trinidad and Tobago Police Service, the primary law enforcement arm, as well as the other agencies actively engaged in the fight against crime. Training is an essential component in the achievement of this objective, as it provides employees with new competencies and attitudes to enhance job performance.

Further, Members are assured that in seeking providers for training, the Government explores all available options and, as evidenced from the foregoing, makes every effort to utilize the services of local consultants and organizations who can effectively meet the requirement.

Finally, the Government is confident that its efforts directed toward the development of its human resource will reap the desired bottom-line objectives of creating a more efficient and effective law enforcement body.

I thank you, Mr. Speaker.

Passports

77. Dr. Hamza Rafeeq asked the hon. Minister of National Security:

Could the Minister state:

- (a) how many citizens of Trinidad and Tobago are in possession of the 'old' (non machine readable) passports;
- (b) the deadline for changing all these passports to the machine readable passports; and
- (c) how many passport applications are processed and new passports delivered at present on a weekly basis?

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Speaker and hon. Members, unfortunately, I am not in a position at this time to answer that question and I will ask for a deferral, please.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, it was remiss of me not to indicate that the Government would be answering questions Nos. 70, 79, 97 and 114 today and we would like a two-week deferral of all other questions on the Order Paper.

Mr. Speaker: Just again to remind you that there are 17 questions on the Order Paper and answering four is a little below standard.

Question, by leave, deferred.

The following questions stood on the Order Paper:

Street Lights (Non-functional)

86. With regard to the Government's Street Lighting Programme, could the hon. Minister of Public Utilities state how many street lights are non-functional as at February 29, 2008 and are they to be replaced by the contractor/contractors? [*Mr. H. Partap*]

Housing Development Corporation (Allotment of Houses)

87. Could the hon. Minister of Planning, Housing and the Environment state the process by which Housing Development Corporation (HDC) houses are allotted to applicants? [*Mr. H. Partap*]

**St. Marie Emmanuel Road
(Re-paving of)**

- 88.** Could the hon. Minister of Local Government state:
- (a) when would the St. Marie Emmanuel Road in Cumuto, Sangre Grande be rehabilitated and re-paved by the Sangre Grande Regional Corporation; and
 - (b) why was this road not previously paved? [*Mr. H. Partap*]

Transfer of Patients

- 95.** With respect to the care of patients transferred from public hospitals to private nursing homes/medical institutions in Trinidad and Tobago, could the hon. Minister of Health state:
- (a) what was the sum paid to each institution for 2006 and 2007;
 - (b) who authorized the transfer of patients; and
 - (c) what were the criteria used in the selection of the particular private nursing home/institution? [*Dr. T. Gopeesingh*]

**Private Nursing Homes
(Sums Paid to Doctors)**

- 96.** Could the hon. Minister of Health state what sums were paid to individual doctors working in private nursing homes for professional services rendered to public patients in 2006 and 2007 on behalf of the Ministry of Health? [*Dr. T. Gopeesingh*]

**University of Trinidad and Tobago
(Details of)**

- 101.** With regard to the University of Trinidad and Tobago (UTT) campuses throughout Trinidad and Tobago, could the hon. Minister of Science, Technology and Tertiary Education state:
- (a) the cost of construction of each; and
 - (b) the annual expenditure for 2006 and 2007 on (i) staff, (ii) scholarships to lecturers/professors and (iii) administration? [*Dr. T. Gopeesingh*]

University of Trinidad and Tobago
(Details of Salaries and Allowances Paid)

- 102.** Could the hon. Minister of Science, Technology and Tertiary Education state the salaries and allowances paid by the University of Trinidad and Tobago to the following categories of staff:
- (a) Pro Vice Chancellor/ Principal;
 - (b) Professor;
 - (c) Associate Professor/Senior Lecturer;
 - (d) Assistant Professor/Lecturer; and
 - (e) Tutor? [*Dr. T. Gopeesingh*]

University of the West Indies
(Status of Internal Audit)

- 103.** Could the hon. Minister of Science, Technology and Tertiary Education state:
- (a) whether any internal audit has ever been done at the University of the West Indies since its inception;
 - (b) if the answer to (a) is in the negative, why not;
 - (c) if the answer to (a) is in the affirmative, for what years, and have they been reviewed by the Auditor General; and
 - (d) has the Auditor General ever conducted an audit of the University of Trinidad and Tobago? [*Dr. T. Gopeesingh*]

Bombardier Executive Private Jet
(Details of)

- 108.** With respect to the purchase of a Bombardier Executive Private Jet for use by the Government, could the hon. Minister of Finance state:
- (a) what is the financial commitment to Caribbean Airlines Limited for the annual upkeep of the jet beyond the guaranteed 600 hours; and
 - (b) what is the cost of the 600 hours to the Government? [*Mr. J. Warner*]

Caribbean Airlines Limited
(Details of Expenditure)

- 109.** With regard to Caribbean Airlines Limited, could the hon. Minister of Finance state:
- (a) what was the revenue in its first year of operation;

- (b) what was the expenditure for the same period;
- (c) how did this match the projections for the airline; and
- (d) what was the income earned by Government during the first year of operation of the airline? [*Mr. J. Warner*]

Caribbean Airlines Limited
(Details of Employment)

- 110.** With regard to Caribbean Airlines Limited, could the hon. Minister of Finance state how many foreign companies and foreign individuals are now employed by the airline and at what contracted costs? [*Mr. J. Warner*]

Palo Seco Agricultural Enterprises Limited
(Details of)

- 115.** With respect to the Palo Seco Agricultural Enterprises Limited (PSAEL), could the hon. Minister of Local Government state:
- (a) the names of those constituencies, which are approved for infrastructure project to be undertaken by that company;
 - (b) the criteria used to identify constituencies for approval for PSAEL projects; and
 - (c) the quantum of moneys spent in 2007 on projects undertaken by the company? [*Dr. R. Moonilal*]

Questions, by leave, deferred.

National Health Insurance Scheme

- 79. Dr. Hamza Refeeq** asked the hon. Minister of Health:

Could the Minister state:

- (a) when the National Health Insurance scheme will become operational; and
- (b) how much money has already been expended on the National Health Insurance Scheme by way of staff salaries, accommodation, advertisement, equipment, et cetera?

Dr. Rafeeq: Mr. Speaker, the very first question that was filed in this Parliament for this session is a question for written answer and it has not yet been answered. That was filed on December 17 last year.

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. Speaker, the question before the House today relates to one of the most complex issues in the delivery of health care: the introduction of a scheme that would guarantee quality health care to the people of our society with minimal impact on the disposable income of individual citizens. Because of the ever-increasing demands on health sector financing, the tremendous economic support that this requires, as well as the consequent long-term implications for national budgets and standards of living, a most careful and in-depth consideration has to precede any effective implementation of such a system.

It was the PNM administration of 1993 that started giving very deep consideration to the introduction of a national health service that would provide universal health care to the people of Trinidad and Tobago. The position of the Government then, as it is now, was the re-introduction of a tax-based system rather than a contributory system. Accordingly, it became one of the tenets of our Health Sector Reform Programme which we began implementing in 1993.

That is why you would find there were two separate studies we commissioned on this issue, we accepted the recommendations of a system that would be funded by general tax revenues as a viable and preferred option for financing health care in Trinidad and Tobago. These were the recommendations from Coopers and Lybrand, the first consultants we engaged in 1994, to develop a comprehensive national health insurance model for Trinidad and Tobago. These recommendations were also confirmed by another team of consultants, David Kelly Associates Incorporated, who were commissioned in 2002, also by a PNM administration, to review previous proposals for the introduction of such a service.

Careful notice must be taken of the two dates referred to previously: 1994 and 2002. The significance of these two dates lies with the indisputable fact that the national health insurance scheme has been a major subject for consideration for successive PNM administrations. However, it apparently ceased being a front burner issue on the government's agenda when the PNM demitted office in 1995. It has since re-emerged as a critical issue in the delivery of health care to the citizens of Trinidad and Tobago.

Following the acceptance of the David Kelly Associates Incorporated proposal in 2002, the Government moved to establish administrative machinery to pursue the work required for implementing the recommendations. This included instituting a multi-sectoral, multi-disciplinary steering committee which proceeded to:

- review all existing reports and recommendations, as well as legislation related to the NHIS;

- examine systems in other countries;
- hold discussions with major stakeholders and develop a comprehensive project proposal;
- determine the most appropriate method of financing, bearing in mind the principles of equity and universal access to health services;
- select the package of services, that is the basic package, to be financed;
- develop a policy brief to inform legislative changes for the implementation of the NHIS; and
- develop an implementation plan.

Cabinet, however, retained the original policy for a tax-based system and, accordingly, opted to create a National Health Service (NHS) with the following features:

- The State shall retain financial responsibility for the provision of an essential basket of health services to all citizens and residents of Trinidad and Tobago.
- The determination of an essential basket of health services will be based on a health needs assessment and the costing of health services.
- Every citizen will be able to exercise choice of provider.
- All providers and facilities must be accredited by the Health Services Accreditation Council of Trinidad and Tobago.
- Coverage to all citizens of Trinidad and Tobago via an electronic card containing the unique identifier.

Operational and Administrative Structure: The National Insurance Board of Trinidad and Tobago will manage some of the key elements of the NHS system, including provider registration and administration of the fund; contract negotiation; utilization review on quality assurance through the development of business rules and a health care coding systems for health services and providers.

Private health insurance will provide supplemental insurance to cover the cost of services which are excluded from the essential basket. Provider payment, whereby primary care services could be financed by a modified capitation system where each provider would be paid a fixed amount per patient for the provision of a range of health services.

Secondary care could be a fixed payment to providers to manage secondary care facilities through a global budgetary system. Tertiary care could be a payment to providers per patient, per service, known as a fee-for-service mechanism due to the specialized areas of care.

Management information system: Health information management system would ensure timely patient end information, monitoring of performance standards and confidentiality.

1.45 p.m.

In pursuit of this mandate the Government has undertaken the following actions: a first round of NHS community consultations was held to define the framework of the NHS Programme and to identify the key players and processes that needed to be in place for the development and implementation of the new health system and a sub-committee was set up to establish the essential basket of health services to be provided under the NHS Programme.

The Ministry of Health as an interim measure completed a costing exercise at the Eastern Regional Health Authority. This report formed the basis of the approach to be used for a wider national health costing exercise. A draft policy brief has been developed which would inform the legislative framework required for the development and implementation of a national service.

All these initiatives have been geared towards the creation of an enabling environment for the introduction of a national health service.

This administration has set itself a time line of approximately four years within which it believes that the service can be initiated. However, measures have been introduced to achieve the type of widened access to health care by our citizens, as envisaged under a national health service. Examples of these include partnership between the public and private sectors in seeking to reduce the time patients wait for essential health services; provision of a rapid response emergency health service to provide benefits for persons requiring emergency attention at health institutions and implementation of a Chronic Disease Assistance Programme (CDAP) which makes vital drugs available, free of charge to patients with diabetes, hypertension, cardiac conditions and a range of chronic non-communicable conditions.

However, as this administration moves forward it must have the best understanding of all the ramifications introducing a comprehensive national health service to Trinidad and Tobago. In this regard, this administration has identified and there is need to undertake the following: a determination of the cost structure and financing requirements of the new system including a means of determining the sensitivity

of the new system to changes in the national and international environment; an explicit determination of the essential basket of health services to be provided under the NHIS; ongoing stakeholder consultations including relevant ministries; the private sector; unions and the National Insurance Board of Trinidad and Tobago to review, clarify roles and ensure widest national buying to the new system; institutional strengthening of the Ministry of Health and the Regional Health Authorities to enhance their capacity to fulfill their roles as monitor, purchaser and provider of health care services.

It is the intention of this administration to partner with the health economics unit of the University of the West Indies for assistance in gathering data and conducting studies for the final implementation of the national health service.

With all this work that this administration has been undertaking, the cost to the ministry thus far and which relates to the second part of the question before the honourable House today is as follows:

Item	Cost (\$)
Technical staff (NHS programme director, Research Specialist II, senior health economist et cetera)	1,272,500
Administrative staff	411,000
NIS staff salary	1,683,500
Stipend for NHIS steering committee	166,400
Advertisement	34,962
Workshops and seminars	161,840
Total	2,460,702

Dr. Gopeesingh: The work that had been done by the health economics unit to bring about the national health insurance system, is it being left behind or part of the continuing process of additional work going on? Can we look forward to seeing a national health insurance system being implemented in four years time, as you have indicated?

Sen. The Hon. J. Narace: There are ongoing discussions between the health economic unit and the Ministry of Health. I expect based on the projectory of implementation that we should be there in four years.

Dr. Rafeeq: The Minister mentioned a four-year date. Is it four years from today, last year or when?

Sen. The Hon. J. Narace: I will say four years from a month or two months ago when this was prepared.

Dr. Rafeeq: You mentioned some figures and the last one was over \$2 million. In calculation you said technical staff over \$1 million and NHIS salary, \$1.68 million. The figures do not add up. I do not know if I got them correctly.

Sen. The Hon. J. Narace: That is correct. You did not get them correctly. It is \$1.272 million plus \$411. If you add them they would come to \$1,683 million. If you add stipends, advertisements and so on it would add up to \$2 million.

**Eastman and Associates
(Investigation of Award of Contract)**

97. Dr. Tim Gopeesingh (*Caroni East*) asked the hon. Minister of Health:

With regard to the award of a contract to the HR firm, Eastman and Associates, by the North West Regional Health Authority, while Mr. Hugh Eastman was Chairman of the Board, could the Minister state whether a request was sent to the Integrity Commission and Director of Public Prosecutions to investigate the award?

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. Speaker, no contract was awarded by the North West Regional Health Authority to Eastman and Associates during the period 2002—2004 in which Mr. Hugh Eastman was chairman of the board. Accordingly, the other parts of the question do not apply.

Dr. Gopeesingh: Is the hon. Minister of Health aware that in one of the reports that was brought to Parliament for the joint select committee, the statement was that Eastman and Associates was awarded a contract for the employment of the human resource manager and the chief executive officer of the North West Regional Health Authority? It is on the report of the Joint Select Committee of Parliament on the North West Regional Health Authority.

Sen. The Hon. J. Narace: My information is that no contract was awarded by the North West Regional Health Authority to Eastman and Associates during the period 2002—2004, in which he was chairman.

Blimps/Sky Ships

114. Mr. Subhas Panday (*Princes Town North*) asked the hon. Minister of National Security:

With regard to the blimps/sky ships, could the Minister state:

- (a) whether they were pre-tested in local atmospheric conditions prior to the purchase and/or lease;
- (b) if the answer to (a) is negative, why were they not pre-tested;
- (c) if the answer to (a) is in the affirmative, what are the results; and
- (d) what aspects of the local atmospheric conditions made the Aerus 40B sky ship Dragon unsuitable?

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Speaker, two models of airships were purchased/leased by the Government of Trinidad and Tobago for use by the Special Anti-Crime Unit of Trinidad and Tobago. These are Aerus 40B Sky Dragon and the Skyship 600. The Skyship 600 was pre-tested prior to its purchase.

The Aerus 40B Sky Dragon was not tested in local atmospheric conditions prior to its acquisition as this airship did not have the particular range to fly to Trinidad and Tobago under its power from its place of manufacture in California. Additionally, transporting it to Trinidad and Tobago for pre-testing would have entailed significant logistical challenges, an additional expense including disassembly, freighting, re-assembly and testing, a process which would have had to be repeated when the airship was returned to its home base in California.

The Skyship 600 was given an extensive trial period prior to its purchase. This was possible because the Government of Trinidad and Tobago initially leased this airship for a period of six months which was a suitable time period to appraise the platform's performance.

The leased Skyship 600 demonstrated that the airship did not suffer any adverse effects from operating within local atmospheric conditions and was deemed to be suitable to the requirement of the Special Anti-Crime Unit of Trinidad and Tobago. A new Skyship 600 was purchased based on the results of trial period.

The performance of the Aerus 40B Sky Dragon was inadequate as the local humidity of the country affected the fly-by wire system which is an integral part of the airship's avionics. The Aerus 40B Sky Dragon relies on a sophisticated

computerized system. The moisture caused by the humidity intruded into the airship's hardware negatively impacting on its operations.

Mr. S. Panday: You said that it was logistically impossible to bring the Aerus 40B Skyship here to test it? Is that the way the Government conducts business in spending the people's money?

You said something about humidity. Do you not think that it would have been wise to find out under what conditions an airship operates before you cause it to come to Trinidad?

Mr. Speaker: You can answer the second question not the first.

Sen. The Hon. M. Joseph: The question was asked in a way and answered before as it related to the operations of the Aerus 40B.

Mr. Bharath: Mr. Speaker, are we to expect similar problems with the gunships that are being bought, where we have not looked at the specifications of these pieces of equipment before bringing them to Trinidad and Tobago? Is it a likelihood?

Sen. The Hon. M. Joseph: The answer is no. It is not likely.

