

*Leave of Absence**Friday, March 19, 2010***HOUSE OF REPRESENTATIVES***Friday, March 19, 2010*

The House met at 1.30 p.m.

PRAYERS[MADAM DEPUTY SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

Madam Deputy Speaker: Hon. Members, I have received communication from Mr. Jack Warner, Member for Chaguanas West, requesting leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

PETROTRIN PENSIONS BILL

Bill to restructure the pension arrangements of the Petroleum Company of Trinidad and Tobago Limited, brought from the Senate [*The Attorney General*]; read the first time.

PAPERS LAID

1. Audited financial statements of the National Infrastructure Development Company Limited for the financial year ended September 30, 2008. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]

To be referred to the Public Accounts (Enterprises) Committee

2. The Administrative report of the Attorney General for the fiscal period 2004 to 2005. [*The Attorney General (Sen. The Hon. John Jeremie SC)*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago dated March 08, 2010, on a special audit of the Management and maintenance of vehicles in the Trinidad and Tobago Police Service. [*Hon. K. Nunez-Tesheira*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Telecommunications Authority of Trinidad and Tobago for the year ended September 30, 2006. [*Hon. K. Nunez-Tesheira*]

Papers 3 and 4 to be referred to the Public Accounts Committee.

ORAL ANSWER TO QUESTION

The Minister of Works of Transport (Hon. Colm Imbert): Madam Deputy Speaker, there appears to be one question on the Order Paper. The Government is not in a position to answer it at this time. We should be able to answer it in two weeks or so; I beg for a two-week deferral.

Oral Answer to Question

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The following question stood on the Order Paper in the name of Mr. Ramesh Lawrence Maharaj SC (Tabaquite):

**Special Envoy
(Appointment by Prime Minister)**

4. (a) Could the hon. Minister of Foreign Affairs state whether the Prime Minister or the Government appointed any special envoy to travel to foreign countries; and
- (b) If the answer is in the affirmative, please provide the name(s) of the envoy(s) and his/her assignment and give particulars of the terms of employment in each case?

Question, by leave, deferred.

DEFINITE URGENT MATTER

(LEAVE)

**Prime Minister
(Misuse of Funds by)**

Mrs. Kamla Persad-Bissessar (*Siparia*): Madam Deputy Speaker, in accordance with Standing Order 12 of the House of Representatives, I seek leave to move the adjournment of the House of today's sitting for the purpose of discussing a definite matter of urgent public importance, namely, the misuse of public funds by the Prime Minister to host an unscheduled extraordinary Caricom Heads Summit to be held in April 2010. [*Crosstalk*]

The matter is definite, as it pertains specifically to the hosting of an event which, given our nation's limited financial resources at this time, is not a priority, and the result is profligate spending of taxpayers' money.

The matter is urgent, because it was revealed on Wednesday and confirmed yesterday, that Government intends to host an unscheduled meeting of the Caricom Heads within the first two weeks of April, given that only last week the regularly scheduled Heads of Government Summit was held in Dominica.

The matter is of public importance, because it constitutes a divergence of finances away from questionable national priorities, directly affecting the quality and substance for our citizens and compounds the imprudent fiscal management on the part of the Government of Trinidad and Tobago.

Thank you, Madam Deputy Speaker.

Madam Deputy Speaker: Hon. Member, this request does not qualify under Standing Order 12, but will certainly qualify under Standing Order 11.

Statement by Minister

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STATEMENT BY MINISTER

Madam Deputy Speaker: I have been advised that the hon. Attorney General has a statement to make, but this it will be made later in the proceedings.

SUPREME COURT OF JUDICATURE (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Supreme Court of Judicature Act, Chap. 4:01 be now read a second time.

In moving the second reading of this Bill in the other place last month, I put on public record that this measure gives effect to the largest increase in the size of the Judiciary in this country since Independence. This is a measurement both in absolute terms and in percentage terms.

The Bill seeks to increase our complement of judges from 32 to 48. This increase in the number of sitting High Court judges and judges of the Court of Appeal of the Supreme Court of the Republic of Trinidad and Tobago, reflects Government's ongoing commitment to the ideals of Vision 2020, the creation of a society which is governed by the rule of law and not the rule of man.

Although the increases would substantially increase Government's annual recurrent expenditure, we consider it to be critical that the Judiciary should be given the necessary human resources and infrastructure to effectively handle the backlog of cases in the criminal and civil jurisdictions, as well as significant increases in the number of matters which are now before our Court of Appeal.

At this juncture, I should add that we recognize that the Judiciary has not done as well as it might have done in relation to the provision of new court buildings and certain other matter of that ilk. The Executive is prepared to discuss alternative measures, including, perhaps, devolution of those functions if the Judiciary wishes it, back to the Executive, so as to ensure that adequate court structures will be put in place for the benefit of the people of Trinidad and Tobago.

This Government recognizes and is committed to pursuing objectives that would not only enhance the quality of life of its citizens now, but also for future generations. As a consequence, the Government is actually taking the necessary action to further deal with the generally accepted increase in crime, the criminal population and the lawless elements of our society.

We on this side recognize that in the justice system, justice delayed is justice denied and there can be no excuse for the unending preliminary enquiries into corruption and some of the other delays which have occurred in our justice system.

Since Independence, the number of judges in the Supreme Court has been increased over the years. Section 5(1) of the Supreme Court of Judicature Act, as it stands today, provides that there shall be no more than 23 High Court judges, other than the Chief Justice, who can sit in the High Court. This number has been progressively increased over the years since independence as follows: In 1964, the number was increased to 10, from somewhere between six and eight. In 1968, it was increased to 11; in 1979 to 12; in 1980, to 15; in 1991, to 16; in 1996, to 20 and in 2003, to 23.

Section 6(1) of the Act provides that the judges of the Court of Appeal shall be the Chief Justice, who shall be the President of the court and nine other judges. This number has been progressively increased over the years, as follows: In 1968, from three to four; in 1979, from four to six and in 1996 from six to nine. Since 1996, however, the Judicial and Legal Service Commission has made a significant number of temporary appointments to the High Court Bench, as a result of which the Judiciary has been able to draw on a reservoir of talented and responsible attorneys-at-law who were willing to serve for limited periods of six months or more, but not on a permanent basis. Some of those who were appointed to act in this way have subsequently offered themselves for permanent appointments and have been so appointed by the JLSC.

The commission has continued to make a number of temporary appointments to this day. At this time, there are 30 High Court judges, 23 of whom are permanent, as I have said, and seven of whom are temporary. This, however, is inadequate for a variety of reasons. Also, it is obviously more desirable to have a Bench that is permanently staffed by permanent judges, than it is to have a Bench that is staffed in part by permanent judges and in part by temporary judges. This can only be achieved at present by either increasing the maximum number of High Court judges fixed by the Act, or by reducing the number of court sittings.

The dramatic increase in the courts' workload over the past few years, makes the second option of reducing the