DEFINITE URGENT MATTER

(LEAVE)

Demolition of Residences (Manahambre Road, Princes Town)

Mr. Nizam Baksh (Naparima): In accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the Adjournment of this honourable House for the purpose of discussing a definite matter of urgent public importance, namely the imminent destruction and demolition of residences at Moonan Avenue Extension, Manahambre Road, Princes Town, by the servants and or agents of the Land Settlement Agency of the Ministry of Housing, Planning and the Environment.

The matter is definite because it pertains to a specific matter, namely the imminent destruction and demolition of a number of houses of extremely poor families residing at Moonan Avenue Extension, Manahambre Road, Princes Town, in the constituency of Naparima.

The matter is urgent because the residents are destitute and do not have any alternative place to relocate and rebuild their houses.

Definite Urgent Matter (Leave)
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The matter is of public importance because the State is duty bound to assist the poorest and most vulnerable in the society to obtain and or acquire at least basic housing needs.

Mr. Speaker: Hon. Members, this Motion does not qualify under the Standing Order, but you can consider bringing it under Standing Order 11.

**San Fernando General Hospital
(Acute Shortage of Nurses)**

Dr. Tim Gopeesingh (*Caroni East*): Mr. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the adjournment of this honourable House for the purpose of discussing a definite matter of urgent public importance, namely, the absence and acute shortage of nurses at the Accident and Emergency Department of the San Fernando General Hospital and the continuation of their sick-out action with the resultant impending loss of lives of emergency patients in South and Central Trinidad.

The matter is definite as it pertains to a specific matter, namely, the inability of any accident or emergency patients to receive adequate or any care whatsoever, at the emergency department at San Fernando Hospital in the absence of nurses.

The matter is urgent because private hospitals are refusing to admit patients from the San Fernando General Hospital and the South West Regional Health Authority appears unable to ameliorate this disastrous medical situation.

The matter is of public importance because of the impending danger to the lives of thousands of citizens in Central and South Trinidad, who may require accident or emergency treatment at the Accident and Emergency Department of the hospital.

2.00 p.m.

Mr. Speaker: Hon. Members, this matter would have qualified eminently to be raised this afternoon had it not been for the information I received that the nurses have returned to work.

CARIBBEAN COURT OF JUSTICE (HEADQUARTERS) BILL

Order for second reading read.

The Minister of Foreign Affairs (Hon. Paula Gopee-Scoon): Mr. Speaker, I beg to move:

That a Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement Establishing the Seat of the

Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission, between the Government of Trinidad and Tobago and the Caribbean Court of Justice, and the Regional Judicial and Legal Services Commission, be now read a second time.

In accordance with the stipulation contained in Article III, paragraph 4 of the Agreement establishing the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission (RJLSC), hereinafter called “the Agreement”, the Government of Trinidad and Tobago and the court and commission are required to conclude an agreement, relating to the Seat of the Court and the Offices of Commission. Further, Article XXXVIII stipulates that contracting parties shall take all necessary action for the purpose, whether of a legislative, executive or administrative nature, of giving effect to the Agreement.

Mr. Speaker, Trinidad and Tobago signed the Agreement establishing the Caribbean Court of Justice in February 2001, in Bridgetown, Barbados, to give effect to the Agreement.

In keeping therefore with the undertaking to make all necessary legislative, executive or administrative action to give effect to the Agreement establishing the CCJ, this Bill seeks to give the force of law to this Agreement, which was signed in Port of Spain on February 23, 2005, by the Minister of Foreign Affairs on behalf of Trinidad and Tobago and the President of the Court and Chairman of the Regional Judicial and Legal Services Commission on behalf of the court and commission.

Mr. Speaker, with respect to the provisions of the Bill, clause 2 defines the terms “Agreement”, “Offices of the Commission”, “Minister” and “Seat of the Court”.

Clause 3 makes contributions by Trinidad and Tobago under the Headquarters Agreement, a charge on the Consolidated Fund.

Clause 4 gives the Headquarters Agreement the force of law in Trinidad and Tobago.

Clause 5 provides for the amendment of the schedule following acceptance by the Government of Trinidad and Tobago to any amendments of the Headquarters Agreement.

The Caribbean Court of Justice is the regional judicial tribunal established on February 14, 2001 by the agreement establishing the Caribbean Court of Justice. The gestation period for this court can be traced back to 1970 when the Jamaican delegation to the Sixth Heads of Government Conference held in Jamaica

CCJ (Headquarters) Bill
[HON. P. GOPEE-SCOON]

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proposed the establishment of a Caribbean Court of Appeal, in substitution for the Judicial Committee of the Privy Council. Interest in a regional tribunal was revived in 1992 when the West Indian Commission recommended its establishment in substitution for the Privy Council and that it be vested with an original jurisdiction to interpret and apply the Treaty of Chaguaramas.

Mr. Speaker, the Caribbean Court of Justice, as this honourable House is aware, has a critical role to play in the structured development of the Caricom Single Market and Economy (CSME), in the exercise of its original jurisdiction to interpret and apply the Revised Treaty of Chaguaramas. The jurisdiction is not only original insofar as the court discharges the functions of an international tribunal applying rules of international law, it is also exclusive to the extent that no other court has been vested with the competence to interpret or apply the Revised Treaty of Chaguaramas.

The CCJ's original and exclusive jurisdiction in respect of the revised treaty is, of course, separate and distinct from its function as the court of last resort in civil and criminal matters for those member States of the Caribbean Community that accept its appellate jurisdiction. All contracting parties to the Treaty have accepted the original jurisdiction of the CCJ, while thus far Barbados and Guyana have accepted the appellate jurisdiction of the court.

The court, which has its seat in Trinidad and Tobago was inaugurated on April 16, 2005. Article IV, paragraph 6 of the Agreement provides that:

“The President shall be appointed or removed by the qualified majority vote of three-quarters of the Contracting Parties on the recommendation of the Commission.”

Thus far, the President has been appointed pursuant to Article IV, paragraph 6 of the agreement and six other judges have been appointed by the RJLSC.

The court and the commission and their officers now enjoy privileges and immunities in Trinidad and Tobago pursuant to privileges and immunities in the Caribbean Court of Justice Regional Judicial and Legal Services Commission and the Caribbean Court of Justice Trust Fund Order, 2004, made by the President under section 9(2) of the Privileges and Immunities Act. This order is deemed to have come into effect on August 22, 2003 when the Commission actually began to operate in Trinidad and Tobago.

It is accepted in the Caricom Community that the independence of the Judiciary is a vital and essential ingredient of the rule of law and a basic principle of social engineering in member States of Caricom. Unlike the situation in the

European Union where judges of the European Court of Justice are appointed by the Ministers of Government, judges of the CCJ are appointed by a regional judicial and legal services commission. Care has been taken to ensure that the 11-member commission is independent from the Executives in the Caricom member States.

The Revised Agreement for the Caribbean Court of Justice Trust Fund entered into force on January 27, 2004 upon signature by 10 of the Caricom Member States listed in the annex to the Agreement.

Article III of the Revised Agreement stipulates that:

“The purposes of the Fund shall be to provide the resources necessary to finance the biennial capital and operating budget of the Court and the Commission in perpetuity.”

According to Article IV of the Revised Agreement:

“The resources of the Fund shall consist of:

- (a) the contribution of Members;
- (b) income derived from operations of the Fund or otherwise accruing to the Fund; and
- (c) contributions of third parties being contributions which are not likely to prejudice the independence or integrity of the Court.”

The annex to the Revised Agreement sets out the respective members’ share of the Fund.

Mr. Speaker, Trinidad and Tobago contributes the largest share of the fund at 29.73 per cent. The other contributors are: Jamaica, 27.09 per cent; Barbados, 12.77 per cent; Guyana, 8.33 per cent; Suriname, 3.92 per cent, and Belize, 3.44 per cent. Six of the member States of the Organization of the Eastern Caribbean States contribute 2.11 per cent each, while Haiti and Montserrat contribute 1.68 per cent and 0.42 per cent respectively.

Trinidad and Tobago has committed some US \$29.73 million of taxpayers’ resources to the CCJ Trust Fund, which has been capitalized in the sum of US \$100 million. The fund is managed by an independent board of trustees, the members of which are drawn from throughout the region.

Very importantly, Mr. Speaker, the financing of the Fund is to be governed by considerations of economy, efficiency and cost effectiveness and the need to safeguard the independence and sustainability of the court and the commission.

The device of the trust fund is intended to minimize the possibility that governments which have to contribute to the funding of the recurrent expenses of the court could thereby exercise undue influence and so undermine the independence of the court.

With regard to privileges and immunities, Article I of the Headquarters Agreement provides that the offices of the commission and the Seat of the Court shall mean those premises provided by the Government of Trinidad and Tobago in accordance with paragraph 4 of Article III of the agreement establishing the CCJ. Article II of the Headquarters Agreement provides that:

“The Court and Commission shall possess full juridical personality and, in particular, capacity to:

- (a) contract;
- (b) acquire and dispose of immovable and movable property;
- (c) institute legal proceedings.”

Article IV renders the court, the Commission and their property immune from legal process unless in a particular case the President has expressly waived the immunity. No search, acquisition, confiscation, expropriation and any other form of interference with the property of the court and commission is permitted unless a waiver has been granted by the President under paragraph 1 of this article. The immunity provided for in this article, however, does not extend to investigations into accidents involving motor vehicles belonging to or operated on behalf of the court or the commission.

Article V stipulates that the archives of the Court and the Commission and in general all documents held by them shall be inviolable wherever located. Article VII provides that:

“The property of the Court and the Commission is exempt from:

- (a) ...direct or indirect taxation”—not including taxes that are—“no more than charges for public utility services;
- (b) customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported for their official use...
- (c) customs duties and other levies and prohibitions and restrictions in respect of the import, sale and export of their publications.”

Mr. Speaker, Article IX stipulates that in order to fulfil the functions with which judges and officers are entrusted:

“Judges and Officers of the Court and members of the Commission, when engaged on the business of the Court or Commission, as the case may be, in Trinidad and Tobago...”shall be accorded the status, privileges and immunities normally granted to high officials of intergovernmental organizations, including:

- (a) immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity;
- (b) immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (c) immunity from inspection of personal and official baggage, except in cases of *flagrante delicto*;
- (d) exemption from any form of direct taxation of salaries, remuneration and allowances paid by the court or the commission and from customs duties on imports in respect of articles imported for personal use.

Mr. Speaker, counsel appearing in proceedings before the Court also enjoys under Article X:

- “(a) inviolability of all papers, documents and materials relating to the proceedings before the Court;
- (b) immunity from personal arrest or detention in relation to words spoken or written or acts performed by them in relation to proceedings before the Court;
- (c) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (d) the same privileges and facilities in respect of currency and exchange restrictions in relation to their appearance in proceedings before the Court as are accorded to representatives of Government on temporary official missions.”

Mr. Speaker, Article X makes clear, in paragraph 2, that counsel will continue to enjoy the same common law immunity for legal process relating to words written or spoken and acts done by them in the conduct of the proceedings before the Court. Paragraph 3 of this article makes it clear that:

“The privileges, immunities and facilities mentioned in this Article are only intended to assist counsel in the efficient representation of clients in

proceedings before the court and shall not be employed to circumvent the applicable laws and regulations of Trinidad and Tobago.”

2.15 p.m.

Article XIII obligates the President of the Court to:

“...make appropriate provisions for the settlement of:

- (a) disputes arising out of contracts and other disputes of a private law character to which the Court or Commission is a party;
- (b) disputes involving any judge or officer of the Court or Counsel conducting proceedings before the Court enjoying immunity if such immunity has not been waived by the persons empowered in that behalf.”

Any dispute between the Government and the court or the commission arising out of the interpretation or application of the Headquarters Agreement and which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to an arbitral tribunal.

It is, therefore, evident that although the court and the commission and the judges and officers of the court have been afforded the privileges and immunities recognized under international law to international organizations and their official, a national of Trinidad and Tobago who may have a dispute with the court or the commission, or an officer of either organization or even with counsel appearing before the court, has been provided with a form of redress for any wrongdoing that may be done to them.

When enacted into law, this Bill will provide a proper statutory foundation for the functioning and operation, in Trinidad and Tobago, of the Caribbean Court of Justice (CCJ), which has been established by treaty and is headquartered in Trinidad and Tobago. It is an international organization that has its headquarters here in Trinidad and Tobago. The Caribbean Court of Justice has taken its place among the growing number of organizations and institutions, including the Association of Caribbean States and the Caribbean Court of Justice Trust Fund that have found in Trinidad and Tobago, an environment conducive to the carrying out of their operations.

The CCJ is a critical component of the matrix of institutions, of the institutional architecture, that must grow and develop, if the goals and objectives of the regional integration movement are to be realized.

We recognize in the national community, that we need laws, rules and institutions to adjudicate on disputes if the society is to advance. So too, in the

Caribbean Community, we require a proper legal environment of certainty and predictability, arising from an accepted corpus of rules, if the regional integration movement is to deliver the social and economic improvements that the people of the region aspire to and deserve.

As host to the Commission and the Court, the Government of Trinidad and Tobago is under an obligation, arising from its treaty commitments, to do its part, to facilitate the success of these two regional organizations, by helping to put in place the physical, institutional and legal infrastructure required for the Court and the Commission to carry out the tasks set before them in their constitutive instruments.

This Bill, therefore, represents a continuation of the institution-building process we have embarked on in the Caribbean Community, by establishing a CCJ that has the power to adjudicate on disputes touching on the interpretation and application of the Revised Treaty of Chaguaramas, as well as to serve in substitution for the Judicial Committee of the Privy Council as the final court of civil and criminal appeals from those jurisdictions that accept its appellate jurisdiction. The CCJ ensures uniform interpretation and application of the Revised Treaty of Chaguaramas, thereby, underpinning and advancing the Caricom Single Market and Economy as the final court of appeal for Member States of the Caribbean Community, it is expected to foster an indigenous Caribbean jurisprudence.

Signature of a treaty under international law signifies on the international plane, the international community, that the State signing is in general agreement with the provisions of the treaty, that would have been painstakingly elaborated by the representatives of all negotiating states. It is a matter of record, historical record, that the Treaty establishing the CCJ was signed February 14, 2001 in Bridgetown, Barbados during the 12th Inter-Sessional Meeting of the Conference of Heads of Government, on behalf of the Republic of Trinidad and Tobago by the Hon. Basdeo Panday, then Prime Minister of the Government of Trinidad and Tobago. The signature of the agreement testified to the belief that the establishment of the CCJ was in the best interest of the development of Trinidad and Tobago.

If we rewind the tape a little more, we discover that during the period January 25—29, 1999, the then Attorney General in the UNC administration chaired the 3rd Special Meeting of the Legal Affairs Committee of Caricom in Port of Spain.

Dr. Moonilal: Who was that?

Mr. Maharaj SC: None other than me.

Hon. P. Gopee-Scoon: A press release issued on February 01, 1999, under the authority of the chairman and the other attorneys general present, stated, *inter alia*:

“The Attorneys-General reaffirmed that there had been regional consensus for the establishment of a Caribbean Court of Justice to replace the jurisdiction of the Judicial Committee of the Privy Council as long as three decades ago and considered the Reports of the Working Committee established to consider and report on the capital and recurrent budgets for the Caribbean Court of Justice. The Legal Affairs Committee also considered the report of the Working Committee which was established to consider the legal implications of the decisions of the Conference of Heads of Government to invest the Caribbean Court of Justice with original jurisdiction in respect of the interpretation and application of the Treaty.”

The corpus of accepted rules embodied in the law creates the certainty, predictability and consistency required for many human activities to flourish, for societies to develop and for people to prosper.

The 1999 press release and the signature in February 2001, by the then Prime Minister, testified to the recognition by some Members opposite, of the salience of that fact. The correctness of the positions adopted in 1999 and 2001 has been vindicated with time. I trust that the positions adumbrated when they were on this side of this honourable House will continue to guide them as they examine and debate this Bill. [*Desk thumping*] We need certainty, predictability and consistency in the law.

Dr. Moonilal: Yesterday was yesterday and today is today.

Hon. P. Gopee-Scoon: We also need unity to take Trinidad and Tobago forward towards the realization of its full potential.

The case for the establishment of the CCJ was made in and accepted in our Eighth Parliament, specifically in Act No. 8 of 2005. The Bill does not seek to establish the CCJ; that has also already been achieved. What the Bill seeks to do is to provide in law for the privileges and immunities facilities and exemptions that would permit, in Trinidad and Tobago, the independent exercise of the critical functions of the CCJ. It seeks simply to give domestic legal effect to the Headquarters Agreement that was concluded, pursuant to the Agreement establishing the Caribbean Court of Justice.

Mr. Speaker, I therefore, unhesitatingly recommend that hon. Members of this House support this Bill to provide for the implementation by the Government of

the Republic of Trinidad and Tobago, of the Agreement establishing the Seat of the Caribbean Court of Justice of Trinidad and Tobago and the Caribbean Court of Justice Regional Judicial and Legal Services Commission.

Mr. Speaker, I beg to move.

Question proposed.

Hon. Kamla Persad-Bissessar (*Siparia*): Thank you, Mr. Speaker. As I join this debate I crave your indulgence to first of all declare interest in the matter, to some extent. I have read May's *Parliamentary Practice* at page 486, which deals with the issue, where it speaks about Members advocating matters in the Parliament, for which they have received direct or indirect pecuniary benefit. I am an attorney-at-law for clients who are challenging the constitutionality of the Caribbean Court of Justice so, therefore, today I speak nothing of the constitution of that court. Instead, I deal with the headquarters and the establishment of that. I wanted to state that out of an abundance of caution. Of course, there is no pecuniary benefit, whether direct or indirect, and that matter is pending, challenging the constitutionality of the Caribbean Court of Justice.

Secondly, I crave your indulgence to indicate to this House and, of course, to the national community, that the Members of the Opposition today participate in this debate without prejudice to any protest action we have already taken, with respect to the suspension of the leader and the use of the laptops. That is still before us. Given the circumstances, where the matter has been referred to the House Committee, and in the interest of the national good and the community, we came to this House with our laptops fully in our bags but we will not; at this point we will keep the status quo and await the outcome of the House Committee. We reserve the right thereafter to take such action, whether before or after the House Committee reports. We reserve that right. This is just for the record. We wish to indicate what the position of the Opposition on this matter is.

Today we join in a very, very important debate, which is the establishment, in law, of the headquarters for the Caribbean Court of Justice. We need to note, first of all, that the hon. Member for Point Fortin, as the Minister of Foreign Affairs, really, with due respect to her, regurgitated exactly what was said by the hon. Attorney General in the Senate. Nothing is wrong with that. You are being consistent. Nothing is wrong with that. You are being consistent in your policy lines. What happened is that we were following it here because we would have to respond. Basically what was done is that parts from the bottom of the speech

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given were put at the top. That is all right. I have no problems with that, but I would have liked to hear a little more because this is the Minister of Foreign Affairs.

Whereas the Attorney General would have dealt with certain issues in her capacity as Attorney General, I would like to hear some more, in terms of the foreign relations aspect in the community. I would have liked to hear more about the Economic Partnership Agreement (EPA) and how that is going to impact upon this whole regional integration movement, of which the CCJ is one of the institutions. I would like to hear a little more about that EPA and how it is going to impact on the whole Caribbean integration movement, the Caribbean Court of Justice, headquarters and the institutions that are being set up as regional institutions. Certainly, the hon. Member will have that opportunity, in closing the debate, to talk a little more about the foreign affairs aspects, in relation to what we are doing here, in relation to the Caribbean Community. [*Interruption*]

I would hope and I ask the hon. Minister to please tell us a little more about that. I think some of our other Members may pick up the whole EPA issue. It is my respectful view that will impact seriously on the Caricom Single Market and Economy. Remember that the creation of this court was because of the establishment of the Caricom Single Market and Economy. Here it is that you have another external agreement that is going to seriously impact upon and really make, in my respectful view, the whole Caricom Single Market and Economy and all the agreements relating thereto, become redundant and not relevant. Therefore, that is my respectful view. I ask the hon. Minister to tell me that is not so; that the EPA will not put all these other things that we are doing and the institutions that we are building into jeopardy. I look forward to the foreign affairs aspect of it.

As we come here today to establish the headquarters, I think we first need to consider the fact that the headquarters that we are now putting into law has been existing for years.

2.30 p.m.

Let us go back a bit in terms of the events. I raised this matter, because to me this is another example of the modus operandi of the way this Government operates, and that is to say, they go forward and spend money, take action and do all kinds of things and then they come thereafter—in this case, years after—to get legal sanction for them. They operate outside the law without the sanction of the law, and then come years later to get the sanction of the law. So, let us see what happened.

The Minister did tell us that this agreement was signed by the then Minister Gift, on behalf of the Government, on February 23, 2005. That agreement is the Schedule to the Bill before this honourable House.

May I just point out that the Minister mentioned other agreements which were signed by the UNC government in 2001, but let us make it very clear what we are debating today. Indeed, the Minister said it in presentation that this Bill does not seek to establish the Caribbean Court of Justice (CCJ), since that has already been done. That is totally correct. This House passed legislation to establish the CCJ in its original jurisdiction. What we are debating here is, in fact, the Bill to establish the headquarters here in Trinidad and Tobago, the seat of the court.

Therefore, in terms of raising what Mr. Panday said and what the Member for Tabaquite then said and so on is really not relevant. We went through that ad nauseam when the Bill for establishing the CCJ was placed before this House. We went through all the issues about the benefit of the court; and about it being a regional sort of icon as a regional institution. We had lengthy debates in the House and in the Senate dealing with those issues. I just want to remind the hon. Speaker, that today we are dealing with the Bill to establish the seat of the CCJ.

Firstly, that agreement was signed by that Government. That is the first point I wish to make and, therefore, whatever provisions are contained therein or whatever it is that we are giving away or taking, lies squarely at the feet of the present Government which was the Government then in 2005.

When we examine the provisions of this Bill and we see matters contained therein as being detrimental to the citizens of Trinidad and Tobago and/or as not being in the best interest of the people of Trinidad and Tobago, and/or how does this benefit the people of Trinidad and Tobago—in what way does this legislation benefit the people of Trinidad and Tobago? One response already out from the Minister's words is that we need these regional institutions and we look great—it is something that is great for us. Mr. Speaker, as we shall see, there are no benefits that accrue to the citizens—there is no cost effectiveness; there is no direct benefit to the citizens; and there are no benefit today in the circumstances in which we are living.

So, this agreement which was signed on February 23, 2005 stated that Article XIV provided that we shall enter into force immediately upon signature, but I think it is strike law now that treaty law does not have effect in the national jurisdiction until it is legislated for in the Parliament. So, even though the

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agreement stated that it will come into force immediately that was not the legal position. It can only come thereafter through legislation which is now before the Parliament.

When one looks at clause 4, it provides that this agreement shall have full force of the law in Trinidad and Tobago. Mr. Speaker, it is my submission that this is a sham and this is a mockery of this Parliament. We have been asked to rubber stamp something that has been existing and functioning for several years.

If we look at the history of this court, this information can be confirmed in the annual report of the CCJ. This information is available on their website. What that report reveals and which is on record there and what some of us will recall is that the agreement with the CCJ was signed on February, 01 The agreement came into force on July 28, 2002. The first members of the RJLSC took office on August 21, 2003. The President of the court assumed office on August 18, 2004. The CCJ was inaugurated right here in Trinidad and Tobago in a building that was a seat on April 16, 2005. All of that had already happened and here we are in April 2008—today is April 18—so two days after the third anniversary of the inauguration of the court—they are now coming to tell us to let us make it law that the headquarters of this court will be situated in Trinidad and Tobago. That is taking this Parliament as a rubber stamp and taking it for granted.

Mr. Speaker, that is why when we say that there is a built-in majority on the Government Benches, the Government will always have its way. Wherever that majority prevails that is what they will do. They will come and take you backwards retroactively. We have seen that when we passed in this House—the Government brought the privileges and immunities for members of the CCJ, and asked us to retroactively legislate for that to the year 2003, and it was brought some years thereafter. Here it is again, up and running and housed in Trinidad and Tobago—Trinidad and Tobago is spending money—and three years later they are now coming to the Parliament to get approval.

The Act to establish the CCJ, Act No. 8 of 2005, was passed in February 2005 and it became law on December 16, 2005, but since the year 2003, members of the RJLSC have taken office and are collecting pay in a court that had no legal jurisdiction in Trinidad and Tobago. The RJLSC took office on August 21, 2003.

The CCJ Act came into force and was proclaimed on December 16, 2005, but the President of the court took office on August 18, 2004 right here in Trinidad and Tobago. As I said, the CCJ was inaugurated on April 16, 2005, and there was no law in the country that says that there was a CCJ until December 16. Again, this is the same pattern of behaviour.

You would recall in this very House that when we were doing the privileges and immunities for that court—I think it was the Member for Princes Town and now the Member for Princes Town North, who read the menu for the inauguration ceremony which was so ludicrous.

At the time, we did not know how much it cost, but today we can find that on the CCJ website. Do you know how much money was spent on that ceremony? They invited 900 persons, and the website discloses that moneys spent for the inauguration ceremony in that one day was \$3,802,202. That is the sum spent for this inauguration ceremony to open a court on April 16, 2005, when there was no law in this country that says that we have the CCJ. That came long thereafter. You can find that on the CCJ website. Their financial statements are contained in their annual report of 2005/2006.

We have spent money on a court that was not even put into our laws. That was then, and there is more we are going to talk about, but today we are being asked to rubber stamp it. What this means is that this headquarters has been operating out there without legal sanction and moneys from our Treasury are being expended on that court.

What would happen if today the Parliament did not pass this Bill? They already have the court up and running. I will show later that you have given moneys to them; you have transferred money to them as a headquarters—not just to the court—taken from our taxpayers' dollars, and there was no sanction in law.

The Caribbean Court of Justice report states that significant capital expenses have been assumed by the host government in that the building of the CCJ is being provided by Trinidad and Tobago. So, all along, they are talking about putting money into the trust fund which was legislated for here—the Trust Fund Act came in here—but there was nothing telling us about capital expenditure being spent on the building itself housing the same headquarters that we are talking about.

I would ask the hon. Minister to please tell us, what are the significant capital expenses that we have put forward? This did not come from the other Caricom countries, but this is money only from Trinidad and Tobago. That is one of the penalties or one of the benefits of being the host country and having the seat here. Tell us how much money was expended on significant capital expenses. How much money has been spent already and how much more money do we need to spend? I would hope that the Minister would respond to that. That is what we would like to hear. You are asking us to legislate to put this headquarters, so tell

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us how much money you have spent and how much money you are going to be spending year after year for the maintenance of this seat of this court in Trinidad and Tobago. We need to know that.

The draft estimates of recurrent expenditure tell part of the tale. They gave us actual expenditures for the CCJ even though when those things were taking place there was no law establishing a CCJ here in this country; and there was no law with respect to the headquarters here in this country. So, again, money is being spent without the sanction of the law. So, as way back as 2002—remember the agreement was signed in 2002—when the Government came into office there was an actual expenditure transferred to the CCJ of \$443,094. Remember, the law only came into effect in December 2005. So, from 2002, we have been spending money on this court.

In 2003, the actual expenditure was \$358,305. Again, the court was still not in existence. Then in 2003, we come to a massive transfer, and this transfer was \$199 million which was taken out from Trinidad and Tobago, and transferred to the CCJ Trust Fund as an equity contribution.

Again, the Trust Fund Act, Act No. 19 of 2006 became law years later on December 18, 2006. So, in 2003, there was an actual transfer of the sum of almost TT \$200 million into an equity trust fund, but there was no law until we got to December 18, 2006; the Trust Fund Act. I am making the point that they just spend the money and come and rubber stamp it here in the Parliament—you have squandered the people's money and then come here for that rubber stamping.

Again, in 2004, no court was established. In 2004, another \$7.2 million was transferred to the CCJ. So, here is this payment of \$199 million as expenditure for the trust fund, but with respect to all the other expenditures, we do not know what they were for. Again, I would be grateful if Members on the other side would be kind enough to let us know, in the interest of accountability and transparency—this \$7 million, another \$443,000; and another \$358,000—maybe that was for the significant capital expenses. I do not know, but we need to know what the money was spent on.

Mr. Speaker, what is really cause for concern is that questions were filed by Opposition Members with respect to moneys expended on the CCJ, on the headquarters—money already expended and money proposed to be expended—and the response that came from the Government side was that they are not answering those questions, and we had to write to the Chairman of the RJLSC directly. This is the Parliament!

What law prevents Members of Parliament seeking information about their money and how it is being spent? The answer was to write to the Chairman of the RJLSC. Well, we did that. We wrote the letter and we are waiting on that response. If it is that there is accountability and transparency—that accountability is to the people through the Parliament—then why would the Government not answer the questions as to how much money has been spent on this court and how much more is proposed to be spent.

I have indicated here, just from looking at these estimates of recurrent expenditure—I do not know in the development programmes and otherwise, how much money went—but looking at those estimates, to date, \$207 million has been spent by the Government of Trinidad and Tobago for the CCJ.

2.45 p.m.

Again, all of this was done. That \$207 million was spent as at 2004 and all of it was done without any law being passed in this Parliament for a trust fund, for a headquarters for the Caribbean Court of Justice and for the establishment of a Caribbean Court of Justice. Our Constitution is very clear; it talks about appropriating moneys out of the Consolidated Fund and if you look at Chap. 8 of the Constitution of Trinidad and Tobago, which deals with finance, all revenues and moneys raised or received shall be placed in the Consolidated Fund—I am summarizing it. Clause 112(2):

"No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or any Act..."

There was no Act authorizing moneys to be taken out, sent to this Caribbean Court of Justice. That only happened when we set up the Trust Fund Act; when we passed first, the Caribbean Court of Justice Act, the Trust Fund Act and only now we are passing with this headquarters, but we already sent moneys there in breach of the Constitution. You see, there is a loophole; the Constitution says you must not do it, but then it goes on to say in SECTION 113, well, if you do it you could bring a supplementary appropriation and that is what they have been doing. I have not seen those yet in terms of this \$207 million, but that is their modus operandi. To spend money; squander the people's money and then come back here years later to seek approval for it. [*Desk thumping*]

The same thing could happen with the executive jet. I am saying it is a pattern of behaviour which is cause for great concern, especially in our circumstances, which I will speak about in a moment. It was the same with the executive jet; moneys were placed in Caribbean Airlines Limited (CAL) account to pay for a jet;

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there was no parliamentary approval. There was absolutely no parliamentary approval for moneys to be taken, placed to CAL to buy a jet. In fact, the public had no knowledge of that and thank God for those investigative persons—I think it was TV6, the reporter was Sasha Mohammed—who first put the story out in the public domain and then everything started tumbling. It tumbled, it tumbled or just that the jet crashed and they were forced to withdraw it because of the outcry of public opinion. But again, we were able to stop that because we found out beforehand how much money was involved and what was going on with that.

Mr. Speaker, I want to ask, through you, moneys placed in the Caribbean Airlines account—the \$400 million or whatever it was—what about interest on that money? Has the money been paid back? Because with \$400 million, it is plenty interest you are talking about. So, I would like to know whether interest was repaid.

I am speaking here to come back to the Bill. I am saying the manner, approach and attitude is one that shows that the Government would spend the money and come back. Now, we read about the ballpark figure for the tsunami stadium; we have been told it is \$500 million. That was another deception, because nothing was approved there, then we were hearing in the public domain, well look, this is for World Cup Cricket. World Cup Cricket came, went, gone; stadium never built; not one ball bowled in that stadium. That was the deception again; look I am rushing to do this; I did not come to the Parliament for approval; I will come after and get the approval; Minister said ballpark figure is \$500 million. I would ask the hon. Minister to go back and look at what was said in the *Hansard* here, by the former Minister of Sport and Youth Affairs, Mr. Boynes, in terms of the estimated cost, projected cost and we have not gone to actual yet, and you would see already the overrun in this. I would also ask him to explain where the \$500 million came from, because that is not what is out in the public domain; it is far more money than that. So, here we are—

Mr. Imbert: Stick to the Bill.

Mrs. K. Persad-Bissessar: I would be guided by the Speaker, not by you, Member for Diego Martin North/East, so keep your words to yourself.

Mr. Speaker, I am saying the Government continues to operate in a way to squander moneys and then come to seek approval. When we look at this Bill we see, in my respectful submission, that the priorities of the Government seem to be reversed. The priorities of the Government seemed to be confused, to find a nice word. Out in public, in Trini parlance they would use a different word about the priorities; the way they are totally confused and mixed up. Because what we are

seeing is, here it is Government has chosen first of all, to give priority to this Bill; there are several others on the Order Paper; there is the Motion on crime. The Government came on two occasions; that has been totally shelved; that is not a priority. What is it? Four murders in 17 hours, but crime is not a priority. The murder rate of 134 outstripping the number of days; that is not a priority, but priority is given—so, that crime debate is not given priority in this Parliament—but we are giving priority here to a Bill to establish the headquarters of the Caribbean Court of Justice.

Mr. Speaker, I ask through you, here we are legislating and when we read it we are saying that the persons, the officers, the judges and so on of this court are going to be exempted from foreign exchange controls, taxes, customs duties, import and export duties; that is what this Bill is saying. What does that have to do with saying that the headquarters or the seat of the Court of Justice will be in Trinidad and Tobago. Here it is employees, not just the judges—when you look at the provisions—are being given exemption from income tax. Who are the employees of this court? Every secretary, every clerk? If that is normal, why is it not given to our judiciary here in Trinidad and Tobago? [*Desk thumping*] Why not give it to a local Judiciary? Why are you squeezing resources from the local Judiciary and collapsing and crippling the administration of justice, but here you have a court that is dealing with three or four cases for the many years and you are feeding this court with all the resources.

That is why I say your priorities are totally upside down. Whatever resources we have, you are pumping it into a court that has no benefit for the people of Trinidad and Tobago when it comes to fighting crime, dealing with food prices, dealing with patients in the hospital who cannot get a bed; a shutdown in San Fernando Hospital because they are using the asthma room as a holding bay for patients, for the medicals wards, because why? No beds in the medical wards for them. Yet \$207 million already spent and you are asking us to commit more moneys towards this white elephant as I see it, which has no direct benefit.

I come back to the provision in the Bill, it is in the schedule to the Bill, and it does it in a really strange way, because it does not place it with all the other exemptions. First of all, you have Article V, page five of the schedule. It speaks about exemption from foreign exchange controls and here the court and the commission, whatever they use for official purposes, exempt from foreign exchange controls. You come to Article VII: Exemptions from taxes, customs duties and import duties. Again, the Court and the Commission will get exemption from these things: "The property of the Court and the Commission shall be exempt".

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Then you come to judges and officers of the court, immunity from legal process. It is a strange place to put it, because how long you are dealing with the other articles with exemptions from taxes and so on but under Article IX, which deals with immunity from legal process, you slip in a paragraph 3:

"All employees of the Court or Commission shall enjoy exemption from income tax in respect of salaries, remuneration and allowances paid to them by the Court or Commission as the case may be."

I got an organogram here of the court: President, court executive administrator, judges, registrar. Then there is a finance unit. You have your head of the finance unit; head of library, information systems, court security, court facilities, court protocol, judicial research and judicial support, RJLSC support and court registry division; those are the departments. Within each of those departments you have staff. You have staff at the level of the driver, secretary, clerk, information technology person and so on. Why are we exempting employees? If you want to say the judges is an international court and so on—and I do not agree with that—justify for us why you are taking millions of Trinidad and Tobago dollars to exempt these people, because that is what it is. It is revenue foregone. When you give an exemption from all these things, it is revenue foregone.

Here we are foregoing revenue and that brings me, Mr. Speaker, to a very strange legal notice I came across and I note with interest. The Prime Minister comments today when we talked about the protest for the Essar steel plant as being emotional. But you know, I came across a Legal Notice No. 268 of 2007. I am talking about in this Bill, all these exemptions that we are granting, which is revenue foregone. Again, this is what the Government does and it does it secretly in some cases and I am asking today, Legal Notice No. 268 of 2007, dated December 05, 2007. It is:

“The Fiscal Incentives (Essar Steel Caribbean Limited) (Amendment) Order, 2007:

1. This Order may be cited as the Fiscal Incentives (Essar Steel Caribbean Limited) (Amendment) Order, 2007.
2. The Fiscal Incentives (Essar Steel Caribbean Limited) Order, 2006 is amended by deleting clause 5 and substituting the following clause:
5. The Company, classified as a highly capital intensive enterprise under section 9 of the Act, is granted in respect of the approved products for the tax holiday period commencing from the production day—
 - (a) total relief from corporation tax;

- (b) total relief from customs duty; and
- (c) subject to section 16...total relief from income tax on dividends or other distributions, other than interest, out of profits or gains derived from the manufacture of the approved products.”

Mr. Speaker, so what money are we getting from this? This is revenue foregone. All this is revenue foregone. All this is revenue we are exempting where you do not have to pay. Hear what it says in the order, I am not making this up. It is classified as a highly capital intensive enterprise.

What does that mean? It means that the job creation is going to be minimal; capital intensive, negligible. So, where is all this money? They are going to get total relief from corporation tax, customs duty, income tax on dividends. Why are we just giving away the patrimony of this country? Why are we giving away all this money? We are giving it away or we are not pulling it back in. And on the other hand I see the Minister of National Security begging cap-in-hand to borrow some US \$24 million from the IDB, to do what? To fight crime. And here we are throwing away money on the Caribbean Court of Justice; revenue foregone under Essar; revenue foregone under this headquarters something and you are going begging to borrow US \$24 million. Mr. Speaker, I say through you, it is not going to help them, because they have already spent over \$17 billion and crime continues to escalate in this country. You know, Mr. Speaker, according to Mr. Lamas from the IDB, he said the programme funded by this money will contribute to the decrease in the rate of homicides, robberies and wounding in communities and will increase the perception of safety in the communities.

Are we really going to get all of that from US \$24 million, when already—and it is the perception—you spent \$17 billion. It is going to get us absolutely nowhere. So here we are in this Bill, revenue foregone again, exempt, exempt, exempt, exempt; Essar has gone clear free and you know when we raise these matters, they tell us it is top secret. When we ask what you are giving away our natural gas for; every time we raise that in the Parliament—what is the rate?—it is top secret; they could never tell us.

I would like to know what it is this plant is going to be bringing in for us. In the same way, when we exempt all these people in the Caribbean Court of Justice headquarters and so on, what is the benefit to Trinidad and Tobago; to the people Trinidad and Tobago. How is this going to help us with food prices? How is this going to get us beds in the hospital in San Fernando and elsewhere? How is this going to help us with respect to bringing down crime, food? How is it going to

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help my constituents who cannot get water for months? That is what I would like them to tell us, and do not tell me about some plan you have for water for all, all over again, because we have been hearing that nonsense for the past six years, since you have been in office. Promises, promises, promises; never delivered, never materialized.

Tell me how is it going to help the farmers in my constituency who do not have access roads? How is it going to help them in terms of praedial larceny that they cannot plant food to help in the food crisis that we are in? How is it going to help when we go to the supermarket now?

3.00 p.m.

You go to the supermarket now and you are getting a ration of flour, you cannot buy flour and they say there is no shortage. They have been saying that for months but when you go, and I invite you please, to go, Sir, and see for yourself. You go into the supermarket, you buy all your groceries and you only getting this ration.

I mentioned this once before. I remember as a student at the university in Jamaica when they were going through all their structural adjustments and so on—and we are nowhere near to that because we are an oil-rich nation—they were not any oil-rich anything and I remember going into the supermarkets you could not get rice, you could not get flour, when they did get you would go and wait all day. Each day of the week you would go to see if the shelves had rice or flour and when you were there, when they actually put some out, it was a riot. Total riot, people would be grabbing and scrambling. [*Interruption*] We are reaching there. We have reached there because they are grabbing it off the food delivery vans. So how is this going to help poor people?

Mr. Ramnath: Five desal plants, boy!

Mrs. K. Persad-Bissessar: I see the front page of today's *Guardian*: “Flour 39 % increase. Rice goes up. Chicken increases. Doubles \$4 each. Two phoulories for \$1.” Front page of the *Guardian*. How is this going to help the people of Trinidad and Tobago? [*Interruption*] How is it?

Mr. Ramnath: de la Bastide drinking champagne.

Mrs. K. Persad-Bissessar: On top of that we are foregoing all of this revenue; we are giving all these exemptions to an elite few up at that Caribbean Court of Justice. We are doing all of that and then the Minister of Energy and Energy Industries tells us, “I am going to withdraw the subsidy on gas. I am going

to take away the subsidy on gas.” When this happens every single price in this country will further escalate. T&TEC is going to raise its rates May 01. WASA has applied for a review of their rates. You say, God lend a hand, put a hand! How are the poor people—and by the Government's own estimates, not my figures, although I believe there are more than that number, a quarter of a million people in this country live below the poverty line; 250,000 people living on US \$1 or less. Those who are living above that, it is by the end of the month, they cannot buy food as well, because their wage, their fixed income, the “working poor”—as we have termed them—cannot buy. And do you know what happens? You give all these exemptions and you do not blink an eye. But when it comes to helping the poor, the Prime Minister says, “no subsidy”. Front page of the *Guardian*, price rise, everything gone up, but subsidies for Essar, relief for Essar, relief for CCJ people.

Dr. Moonilal: Yes, good point. [*Desk thumping*]

Mr. Ramnath: Alutrint.

Mrs. K. Persad-Bissessar: No subsidies, and you know what was the reason? You say no subsidy because that is for corruption. With due respect, through you, hon. Prime Minister, why can we not subsidize staples in this country?

Hon. Member: He cannot hear you.

Mrs. K. Persad-Bissessar: There is indirect subsidizing, there are direct subsidies that could be given. I refer you to research done in 11 countries; the International Food Policy Research Institute of Washington; a study of food subsidies in 11 countries and this is what they concluded, and I quote:

“As long as there are large numbers of poor people untouched by the benefits of development—and (who would be) brave enough to predict when such groups will disappear...food subsidies will remain politically and morally relevant to policy choice, notwithstanding the ambivalence most economists feel in dealing with them.”

Food subsidies will remain relevant. Two hundred and fifty thousand people under the poverty line.

Mr. Ramnath: The Prime Minister does not pay for food.

Mrs. K. Persad-Bissessar: Quarter of a million people, and you say subsidies—what this research also showed us, it says:

“...a consistent set of messages has emerged [from the...research] in favour of consumer subsidies to provide income support to the poorest groups; against generalised price subsidies...”

So, Mr. Prime Minister, do not let the economists take you down the road. We have always said that book money is no money. When you talk about growth without development, it is no growth. There is none! There must be sustainable development; and how can we sustain development when our people are starving? If you do not want to go for generalised food subsidies, which the research has shown do not work to the best for the economy or the ones in need; you can go for targeted subsidies, hon. Prime Minister, through you.

If you do not want to go to producers directly you can go in favour of targeted programmes, so the—[*Hon. P. Manning stands*] one second—economists, in my respectful view, are misleading you, and I seriously ask you to consider subsidizing staple foods in this country: rice, flour and definitely milk for babies.

Mr. Ramnath: He cannot hear. [*Desk thumping*]

Mr. Speaker: Prime Minister, before you respond, let me warn Members of opening up this debate. The hon. Member gave herself some good advice earlier on and I think she gave all Members some good advice. I think she is getting back to following it, so please be careful of opening up the debate.

Mr. Manning: Thank you very much, Mr. Speaker. I just want to advise the Member for Siparia that the point that she has made that general subsidies—

Mrs. K. Persad-Bissessar: Targeting subsidies.

Mr. Manning:—general subsidies do not work is precisely the point I was making. In fact, the Government has in place at this time a targeted cash transfer scheme to subsidize basic food items to—

Mrs. K. Persad-Bissessar: Smart card.

Mr. Manning: The smart card, so it is there, you are saying exactly the same thing. Perhaps you are being more elegant than I am on the matter but you are saying the same thing.

Mrs. K. Persad-Bissessar: Hon. Prime Minister, I ask you again to look at the research I referred to you coming out of Washington, a study of 11 countries—it is available online for anyone, so it is not difficult to find—and that you do seriously reconsider your comment, your statement that there will be no subsidies. There are parents here who cannot afford to buy milk.

Dr. Rowley: Name them.

Mrs. K. Persad-Bissessar: So, I ask you—[*Interruption*] I will send you a copy of it.

Dr. Rowley: No, name them.

Mrs. K. Persad-Bissessar: No, I do not want to go through that now, I have limited time here. [*Crosstalk*] Egypt, India; I can name you those two right away. Right away!

Dr. Moonilal: Tobago.

Mrs. K. Persad-Bissessar: But I am not going through that report right now.

Dr. Rowley: Mali, Mozambique.

Mrs. K. Persad-Bissessar: Mr. Speaker, Jamaica has just completed—if you look on the Net Radio Jamaica was talking about the food subsidy programme in Jamaica. When you look at today's *Newsday*—talk about the President Lula of Brazil launching a zero hunger programme. It is in Section C, page 6 of today's *Newsday*, President Lula of Brazil launching a zero hunger programme—food crisis all over—to deal with escalating poverty. So, here we are giving all these benefits to an elite few and poor people cannot afford food in this country.

When we look at the legislative priority given to this Bill—I mentioned that the crime debate has been shelved—legislative priority given to this Bill as well. You will recall this Bill had been on the Order Paper in the Eighth Parliament. It appeared in 2007; laid in the Senate May 15, 2007; it stayed on the Order Paper without debate for five and a half months; it lapsed when the Parliament was dissolved, and then it came back into this Ninth Parliament, December 2007. Again when we broke for Christmas and we came back it was withdrawn and this present Bill was placed.

Mr. Speaker, if you are saying, well, we have this Bill already, let us do it, that is why I am giving it a legislative priority; there were other Bills that are more pressing, important benefit to the people of Trinidad and Tobago that were also on the Order Paper of the last Parliament, and I am talking here of the package of children's legislation. Why has that not been given legislative priority? Why is it that we continue to see the slaughter of the innocent and we fail to deal with this package of children's legislation? Why was that not given any priority in this Parliament? And despite repeated promises over the years they have not brought that, they have not given it priority, and it comes to the fore when we recall the children being poisoned with landate, with dumpling—landate in the dumplings and so on.

Mr. Ramnath: Lanate.

Mrs. K. Persad-Bissessar: Lanate, sorry. [*Laughter*] Tobago Landate is on my brain.

Mr. Speaker: That obviously was a Freudian slip. Hon. Members, the speaking time of the hon. Member for Siparia has expired.

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

Question put and agreed to.

Mr. Ramnath: We do not need your charity.

Mrs. K. Persad-Bissessar: I thank the hon. Members of the House and of course the Member for San Fernando East. I trust that his graciousness will include reconsidering the food subsidy for the underprivileged in the country.

I am saying legislative priority—where is the package of children's legislation? Why is this a priority? We can give 10 reasons; I can name the 10 children brutalized since the promises had been made that this law has been on the books but they will not implement: Sean Luke, Amy Emily Annamunthodo, Parmanand Persad, Dane Andrews, Lily Seepersad, Sakiya Mitchell, Mikhail Alleyne, Chema Richards, Michael Ford, Akiel Chambers. Mr. Speaker, and we come here only in March of this year when we see a four-year-old son—

“A man who accused his wife of being unfaithful gave his four-year-old-son poisonous liquid to drink, took a dose for himself sometime during Easter Sunday.”

This was March 25, 2008 and then we see here a case in April with the lanate in the dumplings.

The *Newsday* of April 17, 2008 points these things out. It says:

“Human error,...is inevitable. Yet, in these cases, it seems that such error is far too often rooted in an essential indifference to the plight of children. We see this at the political level, where the Parliament drafted a flawed Children's Authority Act, passed it, took...six years to fix the errors and pass it again. We see this at the parental level, where surveys show that 28 percent of infants between six and eleven months”—old—“get breast milk and complementary food the recommended number of times.”

Here it is all these children, where is the package of children's legislation? What about all the promises? You laid it in the last Parliament, which means you had the revised version. Why do you not give that some priority? Why? Two more children poisoned only recently. I am saying, why is legislative priority not given to the package of children's legislation?

So we come back to this Bill. Here it is I am looking at priority and there is a priority in terms of legislative priority not being given to important issues in this country, but there is also a priority in terms of looking at what is happening in our administration of justice. I read the hon. Attorney General with respect to this headquarters Bill:

“One of the pillars of Vision 2020 is to promote effective Government. For the purpose of emphasis, among the goals of that pillar are: to ensure that Trinidad and Tobago has modern, technologically advanced legal regulatory and enforcement systems and that all citizens would be assured of fair and equal justice.”

Mr. Speaker, that is not happening in our courts, and the money that we are spending and going to commit today, why can we not spend it in the local system, in the local judiciary for our administration of justice? So I say we fix home first. This \$207 million already expended, I do not know how many other millions are going to be expended. When we look at what is happening here and we see the backlog of cases and compare it with the Caribbean Court of Justice, I mean it is like chalk and cheese. Where is the priority?

So we look at the Caribbean Court of Justice, the caseload in the Caribbean Court of Justice, again, taken off their website since its inception. In the year 2005, there was one application heard, two appeals filed; in 2006, eight applications, six appeals filed; all those applications were heard, five appeals were heard, one is to be heard in May 2008. In 2007, 14 appeals filed; applications and case management conferences heard in seven of the 14 appeals. Decisions and preliminary issues have been given in three matters. In April 2008 an application for special leave was filed in the original jurisdiction of the court.

We saw in January of this year as carried in the *Jamaica Gleaner* of January 05 where the president of the Caribbean Court of Justice—given the very few cases that are coming to the court—goes to Jamaica and is begging for more cases to come to the court. Maybe he wants to justify the \$60,000 a month salary that he and the other judges are getting. He goes to Jamaica and the *Jamaica Gleaner* says:

“CCJ Head wants more use to be made of regional court.

The head of the Caribbean Court of Justice is hoping for more work for the regional court this year.

Barbados and Guyana are the only...countries that have signed on to the CCJ which has been in operation since 2005, but the President...said one of his wishes for 2008, is for more use to be made of the court.”

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Mr. Speaker, of the cases I have mentioned, the very few, not a single case from the jurisdiction here, Trinidad and Tobago's jurisdiction, not one from Trinidad and Tobago. Yet we spent \$207 million. When the Minister pointed out the shares, that is only for the trust fund—the 29-plus per cent. How many of the others have put their moneys into that trust fund? Would you be able to tell us during the course of the debate?

Is it only Trinidad and Tobago that has come up with the US \$29 million or have any of the others put in?

3.15 p.m.

Mr. Speaker, here we are then a court with nothing to do, collecting really huge salaries. Here we are saying that you are exempted from every single thing under the sun, and when we come to look at what is happening in our own justice system—you would recall that I had been given the statistics on the Magistrates' Courts. I just want to spend a few minutes on this because I think it is important, that moneys that we are now committed to spend again, money spent, could have helped. The Prime Minister of St. Vincent and Grenadines, Dr. Ralph Gonsalves, had this to say:

“...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 base, the Magisterial Courts' system in shambles.

The ordinary folk in the Caribbean seek judicial redress and the Magistrates' Court in over ninety per cent (90%) of cases.”

These are the words of Dr. Gonsalves when he addressed the 22nd Meeting of the Conference of Heads of Government.

Our own Chief Justice in 2002 described the Magistracy as archaic and said:

“What passes for justice...is a...serious blot on the administration of justice. It is a stinging indictment on every arm of the State.”

The Magistrates' Court is the base of our judicial system. It is the poor man's court—hon. Speaker, you do well know as an attorney yourself—and it deals with a range of matters: domestic violence, criminal matters, family matters, land matters, traffic and inquests, all claims below \$15,000. So when we look, it is the backbone of the judicial system; it is the root of the judicial system and we are adorning the top with the star—like a star on the Christmas tree—while the roots are being washed away and we cannot, because the resources that we are putting

at the bottom, we are not putting it from the top. We are not putting it in the roots of the judicial system, the administration of justice. The Magistrates' Court is the foundation of the administration of justice in this country.

We must keep the soil firm. We must water it, we must give it the resources so that the system can flourish and grow from the bottom to the top. That cannot happen by adorning the superstructure up here with the CCJ. We cannot go top down; we have to go from bottom up. I am saying the MacKay Commission of Enquiry into the administration of justice noted that the vast bulk of cases come out of the Magistrates' Court.

If we look at these annual reports put out by the Judiciary—put out every year. I extracted the information, but it is contained every year. In 2000, 2002 and 2003, there were 434 cases pending in the Magistrates' Court. There were only 43 magistrates, so 10,000 cases per magistrate for the year.

Mr. Speaker, I am sure you would have experienced going into the Magistrates' Court and the cases are being called, Moonilal and Sammy; Harry and John; Mary and Jane—*[Interruption]*

Mr. Ramnath: Imbert.

Mrs. K. Persad-Bissessar: Imbert—*[Interruption]*

Mr. Ramnath: And Elias.

Mrs. K. Persad-Bissessar:—and Elias. Imbert and Elias.

Mr. Ramnath: Did you pay the man his money?

Dr. Moonilal: Something more realistic.

Mrs. K. Persad-Bissessar: Cases are being called in the courts and what happens? You just adjourn and adjourn and adjourn and adjourn and adjourn and for years and years and years. Justice delayed is justice denied, so 434 cases in 2002 to 2003. The 2003/2004 report shows 465,767 cases pending. Not done, not disposed. In 2004/2005, 477,793 cases pending. In 2005/2006, 469,420 cases pending. In 2006/2007, 478,433 cases pending in the Magistrates' Court. *[Interruption]*

Mr. Ramnath: Repeat that figure again.

Mrs. K. Persad-Bissessar: That is at the end of the last law session, which was up to September 2007, 478,433 cases pending in the Magistrates' Court.

Mr. Ramnath: Oh my God and you all are spending money like water.

Mrs. K. Persad-Bissessar: Mr. Speaker, it is impossible and we are spending \$207 million and more, on a court that is dealing with how many cases, two per year, three per year. Tell us how many cases that court has adjudicated upon? Tell us how many cases from Trinidad and Tobago? Not a single case from Trinidad and Tobago and it is unlikely that any trade dispute from Trinidad and Tobago will go to that court or from any of the other jurisdictions. Do you know why? Because within the agreement itself, within the Revised Treaty of Chaguaramas, there are a host of dispute settlement mechanisms, a whole host of mechanisms for those disputes to be dealt with. It never reached. If one reaches in my lifetime, that will be one too many.

So already we are seeing that this court for us is totally irrelevant and useless. Tell us how it would benefit us? That is the Magistrates' Court. The situation is the same when you go up to the Supreme Court. If you look at the backlog in the High Court, there is a backlog as well. Now, what is interesting is that the annual reports do not give you the total number of cases pending per year. They do it for the Magistrates' Court, but not for the Supreme Court, so you really have to extrapolate the data. You have to spend some time to extrapolate it, so what I have done is to use the total number of cases filed in the court and put it with the numbers disposed of and then add back what remained.

Mr. Ramnath: You used the laptop for that?

Mrs. K. Persad-Bissessar: So, Mr. Speaker—yes, my laptop has been very useful with that. In fact, all these things are on the website, on the laptop downloaded. At the close of the law term 2007, there were 8,874 cases pending and that does not take into the account the new ones that will be filed and are being filed as we speak in this new law term. So in the High Court and in the Magistrates' Court, the backlog is tremendous.

Chief Justice Hamel-Smith talked about reducing the backlog, things to be done to reduce the backlog; that has not happened. The condition of the courthouses, dilapidated. Mr. Speaker, the number of judges. I recalled that two years ago—I know the Member for Princes Town North talked about it quite a lot—there was a Bill here to increase the number of Supreme Court judges by two or something, and the Government never debated that. Never did. For two years it came on the Order Paper, lapsed, lapsed, lapsed and lapsed, so we have not increased the number of judges. We need far more judges in the Supreme Court; we need far more magistrates down below, if we are going to give justice to the ordinary man in this country.

What happens then when we spend money on the Caribbean Court of Justice? Here we are looking at funding. Let us look at the development programme of our Judiciary. What is that development programme for, Mr. Speaker? It is for courtrooms; it is for development programmes which include computerization, customers centres, family courts strengthening, court recording, strengthening records, establishment of project implementation, telecommunications, provision of accommodation of Chaguanas court, Siparia court. *[Interruption]*

Mr. Warner: Which court?

Mrs. K. Persad-Bissessar: Chaguanas Magistrates' Court. *[Interruption]*

Mr. Warner: Oh, thank you very much.

Mrs. K. Persad-Bissessar: No, no, they have not allocated it; they requested \$16 million for it. Did they get it? And so it goes on, all these developments—I am not talking about recurrent loans, that is salary and so on, recurrent development programme of the Judiciary which is really the infrastructure of the courts. We have seen again on the CCJ's website and I have downloaded moneys spent by them. In the first year of its operation, they spent \$10 million. First year of operation, they were not yet in court and they had not heard a single case. We are talking about the inaugurated.

I remembered then it was not in law, it was not in effect. \$10 million on salaries! The \$10 million plus was only on salaries and not a single case was heard; not a single case determined; and the court is not even established yet and another \$10 million in all kinds of administrative expenses. Their financial statements saw \$20 million expenditure in the year ended December 31, 2005. \$20 million, they expended.

Let us look at what is happening with our development programme in Trinidad. In 2002/2003, the Judiciary asked for \$45.6 million for capital projects to include computerization, refurbishing and construction of courts. What did they get? They got \$29 million. In 2004/2005, they were allocated \$44.2 million. In 2005/2006, they requested \$125 million, they were allocated only \$53 million, but the actual releases came down to \$33 million. They asked for \$125 million, but they allocated them a lot. So when the budget comes out, it sounds nice, we have given you half; we will give you \$53 million, but the actual releases were \$33 million.

On page 55 of the annual report of 2005/2006, the Judiciary writes. Funds allocated to the Judiciary during financial 2005/2006, represented 0.86 per cent of the total amount appropriated to 30 ministries and departments. In 2006/2007, the

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Judiciary requested \$152.1, they got \$58.1 million. What was the actual? We do not know as yet, it was not revealed in the report. In 2007/2008, they requested \$470 million. We will not yet know how much they actually got until the next report comes out, but given the pattern, it is surely not going to be anywhere half of it. They might have been allocated half, but then they got less than the half in terms of actual expenditure. Compare this with the expenditure for the CCJ.

The \$207 million I already mentioned and I asked through you, clause 3 of this Bill speaks about:

“(1) All sums required to be paid by the Government of Trinidad and Tobago for the purpose of meeting the obligations of Trinidad and Tobago under the Headquarters Agreement shall be a charge on the Consolidated Fund.”

All sums required to be paid by the Government, to meet the obligations under the Headquarters Agreement shall be a charge on the Consolidated Fund.

Mr. Speaker, nowhere within this Bill, within this agreement, within the first Agreement established in the court, within the Caribbean Court of Justice agreement itself, nowhere have I been able to find how much money is going to be charged on the Consolidated Fund for what period of time. Is it in perpetuity? Once we set this up today and we pass clause 3 into law, we do not know how much money it is, but we are committing Trinidad and Tobago to pay out of our Consolidated Fund for the purpose of meeting the obligations under the Headquarters Agreement.

How much is it costing; how much has it costed; and how much will it cost the people of Trinidad and Tobago under the establishment of this headquarters to maintain and keep that headquarters there? How much? Because here is the trust fund money, the equity money, but this is talking about money for the seat of the court, of hosting the seat here, of maintaining it. Are you renting a building somewhere or do we own that building? How much rent are we paying? What would maintenance cost, electricity cost, telephone cost? Nothing nowhere, but it is a charge against the Consolidated Fund. Hon. Minister, please tell us how much money are we committing Trinidad and Tobago to pay after we pass this into the law. How much money will the people have to pay?

Mr. Speaker, page 12 of the report of the Caribbean Court of Justice, there were five or six reports list expenses as follows: “Administrative expenses as at December 05, spent \$20 million, plus another \$565,000.” Half a million dollars up to December 2004 and the court is still not in operation. December 2004 for five months they spent \$565,000; then \$20 million. The salaries alone were

\$10,688,000. The inauguration expenses I mentioned, \$3,802,202. So here we are, we are the largest contributor and I ask what benefit is this law to the people of Trinidad and Tobago. Hundreds of millions of dollars spent for this superstructure up there that deals with a minuscule number of cases, while the base of the system is being left to collapse.

Justice Hamel-Smith in his opening of the law term last year, talked about the need for more courts. He talked about St. George West alone, needing nine to 10 Magistrates' Courts. Mr. Speaker, given the high number of cases coming there, but that holds for in other magisterial districts as well, where there are 20,000 cases, and where we are seeing nothing is being done to deal with that problem.

There is one clause in this Bill again that gives me cause for concern. Article VI is titled to the exemption from foreign exchange controls, but it is substantially more than merely foreign exchange controls by this section and I quote:

"Without being restricted by financial controls, regulations or moratoria of any kind, the Court and the Commission shall be entitled for its official use only:

- (a) to purchase from authorized dealers, hold and make use of negotiable currencies, operate foreign currency and external accounts and purchase through authorized dealers, hold and make use of funds and securities;
- (b) freely transfer its funds, securities and foreign currencies to or from Trinidad and Tobago or within Trinidad and Tobago and to convert any currency held by into any other currency."

3.30 p.m.

This appears most unusual for this court to be operating, for its headquarters to be here. They seem to be operating as a bank, in its own right; these are functions that are carried out by the Central Bank, by other banks in the country. Listen to what it says:

"to purchase from authorized dealers, hold and make use of negotiable currencies, operate foreign currency and external accounts and purchase through authorized dealers..."

What is this court doing? Are they investing?

Mr. S. Panday: It is a cambio!

Mrs. K. Persad-Bissessar: I cannot say if that is so, but something is most unusual where you are giving this court—*[Interruption]* They have no cases, so

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they are probably investing the moneys into all these various things. I am sure the Government will have a good explanation to tell us why this is happening.

When we look at these annual reports and see what is happening, you see the massive back up of cases. I read recently where a former Independent Senator Angela Cropper:

“...gave an account in the Senate of the delays and frustrations she experienced during the trial of the murderers of her relatives.”

The *Newsday* editorial of Tuesday, September 25, 2007 said this:

“And, if this is the experience of one of the nation's more prominent citizens, what must the trials be for those ordinary citizens who are entirely unfamiliar with the vagaries of the court system?”

The exceeding slow pace of the court mills have also become ground into the public mind because of certain local cases that have gone to the law courts of the United States. Those cases that languished for years here were satisfactorily wrapped up within months or even weeks in the US courts. Evidence was presented, witnesses heard, judges and juries made their decisions, there was none of this coming back to court every few months.

Here we are, from top to bottom, the backlog, the delay, the denial of justice. What happens when these cases are adjourned and adjourned? Witnesses disappear, they die or go abroad; for years you cannot get a witness; the cases are thrown out. We have other cases being thrown out where witnesses are actually wiped out. But this is where, by attrition, just with time going, with the delay, persons just give up and move out of the system.

Finally, as I close, I ask Government to tell us, because we are not convinced that this legislation would bring any benefit to the people of Trinidad and Tobago. In terms of the piloting of the Bill, I have not heard any factor mentioned there that points us to benefits, whether directly or indirectly, for the citizens of Trinidad and Tobago, and especially for our poor citizens.

Mr. Speaker, I thank you.

ARRANGEMENT OF BUSINESS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that debate on this Bill be suspended briefly so that we could resume the committee stage of the Copyright (Amdt.) Bill, and then return to this matter.

Agreed to.

COPYRIGHT (AMDT.) BILL

[Second Day]

The committee of the whole House resumed its deliberations on the Bill.

[Chairman: Mr. Sinanan]

*Clauses 20 and 21 ordered to stand part of the Bill.**Preamble approved.**Question put and agreed to, That the Bill be reported to the House.**House resumed.**Bill reported, without amendment.*

Mr. Ramesh Lawrence Maharaj (*Tabaquite*): Mr. Speaker, I just wanted to put on the record that the Opposition was not notified that this matter was going to be done today, so we were not prepared.

*Question put, That the Bill be now read the third time.**The House voted: Ayes 26*

AYES

Imbert, Hon. C.

Manning, Hon. P.

Rowley, Hon. Dr. K.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.

Dumas, Hon. R.

Ross, Hon. J.

Taylor, Hon. P.

Swaratsingh, Hon. K.

Beckles, Ms. P.

Parsanlal, Hon. N.

Mc Donald, Hon. M.

Hunt, Hon. G.

Le Gendre, Hon. E.

Browne, Hon. Dr. A.

Callender, Hon. S.

Cox, Hon. D.

Jeffrey, Hon. F.

Hospedales, Hon. A.

Joseph, Hon. R.

Hypolite, N.

Regrello, J.

Roberts, A.

Ojah-Maharaj, Mrs. I.

The following Members abstained: R. L. Maharaj SC, J. Warner, Mrs. K. Persad-Bissessar, Dr. R. Moonilal, Dr. T. Gopeesingh, V. Bharath, S. Panday, Miss M. Panday, C. Sharma, W. Peters, Dr. H. Rafeeq, H. Partap.

Question agreed to.

Bill accordingly read the third time and passed

Mr. Speaker: Order!

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, just for the record, out of courtesy I sent a note to the Opposition Chief Whip informing him today that we would be suspending the Caribbean Court of Justice debate to do this matter.

Mr. Maharaj SC: That note was given today.

CARIBBEAN COURT OF JUSTICE (HEADQUARTERS) BILL

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Speaker, when I heard the contribution by the hon. Member for Siparia, I sat in amazement at some of what I was hearing. I would like to refer to the Report of the Nineteenth Meeting of the Conference of Heads of Government of the Caribbean Community, which was held in Castries, St. Lucia between June 30 and July 04, 1998. [*Crosstalk*]

Mr. S. Panday: Low blow!

Mr. Speaker: Order!

Sen. The Hon. B. Annisette-George: Mr. Speaker, I am referring to paragraph 230, Minute 230 of this report, at page 82. [*Crosstalk*] It says here:

“With regard to the matter of the seat of the Court, Members States expressed support to Trinidad and Tobago to host the seat of the Court provided that that Member State participated in both the original and appellate jurisdictions.”

I move on to refer to a statement made by the then Prime Minister of Trinidad and Tobago, who was then and is now the representative for Couva North. This was at the Twelfth Inter-sessional Meeting of the Conference of the Heads of Government of the Caribbean Community, held in Bridgetown, Barbados, on February 14, 2001.

This is a quote from Mr. B. Panday. [*Crosstalk*] [*Interruption*]

Mr. Manning: “Dat is de man!”

Mr. Speaker: Order!

Sen. The Hon. B. Annisette-George: It says:

“Given what I have just said, let me assure the Conference of the Government of Trinidad and Tobago’s continuing commitment to and support for the establishment of the Caribbean Court of Justice. Indeed, the temporary Headquarters of Port of Spain for the Court will be ready for occupancy by the end of 2001.”

Hon. Members: Shame! Shame! [*Crosstalk*]

Mr. Speaker: Order!

Sen. The Hon. B. Annisette-George: That was the hon. Basdeo Panday on February 14, 2001.

3.45 p.m.

So Mr. Speaker, it is quite clear that well before now, the Government of Trinidad and Tobago had given a commitment for the establishment of the seat of the Caribbean Court of Justice in Trinidad and Tobago and that was made without any law. In fact, this was to take place by the end of April 2001 and on February 14, 2001 there was no law in place and certainly by April 2001 there was no law in place.

Mr. Speaker, the issue that arises here, from what the Member for Siparia would have us believe, is that the Government of Trinidad and Tobago would make agreements and statements in the international community. If she believes that there is need for there to be an existing law, and the hon. Member really believes that, then there is an inherent admission that the Government of Trinidad and Tobago in 2001 would have been making commitments in the international arena that it well knew it was not authorized to make. [*Desk thumping*]

Mr. Speaker, you see, the hon. Member for Siparia knows well that the Government is duly authorized to make international agreements which will be binding in the international sphere and the establishment of the seat of the CCJ in Trinidad and Tobago is not an illegal or unlawful purpose. So there is no need for any law to make it legal, the agreement between the member States for the establishment of the seat here was a lawful one that the Government of Trinidad and Tobago was authorized to make. It was an agreement made by the Government or commitment given by the Government of Trinidad and Tobago since 2001 and a PNM government, coming into office thereafter, and as an honourable government would honour any lawful and honourable agreement made by a government of Trinidad and Tobago even if it were not a PNM government, that is what the PNM Government did in 2005 when the then Minister of Foreign Affairs executed the Headquarters Agreement.

All the illegalities that the hon. Member for Siparia makes as if this establishment of the seat is to be shrouded in; the purpose of the legislation is to give effect to the valid, binding international agreement in the domestic sphere. It is true that the seat and the court have been established and functioning here since 2003. There was no need for any legislation for that purpose to make it legal.

The hon. Member for Siparia speaks about the financial arrangements again in a way as if there has been some contravention of some law, or as if the Bill we now seek to make law is the vehicle by which to make the financial arrangements lawful. The hon. Member for Siparia made mention of Chapter 8, section 112(1) of the Constitution which says:

- “(1) All revenues or other moneys raised or received by Trinidad and Tobago, not being revenues or other moneys payable under this Constitution or any other law into some other public fund established for a specific purpose shall, unless Parliament otherwise provides, be paid into and form one Consolidated Fund.
- (2) No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or

any Act or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 114 or in accordance with any other law.”

The hon. Member for Siparia stopped when she referred to section 112(2) to expenditure being a charge upon the fund as authorized by the Constitution or any Act and did as if the any Act would have been this Bill which we now seek to put in force.

Mr. Imbert: Imagine that, and she was a Minister you know.

Sen. The Hon. B. Annisette-George: Apart from being a Minister, the hon. Member has been a sitting Member of Parliament for quite a long time, in addition to which she is also an attorney at law.

Dr. Rowley: “Ah didn’t say that, ah say bush lawyer.”

Sen. The Hon. B. Annisette-George: The Constitution at section 112(2) speaks about the Appropriation Act and the hon. Member would be quite familiar with the passage by the Parliament of Trinidad and Tobago of an Appropriation Act every year which would authorize expenditure from the Consolidated Fund. It would also set out various heads that are allocated with funds and the Draft Estimates of Expenditure, and maybe it is with the passage of time that the hon. Member for Siparia may have forgotten. The Appropriation Act would have made provisions for the contribution by Trinidad and Tobago to the Trust Fund with support, which supports the Caribbean Court of Justice. Therefore, to speak about moneys being allocated and contributed by the Government of Trinidad and Tobago to the Trust Fund without any authorization will not be correct.

Further, the Government of Trinidad and Tobago does not contribute to salaries or any expenses of the Caribbean Court of Justice on a monthly or annual basis as it would have done to any of its ministries. The Caribbean Court of Justice is set up in accordance with the founding agreement in a manner to ensure a certain amount of distance between the member states and the operation of the Caribbean Court of Justice. That was particularly done to ensure independence of the court to insulate it from any sort of political interference, and this Trust Fund which was established is managed by trustees who manage it for the purposes of receiving the contribution of the member States and using the income to settle the expenses of this court. So to make it appear that the Government of Trinidad and Tobago is contributing on an annual basis to the CCJ at the expense of the needs of other areas of the domestic life of Trinidad and Tobago is not correct. It is almost as if we get the impression—

Mr. Maharaj SC: Is the Attorney General saying that apart from the moneys which are generated from the Trust Fund, that the taxpayer of Trinidad and Tobago makes no further payment to the Caribbean Court of Justice?

Sen. The Hon. B. Annisette-George: The taxpayers make no further contribution. I believe the way in which the hon. Member for Siparia put it, by giving certain immunities to the staff and the members, we are foregoing revenue. We forget that while the court operates here that certain expenditure occurs which redounds to the benefit of the people of Trinidad and Tobago. So the court pays a rent.

Mrs. Persad-Bissessar: How much?

Sen. The Hon. B. Annisette-George: The employees of the court consume in Trinidad and Tobago.

Mrs. Persad-Bissessar: How much is what I ask.

Sen. The Hon. B. Annisette-George: The court in its operations would buy stationery in Trinidad and Tobago so that there is expenditure and, therefore, by the expenditure of the court in Trinidad and Tobago there is a benefit to the citizens. [*Crosstalk*]

Mr. Speaker, much heavy weather had been made of the exemptions that come from the privileges and immunities, but I think that we fail to remember that the Caribbean Court of Justice is an international organization resident in Trinidad and Tobago and it enjoys the same privileges and immunities as any other international organization resident in Trinidad and Tobago, and the similar privileges and immunities that residents and citizens of Trinidad and Tobago enjoy when they are employees of international organizations in any other part of the world. In fact, our staff in our mission in England or embassy in Washington would enjoy similar immunities and privileges. So there is nothing unusual or novel that is done in this Bill for the Caribbean Court of Justice.

Further, we almost get the impression from the contribution from the hon. Member as if there is one cure for every problem that exists in Trinidad and Tobago. Every problem or difficulty has its unique challenges and, therefore, its unique responses, remedies and cures. We have heard a lot of talk about the court system in Trinidad and Tobago and subtly, while the CCJ may not affect the individual rights of citizens of Trinidad and Tobago as the Magistrates' Courts may, the CCJ in its original jurisdiction will lend certainty and predictability to the interpretation of the Revised Treaty of Chaguaramas.

4.00 p.m.

While it settles issues that may be between the contracting parties because the CSME deals with professional services aspects of trade, it is not just the member States that take part in that; it would be the very individual citizens and residents of the member States who would provide professional services. Therefore, in a way, the certainty that the court establishes in its original and exclusive jurisdiction contributes to the macroeconomy of the nation states and, therefore, redounds to the individual benefits of its citizens and residents.

Further, when we look at what this Government is doing in terms of improving the lives of the citizens of Trinidad and Tobago—and the hon. Member spoke with respect to the Judiciary and she quoted from the annual report of the Judiciary and what the Judiciary was crying out for in terms of recording equipment—I would like to read into the record in terms of the developments in the Judiciary concerning just the issue of the recording systems that have been placed in the Judiciary and which help advance the pace at which trials are done in Trinidad and Tobago.

We are talking resources. If we look at it in terms of improving the flow and the pace of trials, I would refer to the implementation of the audio/digital court recording systems—

Mr. Warner: Chaguanas.

Sen. The Hon. B. Annisette-George: I will talk about all the courts. We would see that since 2004, 18 ADCR systems were introduced in 18 courtrooms in the Hall of Justice; seven more were introduced in the conference rooms in the Hall of Justice; nine systems were introduced in nine courtrooms in the San Fernando Supreme Court; in six conference rooms of the San Fernando Supreme Court; in three courtrooms of the Tobago Supreme Court; in two conference rooms of the Tobago Supreme Court. We are talking Magistrates' Courts: In the Port of Spain Magistrates' Court, 15 courtrooms; Tobago Magistrates' Court, three courtrooms; Arima Magistrates' Court, three courtrooms; the Family Court, eight hearing rooms; San Fernando Magistrates' Court, three courtrooms; Couva Magistrates' Court, one courtroom, and it became fully operational at the end of March this year; Sangre Grande Magistrates' Court; two courtrooms; Princes Town Magistrates' Court, two courtrooms will be completed during this year; San Fernando Magistrates' Court, three courtrooms will be completed this year; the Point Fortin Magistrates' Court, two courtrooms will be completed this year; in the Tunapuna Magistrates' Court, four courtrooms will be completed this year. I

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know the hon. Member for Chaguanas West has been quite anticipatory to hear about Chaguanas: three courtrooms will be completed this year in the Chaguanas Magistrates' Court and the installation for Siparia, I am happy to report, will be completed in 2009.

Therefore, when we talk about resources—we talk about courtrooms—I think there can be no denial that this administration has been making resources available for the improvement of the courts in Trinidad and Tobago. In fact, moneys have been allocated in this budget for the acquisition of a site for the relocation of the Sangre Grande Magistrates' Court and for the relocation of the Arima Magistrates' Court. This Government has already committed itself to the roll out of the Family Court. So that it would not be fair to say that the CCJ has been established in Trinidad and Tobago at the expense of the judicial system that affects the lives of the ordinary citizens of Trinidad and Tobago.

Further, I would like to point out that even though the CCJ has been here since 2003 and the judges and members of staff would have enjoyed certain immunities and privileges, this was done in a legal, recognized process by virtue of the Privileges and Immunities (Caribbean Court of Justice, Regional Judicial and Legal Services Commission) and the Caribbean Court of Justice Trust Fund Order, which was passed in the year 2004. So that the immunities which the court enjoys and has enjoyed since it has been established here, has been established and legitimized in law pursuant to an order made under the Privileges Immunities (Diplomatic, Consular and International Organizations) Act.

Further, I would like to say, and correct something that I might have said earlier in terms of the response to the hon. Member for Tabaquite, in that there may be some other costs, because we are committed to ensuring the success of both the court established in Trinidad and Tobago and the Regional Judicial and Legal Services Commission, which is also established here. So there may be some other ancillary costs that are paid by Trinidad and Tobago in siting the court here. So I was correct when I said that other than the contribution to the trust fund, there may be no other contribution, and subject to that, I stand corrected.

Further, in terms of the moneys which would have been spent to establish the function, that would have come from the moneys from the CCJ and not from the Government of Trinidad and Tobago. This court which we have established here—and I have heard just recently last week from one of the members of the International Tribunal on the Law of the Sea, which is established in Hamburg, Germany. When that particular member of that body visited the CCJ a short two weeks ago, he had to remark at how modern a court it was compared to even

international standards; compared to even the Tribunal in Hamburg. The CCJ established in Port of Spain was years away in terms of technology and in term of processes. Therefore, as people of the Caribbean, we have to feel proud in the type of institution we have established. We, as people of Trinidad and Tobago, have to feel proud in terms of providing the seat of such an institution.

In terms of matters that the court has been hearing, the hon. Member spoke of the small number of matters heard throughout its life. But even the statistics she has quoted have shown that the numbers have been increasing; In terms of similar international courts, such as the European Court of Justice, their history also shows that they would have been established for two/three years before any matter would have come to the European Court of Justice. So the Caribbean Court of Justice is not unique in not being initially overwhelmed in matters. This honourable House will be informed that as of April of this year, a matter was filed by a corporate citizen of Trinidad and Tobago at the CCJ.

Mr. S. Panday: TCL.

Sen. The Hon. B. Annette-George: TCL. That was filed as of April 2008. So I would think that as far as citizens of Trinidad and Tobago, organizations in Trinidad and Tobago, accepting and accessing the court in its original jurisdiction, we are beginning to see some sign of progress.

Now, while we may say we are spending money for the court to develop, if we did not have it, we would not see the benefits of it. So that the court being established here, does a number of things. One, it serves as a benchmark that our own courts can be used to model against and to aspire to. Further, this CCJ has both an originating and an appellate jurisdiction and it serves as an appellate jurisdiction while, just for Guyana and Barbados, all the member States when they signed the agreement have committed to making the CCJ its appellate jurisdiction.

In a *Newsday* article of this week—and I am sure it would not have escaped the attention of Members of this honourable House—because, again, as I say, it was in the *Newsday* and Members on the other side are known for saying that the *Newsday* is the premier newspaper in Trinidad and Tobago. This article was written by Leiselle Maraj. Is it any relation to the Member for Tabaquite? This was on Thursday, April 17, 2008 at page 5, referring to the visit of the hon. Prime Minister of Barbados. This was his address to the Trinidad and Tobago Manufacturers Association of Trinidad and Tobago. He was calling upon the members of the Caribbean Community, especially Trinidad and Tobago, to make use of the Caribbean Court of Justice.

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So that in joining this debate, I just wanted to make the record clear in terms of the fact that this CCJ being established here, has not been illegal; the passage of this Bill does not try to make something that was unlawful, lawful; the court in itself is a lawful purpose, so that there is nothing unlawful about it. The Act brings into the domestic realm an agreement that was executed by the Government of Trinidad and Tobago and which it was authorized to do, since 2005 and to give effect to it in our domestic law.

I thank you, Mr. Speaker.

4.15 p.m.

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Mr. Speaker, there is no denial that the government of Trinidad and Tobago in 2001, gave the commitment that the other side spoke about. Even in respect of what was read by the hon. Attorney General at paragraph 230 or 238—I tried to write as quickly as I could—that Trinidad and Tobago will host the seat of the court provided that it participated in the original and appellate jurisdiction.

I want to put this in context because in 2001, as an attorney general, I spent much time—this was one of the most difficult issues—in trying to get the Caribbean Court of Justice going. The then prime minister, the hon. Member for Couva North as quoted by the hon. Attorney General—it is quite clear that Trinidad and Tobago has given a commitment for the seat of the court.

In 2001, the countries had agreed that there had to be a Caribbean Court of Justice, but there was reluctance from the citizens of the countries to support the idea. It was decided that the governments should go forward and take steps to provide the machinery to establish a court and see whether we could agree on the seat of the court, hoping that the countries would come on board. For a court to function it must have cases. When you look at the research that was done, there were not enough matters for the original jurisdiction. It would not have been economically viable for the countries and the population of the countries would not have gone with having a Caribbean Court of Justice, only in respect of interpreting the treaty. In that setting they were even talking of putting together an arbitration committee. In the context of if the countries went ahead, perhaps, it may have caused the population to go along and support the governments to be part and parcel of the court.

In the contribution of the Attorney General in the other place, you made the point and that was so. People were expressing concerns about whether the public will have confidence in the court. Some prime ministers at the level of Caricom

gave the commitment, but when they went back home they faced many problems. In some of those countries they must have had a referendum with a certain percentage. It was not even the members of parliament. It was one of the most difficult issues which governments had to deal with at that time. On one hand, you wanted Caribbean integration and a Caribbean court, but on the other hand, the populations of the countries were saying that you should fix your national justice system first.

As a matter of fact, in some of those meetings when I went, as an attorney general and the Council of Legal Ministers met, after we made our statement, when we went outside we were abused by the population. I see some of the public officers who worked at that time in this Parliament. Attorneys general had many problems. The governments decided to take it in their hands and see whether they could force the situation to have a functioning Caribbean Court of Justice. I do not think that anyone can criticize, regardless of our political sides, that steps were taken to have a Caribbean Court of Justice and steps were taken to have a seat of the court.

I think that where the problem lies and where we have difficulty in justifying the moves that were made, we seemed to have put the cart before the horse. Having made a commitment and gone a certain distance, the government after 2002 or 2003, should have taken steps to ensure that before it went ahead to appoint judges and go that route to have them, it should have got the country to be part and parcel of the court. Now, there is a historic situation which one day may go down in the Guinness Book of Records. You have a court, judges, research and as you said, one of the best courtrooms and technology in the world but no cases. *[Interruption]*

As a matter of fact, I will answer your question now. One of the issues which came up was that if we sat down and did not put a court in place, one day will the British Government end appeals and what would be the situation in the Caribbean? Most of the Attorneys General took steps to find out. I also did that. The position of the British government was that unless the countries decided to withdraw, they would never stop that facility. What has happened?

We should look at this from a practical point of view. We have a situation with a court, judges, the best library probably in the world and much technology. In practice what do you have? You have judges who are not doing any work. As a matter of fact, one of the judges wrote a book. I am sure that they are very unhappy. How could you get up in the morning as a judge and have no case to do? Your legal brain is not given an opportunity to function. There is no challenge.

Most of them end up drinking coffee and reading papers. The question which arises is: Are we going to allow this to continue? Maybe it is time for Caribbean governments to consider whether this situation should not be re-assessed. In a short while the people of the Caribbean will be asking their governments.

In my capacity as lawyer appearing in some of the countries where I speak to some of the prime ministers, it is not politically wise for them to go for a referendum to get support for the court. They will lose. The people will vote against it. There is a situation in which moneys are being spent; these countries are contributing money; even Trinidad and Tobago is expending taxpayers' money and you do not have a situation in which there are cases. Guyana did not have any appeals to the Privy Council when this started. The only country which has come on board which makes a difference is Barbados.

If you look at the statistics of appeals from Barbados which went to the Privy Council, you would see one in a year because the people in Barbados accept the decision of the Barbados Court of Appeal. Trinidad and Tobago is probably the most litigious-conscious country in the Commonwealth. I noticed that my good friend on that side looked at me, but he, too, joined me with litigation. [*Crosstalk*] I do not know why my friend, the Member for Diego Martin West is so incensed about law. I thought that the law—sorry.

The point the hon. Member for Siparia made as I understood it, was that we are not saying that there was no commitment, but if it is you had to expend money, whether a small or large sum of money, you should have come to Parliament and tell the country what it would cost instead of continuing to spend and then come retrospectively with a law to approve what you did. One of the main reasons for Parliament is that money should not be spent without approval. People are entitled to know how moneys are being spent. Mr. Speaker, I am not diverting from the issue, but especially in this day and age where the Prime Minister is saying no subsidy for food and no money to be given for “X”, “Y”, “Z” and social services and people are suffering.

People believe that the money should be spent on them and issues which affect them. The Government has a responsibility in this debate to tell us how much money has been spent in how many years and how much money will be spent on annual basis. When we speak here we do not speak for ourselves; we speak for the people. [*Desk thumping*] We hold power in trust for them. We are the voice of the people. The Government should tell the people in the Parliament the justification for continuing this measure.

I would have thought that the Government would have come today—I know and the Prime Minister and Member for San Fernando East knows that many of the prime ministers of Caricom are having second thoughts as to whether they could continue to support the expense of their countries in having this Caribbean Court of Justice.

Mr. Manning: Mr. Speaker, I have no such knowledge. In fact, I was present in the meeting where we discussed at great length—I think that it happened in St. Vincent and the Grenadines—making the Caribbean Court of Justice independent of the treasuries of individual countries. The governments and leaders present were committed to doing that. At no time in those deliberations was the question raised as to whether we should proceed with this measure or whether we should not proceed with it.

Mr. R. L. Maharaj SC: A few days ago, I heard on the news, it may be wrong news, that the same prime minister of Barbados, although he was appealing for Trinidad and Tobago to be part of, said words to the effect that if it continued like that, it is a waste of time.

Mr. Manning: I want to advise hon. Members on both sides of this House that a financing arrangement has been put in place that makes the Caribbean Court of Justice independent of the treasuries of the individual countries. It has already been done and whatever the workload of the court, there is no additional call on the treasuries of individual countries. There is no basis for any such argument to arise. As far as I am aware, no such argument has arisen.

Mr. R. L. Maharaj SC: The hon. Member for San Fernando East was probably not awake. It has a cost apart from—

Mr. Manning: The Attorney General was talking about Trinidad and Tobago as the headquarters under the Headquarters Agreement with which there will be additional cost for Trinidad and Tobago. The Attorney General said that. The headquarters of the court was agreed to by the hon. Members opposite when they were in government. I will have my say. All I am saying is that additional cost will arise out of the Headquarters Agreement for Trinidad and Tobago. The rest of the Caribbean countries has no additional cost.

Mr. R. L. Maharaj SC: Sir James Mitchell who was a former prime minister and one of the greatest supporters of the court said that the [Interruption] Caribbean Court of Justice should be looked at again.

Mr. Speaker: We will be refreshed. We will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MADAM DEPUTY SPEAKER *in the Chair*]

UNPARLIAMENTARY BEHAVIOUR

Madam Deputy Speaker: Hon. Members, on Friday, April 11, 2008 the hon. Member for Diego Martin North/East sought, by Motion pursuant to Standing Order 27, to have certain matters referred to the Committee of Privileges for consideration and report to this honourable House, specifically statements alleged to have been made by certain Members of this House and other persons unknown concerning the character and conduct of the Speaker of the House in his capacity as Speaker.

These matters, it is alleged, may be acts of misconduct, which amount to contempt of this House, requiring the consideration of the Committee of Privileges. Because these matters involve the Speaker personally, the responsibility for determining, under Standing Order 27(4), whether a *prima facie* case has been established, has been delegated to me.

Hon. Members, I do not wish here and now to repeat the statements which are alleged to have been made. They are recorded in the *Hansard* of Friday, April 11, 2008. Suffice it to say that these statements clearly and unequivocally accuse the Speaker of not being impartial in the discharge of his duties and further attack the character and conduct of the Speaker in his official capacity by describing actions and statements allegedly made by him in the most disparaging and demeaning terms.

I do not need to remind hon. Members that the Speaker of the House is the representative of the House itself in its powers, proceedings and dignity. The Speaker is also the guardian of the rights and privileges of Members and of the House as an institution. He transcends the political process that elects Members to this honourable House and he is required to be scrupulously impartial in the performance of his duties and functions. It is important to note, however, that the conduct of the Speaker is not immune from criticism and comment, but his conduct can only be criticized by a substantive Motion moved for that purpose under Standing Order 36(10).

The Speaker cannot be criticized incidentally in a debate. Standing Order 36(4), which states that it shall be out of order to use offensive and insulting language about Members, and Standing Order 36(5), which states that no Member shall impute improper motives to any other Member, together ensure that debates and speeches on a substantive motion, under Standing Order 36(10), will be

conducted in a manner befitting the dignity of the House and the office of the Speaker. The language contained in the statements which are alleged to have been made will be not be permitted in such a debate.

Hon. Members, in considering the matter before me, I have looked at the practice in the House of Commons of the United Kingdom. I have also looked at the practice in some other Commonwealth jurisdictions, including Canada, Australia, India and New Zealand. You may no doubt recall that in our own jurisdiction, in 1993, the Committee of Privileges of the Senate was asked to consider and report on a matter of privileges referred to it by the President of the Senate, who ruled that a *prima facie* case had been made out against the then Sen. Surendranath Capildeo and Sen. Mumtaz Hosein, in relation to statements allegedly made by them in the print and electronic media. The same matter was considered and reported by the Committee of Privileges with appropriate recommendations.

Hon. Members, as I understand it, parliamentary privilege is concerned with protecting the integrity of the House. Any attack on what is to happen, is happening or has happened in the House may constitute a contempt. Among the privileges of Parliament is included the power to punish for contempt. This power belongs to this honourable House as a collective body for the protection of its Members and the vindication of its own authority and dignity. Contempt includes actions or conduct which, while not breaches of any specific privilege, instruct or impede this House in the performance of its functions for offences against its authority or dignity, such as libels upon itself, its Members or its officers.

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty or which has a tendency directly or indirectly to produce such results may be treated as a contempt even though there is no precedent of the offence. It is, therefore, impossible to list every act which might amount to a contempt.

Hon. Members, it is stated in Erskine May's *Parliamentary Practice*, Twenty-Third Edition, that speeches or writings which reflect on the character or proceedings of the House may be treated as contempt. It is well settled that serious personal reflections on the character of the Speaker which contain accusations of partiality in the discharge of his duty constitute contempt.

In the United Kingdom, reflections upon the character of the Speaker or accusations of partiality in the discharge of his duties have attracted the penal powers of the House of Commons—see pages 144 to 145 of Erskine May's *Parliamentary Procedure*, Twenty-Third Edition.

Unparliamentary Behaviour
[MADAM DEPUTY SPEAKER]

Friday, April 18, 2008

Again, in the United Kingdom, indignities offered to the House by words spoken or writings published, reflecting on its character or proceedings, have been punished by both the House of Lords and the House of Commons upon the principle that such acts of abuse tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them.

It bears repeating here that the Speaker of the House is the representative of the House itself in his powers, proceedings and dignity. Hon. Members, I wish to make it abundantly clear that it is not my task to enquire into the validity of the evidence or to hold an enquiry into the matter. All I am required to do is to consider whether statements alleged to have been made by certain Members of this House and other persons unknown point to the reasonable possibility that contempt has occurred. It is not my function to determine the guilt or innocence of any Member.

I have considered the contents of the statements which have allegedly been made and the principles relating to contempt as outlined above, and in so doing I have examined all appropriate information and I am of the view that a *prima facie* case has been made out that these statements amount to contempt.

Again, I wish to state categorically that I do not, nor can I, express any concluded view on these matters. Hon. Members, as you are aware, this is for the Committee of Privileges to do upon referral to it of these matters for full investigation and report to this honourable House. In the circumstances, I refer the matter to the Committee of Privileges of this House for investigation and report.

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, given your ruling that this matter be referred to the Committee of Privileges for consideration and report, I rise, under Standing Order 25(1) and beg to move that, in accordance with the provisions of Standing Order 90(1), this House agree to suspend Standing Order 75(2).

I also beg to move, in accordance with Standing Order 78(3), that this House name the Member for Arima, Miss Penelope Beckles, as the Chair of the Committee of Privileges, for this matter only.

Question put and agreed to.

CARIBBEAN COURT OF JUSTICE (HEADQUARTERS) BILL

Mr. R. L. Maharaj SC: Madam Deputy Speaker, I was saying, when the break was taken, that the issue really is that we have a court without any cases and the hon. Prime Minister got up when I said that in several countries a few of the Prime Ministers and governments are having seconds thoughts as to whether the court should continue.

As a matter of fact, in the countries of the Eastern Caribbean, although this agreement was signed in 2001 and all these steps taken to have such a court—there was a building, there was technology, judges were appointed—it is significant that after seven years none of these countries have attempted to have a referendum, which is required to be held if they have to accede to this court. In other words, if Antigua, Grenada, St. Lucia and those other countries want to get on board with this court for their final appeals to be heard in the Caribbean Court of Justice, it must be done with a special constitutional procedure. The country must vote with a certain percentage—I think 67 per cent—in a referendum, so that the people have a direct say in determining whether there should be such a procedure.

Madam Deputy Speaker, I think it is a serious matter and that the issue with which the Government has to confront itself is not only the implications of financial expenses, but whether it is doing a disrespect to the court. There is a situation in which there are judges who do not have work to do. This will contribute ultimately to loss of public confidence in this court. In fact, it is because there is a problem of public confidence in the CCJ being the final court of appeal instead of the Privy Council that even the Government of Trinidad and Tobago cannot come with the required Bill to the Parliament to get support. They know that the people would not support them with that, and they probably know that in consultation with members of the public, the country would say they are not ready for that.

5.15 p.m.

It seems to me that the Government has to find a solution to the problem because the taxpayers' moneys have been used. There is a belief that you need a Caribbean institution as a final court of appeal, but there is the question—In most of the cases the people are not saying: “I do not agree that there should not be a court.” People are saying: “Listen, we agree, but we have not reached that stage as yet.” It may be that what the Government should do—because that is the job of a government—is be innovative and try to find solutions to a problem, obviously, in accordance with rules and laws.

What should the Government do? It seems to me that Government could say: “Listen, we cannot get the whole loaf, but we will be satisfied with probably half of a loaf at this time.” It would seem to me that the Government should consider—because I do not agree that it is in the public interest for the expenses and situation to continue in the hope that five or 10 years from now we are going to have cases from all these countries. Because, the way it is looking is that in

most of these countries you are not going to get that support. It would seem to me that probably what the Government should consider is allow this court to do appeals, but not as a final court of appeal. It may be that the Government and the Parliament can consider whether some of the matters, not all, in which the Caribbean Court of Justice could hear appeals from the Court of Appeal of the countries, but you would have a further appeal to the Privy Council.

The advantage of that, in a situation like this, is that the public would get time to see if they could develop confidence in the court. It will be an opportunity for people to see that the judgments of the Caribbean Court of Justice have faced the scrutiny of a higher court, in which the people have considered. Over a period of time, confidence can be built. It would be easier, incrementally, as years go on, to have such a court.

It is very significant. I just want to quote some statistics so that we will understand what the statistics of appeals from Trinidad and Tobago to the Privy Council is like. In 2002, there were 12 appeals to the Privy Council entered from the Court of Appeal. Four of the 12 appeals were dismissed. One was varied and allowed in part and six were allowed. We see the kind of reversals.

In 2003, 14 appeals were entered and five were dismissed. [*Interruption*] It is not 11, it is seven. Six were allowed fully, one in part and four were dismissed out of 12. In 2003, out of a total of 14 appeals, five were dismissed, five were also allowed and four were, in effect withdrawn; dismissed without a hearing.

I have done the statistics from 2004 to present, where 61 appeals were disposed of from the Court of Appeal of Trinidad and Tobago. Of those 61 appeals, 28 were dismissed, six were varied or allowed in part and 27 were allowed. We are in early 2008.

For the period 2004 to present, therefore, it is fair to say that 54 per cent of the appeals disposed of were allowed in part or the order of the Court of Appeal varied. That is a very high number.

[MR. SPEAKER *in the Chair*]

Statistically, we can say that judging from the appeals over the past five years, more often than not, 54 per cent of the time, the local Court of Appeal judgments are disturbed by the Privy Council. Fifty-four percent is an alarmingly high figure for an appellate court. These figures proved that the Court of Appeal, over the past five years, have got it wrong more than half of the time.

This is not only the question of finance or not having cases in a court, when you look at the statistics there is a problem. I think that the Government has to

find a way with consulting the population. Either they close down this CCJ, or they find a way in which public confidence can be built in it so that the Government can have support from the population to have this as a final court.

There is an important matter, when one considers the history of this matter. History would show that even though the UNC Government stated that it was committed to this court, we kept on saying that we are committed to having a Caribbean Court of Justice and we are committed to even having Port of Spain for the headquarters of the court. We kept on saying that it is provided that we have the appellate and original jurisdiction. I do not think there has been any doubt whatsoever that even the population would accede to the original jurisdiction. I think the problem with most of the citizens of the various countries is the appellate jurisdiction.

What we as a government did, both the then Prime Minister and myself, was that we kept on saying—I have the references but I would not quote all of them—that although this Caribbean Court of Justice is to replace the Privy Council which has been in existence for 167 years, it was important for governments to ensure that the public would have confidence in such an institution. We continuously said that we would have to continue to consult with the population as the progress for the establishment of this court continues.

What has happened with the present administration is that although in 2001, we had taken that policy decision, the present administration did not embark upon any consultation with the population as to whether we should establish a court, appoint judges, and then wait for the other countries to be part and parcel, to exercise the jurisdiction of the court.

This brings into focus the importance of a government consulting with the population in an important matter like this. I wish to, through you, ask the Government that it should embark upon a consultation process now as to what the people would want the Government to do with such a court. Because we have a situation in which taxpayers' moneys would continue to be spent on a court without any cases and judges who are not doing any work. I do not think it is a healthy situation at all. I think that in effecting consultation, the Government should, in effect, practice what is happening in some of the countries of the Commonwealth.

Many governments now are producing consultation documents and consultation guidelines in which the governments, as part and parcel of a pre-legislative process or pre-policy decision-making process, would consult with the population. They provide the relevant information and show a machinery in which the people

have such time to consider the matters. They can make adequate time to make representations and the government could show that they can genuinely consider those representations. It then makes its decision and a statement, not giving reasons like a judge or magistrate—but he is saying for whatever reasons, on a basis, they have not accepted some of the consultations.

Mr. Speaker, whatever may have been the position about the Caribbean Court of Justice in 2001, 2002, 2003, or 2004, there are two events which have occurred, which also places the Government in a position in which it has a duty to reconsider this matter and reconsider the documents which established the court.

Mr. Speaker, under the Constitution of Trinidad and Tobago, any decision given by the Judicial Committee of the Privy Council in any appeal shall be enforced in like manner as it were a decision of the Court of Appeal. I quote that in reference to a decision given in the Privy Council in 2004, in a matter involving the documents, under which the Caribbean Court of Justice functions. The question arose from this case from Jamaica, known as the *Independent Jamaica Council for Human Rights (1998) Limited and Others v. Minister Burnett and the Attorney General of Jamaica*. The question arose as to whether the contents of the Regional and Judicial and Legal Services Commission Regulations contravened the Constitution and offended the doctrine of the separation of powers. What the Privy Council decided in paragraph seven of that judgment, after it referred to the fact was that according to the regulations:

“The President of the Court is to be appointed or removed by the qualified majority vote of three-quarters of the contracting parties on the recommendation of the Regional and Judicial and Legal Services Commission.”

It showed that the President of the Court could be removed by three-quarters of the Prime Ministers, which constituted the contracting parties. Then Their Lordships stated that:

“The Judges of the CCJ other than the President are to be appointed or removed by a majority vote of all the members of the Commission... The Commission is to comprise the President of the CCJ as chairman, and ten members, selected or nominated. The Commission is to appoint judges...other than the President, terminate appointments in accordance with the provisions of the Agreement...”

The Privy Council had to consider whether those and other provisions which related to terms and conditions and security of tenure were inconsistent with the Constitution.

At the middle of page 6, there are questions which the Privy Council raised about the terms and conditions. I want to put on record that in paragraph 9, Their Lordships cited the famous case of *Hinds v. The Queen* and stated that there were significant departures in this instrument and thus the Constitution is not as in the United Kingdom's Parliament. They stated that the Constitution is supreme, not the Parliament.

5.30 p.m.

They discussed the provisions of the Jamaican Constitution which says that if you have a deeply entrenched provision which guarantees the independence of the Judiciary and the security of tenure, and there has to be a special alteration of the Constitution to permit that.

Paragraphs 11 and 12 went on to discuss that the Privy Council held that the provisions were unconstitutional. This is at page 11. If I may just put on the record:

“What was constitutionally objectionable, Dr. Barnett submitted, was to establish a new court to which appeals from the Court of Appeal would lie when the new court would enjoy none of the entrenched protection afforded by the Constitution to the Supreme Court and the Court of Appeal and when the parliamentary procedure followed was not that mandated by the Constitution for amendment of an entrenched provision.”

They quoted Lord Diplock, and then:

“...Dr. Barnett said that it would make a mockery of the Constitution if the safeguards entrenched to ensure the integrity of legal process in Jamaica could be circumvented by creating a superior court to enjoy no such constitutional protection.”

In essence, what the Privy Council held is that you cannot create a Caribbean Court of Justice, because the judges do not have the same protection as the judges in the High Court and the Court of Appeal in which a politician cannot interfere with their independence and affect their security of tenure. [*Desk thumping*] On that basis, it held that this agreement was not constitutional and that really prevented the Government of Jamaica from going ahead—not this present government, but the government at the time—with the Caribbean Court of Justice. So, there are constitutional problems in relation to this matter. I think it is time for the Government to assess the situation and try to redress it.

There is another matter which I think is very relevant and what influenced the decision to have a Caribbean Court of Justice. In order for there to be a successful court, or a Caribbean Court of Justice as a final court, the public must have

confidence, and confidence has to be earned. It cannot be extracted; it cannot be forced; it cannot be compelled, and people would have to see if there is such a court, whether their rights can be compromised by political interference. They must have confidence about that.

The Mustill report which had to do with the decision of the Prime Minister to cause the Chief Justice to be disciplined—I do not want to go into all the matters which occurred there, but I just want to put on record what are some of the things that Lord Mustill said in the report which are very important and which had a severe adverse impact upon the public confidence of courts in the Caribbean being the final court, because the perception would be that if the politicians do not like it, the politicians can arrest a Chief Justice or cause an arrest, and even get him out of office. I am talking about the perception.

At page 4 of the report, Lord Mustill said:

“We see the Chief Justice publicly arrested, and later ushered three times into the dock in a criminal court to undergo a summary trial on charges based on allegations by the Chief Magistrate, and then on the last occasion ushered out again in consequence of the refusal by the Chief Magistrate to give evidence against him. During the oral hearings before us we have heard counsel for the Chief Justice publicly accusing the Chief Magistrate of having been bribed to mis-try criminal proceedings against the leader of the opposition party, a former Prime Minister. We can study the battle of press releases between the Chief Justice, the Chief Magistrate and the Attorney General (Mr John Jeremie), putting their accusations directly before the public. We see formal complaints made by the protagonists to disciplinary and police authorities within days of the controversy coming to a head.”

That is important to note.

“We see formal complaints made by the protagonists to disciplinary and police authorities within days of the controversy coming to a head.”

It continues:

“We have heard allegations against the Attorney General, who could have given oral evidence to rebut them, but did not. The air was full of rumour, innuendo and gossip, around and across deep political (and, we are forced to say, ethnic) divides. At least within this narrow field of view, the concept of the separation of powers seems to have been ignored. We need not go on. The picture is ‘troubling’ indeed, both for the Tribunal and for the peoples of Trinidad and Tobago.”

Mr. Speaker, the doctrine of the separation of powers is the bedrock of the Constitution. As a matter of fact, there is no—Mr. Speaker, as you know, being a lawyer—expressed provision guaranteeing it, but it is such a pillar of the Constitution that when cases are decided that this is an essential pillar of the Constitution and it must not be violated. What is happening with the justice system in Trinidad and Tobago is that you have a committee comprising distinguished persons saying that it is troubling for the people of Trinidad and Tobago and the tribunal where the question of the doctrine of the separation of powers is being ignored.

Mr. Speaker, if I could take you quickly to page 21 (d), it says:

“There is evidence, the weight of which we are not in a position to assess, that on 8 May 2006 the Attorney-General had attempted to use the Chief Magistrate’s first statement as a means of pressurising the Chief Justice to resign. The Attorney General denied this in a further press release.”

So, we have a situation in which the evidence shows that the Attorney General, who is the second person in the Cabinet, is being regarded or being perceived as pressurising the Chief Justice to resign with a statement from the Chief Magistrate.

Mr. Speaker, what would the public of Trinidad and Tobago think? In Trinidad and Tobago, you have a Court of Appeal, and in the justice system—I would be fair—there is the perception of the Prime Minister interfering to get rid of a Chief Justice, and the Attorney General, the second man in command, pressurizing the Chief Justice to resign having had a statement from the Chief Magistrate.

It was known that Mr. Monteil was one of the supporters and top officials of the PNM party. That is known and it came out in the evidence. At paragraph 57 it says:

“Mr. Monteil asked Mr Fifi to get HCL to reverse its current stance and repurchase the land from the Chief Magistrate. This approach was successful, and a repurchase went ahead, as we have seen.”

So, the public of Trinidad and Tobago would see that a top member of the PNM—in a case that has political connotation in which the Leader of the Opposition was tried by the Chief Magistrate—had communication and conversation between Mr. Monteil and where the problems of the Chief Magistrate were assisted to be solved by their intervention.

Now, the question which arises is that with that kind of perception, it does not help the public to have confidence in the administration of justice. [*Desk*

CCJ (Headquarters) Bill
[MR. MAHARAJ SC]

Friday, April 18, 2008

thumping] If we want the public to have the CCJ as the final Court of Appeal, the Government has to recognize that this event which occurred is something which should not only be put under the carpet, and believe that the people of Trinidad and Tobago have forgotten it, but it should study it. I asked the Attorney General to study this report and, in that context, to come up with a decision where the people may be able to have the Caribbean Court of Justice over a period of time, and after they have built confidence in a Caribbean Court of Justice as the final court.

Mr. Speaker, I think it is public knowledge—I do not want to go through the entire report—that the Prime Minister relied upon the Chief Magistrate statement in order to cause the machinery to be triggered against the Chief Justice, but let us hear what the tribunal said about the Chief Magistrate’s at paragraph 97. I am just going to read one sentence of that paragraph. It says:

“The whole subject of the Chief Magistrate’s conduct is shrouded in mystery which we have been unable to dispel.”

We have a duty, and the Member of Parliament for Siparia has quite rightly said that she did not deny the UNC administration's role in support of the CCJ.

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. J. Warner*]

Question put and agreed to.

Mr. R. L. Maharaj SC: Mr. Speaker, let me thank hon. Members for extending my time, but I do not intend to take the full 30 minutes.

Mr. Ramnath: This might be your last speech. [*Laughter*]

Mr. R. L. Maharaj SC: Mr. Speaker, I am grateful for the reminder that this might be my last speech. The next point is that I do not think as a Parliament we can dismiss this issue and say that yes, we have put the money in a trust fund, and it is no big thing, because we are only paying for stationery and the immunities. The fact of the matter is that our research has shown that it is a high cost, but whether it is a high cost, a low cost or a medium cost, the position is that it is a cost, and it is a cost on the taxpayers.

I do not have the exact quote, but Nelson Mandela said words to the effect that when people do not have food to eat it is not merely a denial of food, but a denial

of justice. [*Desk thumping*] We are talking about the CCJ, a court which has to do justice to the people. If it is that the people's money is being spent, and the court is not functioning to the maximum, and the court is being treated differently to how they are being treated—a public servant cannot collect money without working. Mr. Speaker, you cannot collect money without performing the functions of the Speaker, and we cannot collect money without performing our functions unless we are suspended, and we still cannot collect money.

5.45 p.m.

What is the work ethic? What is the Vision 2020? What is the development status that we are having to say that we recognize that a court is not functioning? You have one, two or three appeals, but we will still continue it no matter how long it takes. I thought that the Government would come here today and say, listen, we have gone this distance; who made mistakes, all right; whatever happened; but as a government representing the people, we have to do something about this; we have to put something in place. We have to have some assessment of the situation, so that the people would know we have spent so much of your money, but we are going to put in place something to protect any further spending.

The people have to get value for money, because the Government cannot take this position—[*Crosstalk*]

Mr. Speaker: Order!

Mr. R. L. Maharaj SC:—because the Government is saying, as the Member of Parliament for Siparia said, no subsidy on food. They are going to remove fuel subsidy. No increase for pensioners. The Government is saying increase water rates; increase electricity rates. [*Interruption*] You cannot. As a matter of fact, if I may say with the greatest respect, if the Government continues with this attitude, it is really provoking the population. [*Desk thumping*] I would like to make an appeal—and I tried my best to be as objective as I can in this debate—to the Government, to consider whether the jurisdiction of the Caribbean Court of Justice could not be considered to have an appeal jurisdiction from the Court of Appeal in a range of matters that one can examine and with a further appeal to the Privy Council. Even if that is a temporary measure it will help to build confidence in the court. [*Crosstalk*]

I am making a proposal, if the Government accepts our proposal and wants to have consultation with us, we are prepared to have consultation. [*Interruption*] Obviously, it is something of which you will also have to go to the population. [*Crosstalk*]

[MADAM DEPUTY SPEAKER *in the Chair*]

Secondly, I think the Government should give to the population the sums of moneys that have been spent so far; the average sum of money which it would cost every year to the taxpayer to continue to finance this court in the present circumstances, and the Government should commit itself to a reassessment, not of having the court, because I think a decision has been made by Caricom governments to have the court, but a reassessment of the situation; how best that this court could be utilized with the resources and the moneys which have been spent by the taxpayers.

Thank you very much, Madam Deputy Speaker.

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, I beg to move that this House do now adjourn to Wednesday, April 23, 2008—I will take the words of the Opposition at face value—at 1.30 p.m. where we will continue the debate on this Bill; hopefully complete it and time permitting, we would commence the debate on the Pensions (Amdt.) Act.

Madam Deputy Speaker: Hon. Members, before I put the question as it relates to the Motion for the Adjournment, there are two matters to be raised, but we will be dealing with one today and that is a matter to be raised by the Member for Caroni Central.

Construction of a Walkover (Carlsen Field)

Dr. Hamza Rafeeq (Caroni Central): Thank you very much, Madam Deputy Speaker. As you mentioned, there were two matters on the Motion for the Adjournment, but by agreement we have decided to do one this afternoon.

Madam Deputy Speaker, this has to do with the construction of a walkover on the Solomon Hochoy Highway in the vicinity of Carlsen Field. When the Solomon Hochoy Highway was constructed, it cut through several villages, in half. In some areas flyovers were constructed to maintain communication between the two portions of the villages.

In the case of Chase Village, Carlsen Field is on the eastern side and Chase Village is on the other side and the highway is passing through the middle. All the services are situated on one side of the highway as in Chase Village; the markets, groceries, hardwares and most importantly, the schools. So, children who are

going to the primary school are required to cross the highway at least twice on a daily basis. Crossing that Solomon Hochoy Highway is an extremely difficult and dangerous proposition, as I said, which the children must face twice on a daily basis.

Recently, there was a protest by some of the villagers and I had the occasion to park my car on one side and cross to the other side of the highway. Madam Deputy Speaker, I must tell you it was a very scary experience indeed. There is a constant flow of vehicles on the highway and it is difficult to assess in your mind how fast the vehicles are coming and how soon they will be in front of you. It is impossible to wait for the traffic to clear completely because that does not happen on the Solomon Hochoy Highway. On afternoons it is more difficult because when you look on the southern side, the sun is in your eyes. It is extremely difficult for these children to cross this highway twice on a daily basis.

All the primary school children in Carlsen Field go to the Chandernagore Presbyterian School, which is in Chase Village; that is the other side of the highway; 75 per cent of that Chandernagore Presbyterian School's population comes from Carlsen Field. Since the highway has been constructed, there have been several major accidents and about 32 people have died in accidents so far, people from Carlsen Field and visitors visiting relatives in Carlsen Field. In addition to that, several persons have suffered major injuries from accidents and some of them are now in wheelchairs and some are bedridden.

Over the years several requests have been made to construct an overpass so that the residents of Carlsen Field can cross in relative safety. As Member of Parliament, I myself have written to the Minister of Works and Transport on several occasions. I raised the matter in this House on the Motion for the Adjournment and I was told at that time by the then Minister of Works and Transport, Mr. Franklin Khan, that the contract for the construction of that overpass was about to be awarded; that was about four years ago.

About a month ago, I attempted to raise the matter again in this House as a definite matter of urgent public importance; well of course, that was denied. The Couva/Tabaquite/Talparo Regional Corporation has also made representation to the Ministry of Works and Transport to have that overpass constructed. The principal of the Chandernagore Presbyterian School has also made representation to the Ministry of Works and Transport to have the overpass constructed. The residents have done several things to highlight their plight. They have written letters; they have had protest actions and they have also, as I said, written to the Ministry on several occasions.

Construction Of A Walkover
[DR. RAFEEQ]

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Today, the residents of Carlsen Field have mandated me to ask the Minister of Works and Transport, how many more innocent lives must be lost before action is taken. Today, in a country where money is no problem—and I do not know how much that overpass will cost, but it will be a couple million dollars—people in Carlsen Field are dying and they are playing Russian Roulette on a daily basis with their lives.

Today, the Government is spending exorbitant sums of money; we heard about \$200 million for the Caribbean Court of Justice; \$148 million for a house for the Prime Minister; \$500 million or \$600 million for the Torouba stadium; \$400 million or \$500 million for executive jet and so on. All the residents are asking for is an overpass so that the children, particularly, and the residents can cross this road with relative safety.

Mr. Minister, through you, Madam Deputy Speaker, if God forbid, there is another accident there and there is a death, I want you to accompany me to funeral of that victim. I want you to accompany me to the village; it will be an interesting encounter, I am sure.

The residents of Carlsen Field have asked me to raise this matter in Parliament and I am doing so today. But I am also giving notice that if action is not taken within a reasonable time, then this may very well be the first issue before the Equal Opportunity Commission.

Thank you very much.

The Minister of Works and Transport (Hon. Colm Imbert): Thank you, Madam Deputy Speaker. The hon. Member for Caroni Central has been the Member of Parliament for that area for quite some time, certainly during the six years that the UNC government was in power and it would appear that during those six years—because this is not a new problem. The fact that the village in that area was separated by the construction of the highway, is a fact that has been known for a long time. Certainly during six years, and I want to repeat, from 1995 to 2001, the Member for Caroni Central was very well aware of the need for the construction of a pedestrian walkover at that location.

In fact, I dare say, that several of the unfortunate injuries that have taken place at this location, took place while the UNC government was in power, and when the Member for Caroni Central could have persuaded his Cabinet colleagues to construct a walkover. The fact that during those six years they had—I hear the Member for Chaguanas West say, *sotto voce*; that they had no money. They had enough money to spend \$2 billion constructing a shed at Piarco, also called an

airport, but they could not construct a walkover for their own constituents in the Carlsen Field area.

I am not going to be blindsided by the rhetoric and the crocodile tears from the other side. We on this side are very well aware of problem. Unlike the other side; unlike the UNC administration, which for six years refused to do anything to assist the residents of Carlsen Field; refused to construct a pedestrian walkover; instead engaged in squandermania, waste and diversion of public funds into other activities, we on this side are not going to adopt that approach to the construction of this walkover. [*Desk thumping*]

We are going to construct the walkover and I can report to this House today, that the necessary land and topographic surveys have been completed. [*Desk thumping*] The geotechnical investigations and geotechnical evaluations have been completed. The final design of the walkover has been completed. [*Desk thumping*] The tender process is in progress. [*Desk thumping*] Tenders have been invited.

6.00 p.m.

It is expected that the procurement exercise will be completed within the next week. [*Desk thumping*] It will be done lawfully. [*Desk thumping*] The appropriate contractor will be awarded the contract. The walkover will be properly built. [*Desk thumping*]

Hon. Member: Like in Grenada.

Hon. C. Imbert: Construction is expected to commence. [*Crosstalk*] The contract will be properly awarded and the walkover will be properly built. [*Desk thumping*] There will be no misappropriation of public funds with respect to the construction of this walkover. [*Crosstalk*] No diversion of taxpayers' money. [*Desk thumping*] Construction will begin in May 2008. The walkover will take approximately four months and is expected to be completed in September 2008. [*Crosstalk*]

In addition, the cost of the facility will be in excess of \$5 million, because we are going to make sure that this structure is properly built, and in the interim we have installed warning lights in the area, [*Interruption*] flashing amber lights in the immediate vicinity of the affected area so that motorists will take due care and attention. [*Crosstalk*] The ministry has employed a transport contractor to shuttle school children and adults from either side of the highway to selected locations within the crossing zone. [*Crosstalk*]

Construction Of A Walkover
[HON. C. IMBERT]

Friday, April 18, 2008

This, Madam Deputy Speaker, is being done between the hours of 6.00 a.m. to 9.00 a.m. and 2.00 p.m. to 7.00 p.m. Sunday to Sunday, so that this administration has taken short-term measures, long-term measures and medium-term measures to ensure the safety of the residents of the Carlsen Field area. This PNM administration will build the walkover there that the UNC for six years refused to build.

I thank you. [*Desk thumping*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.03 p.m.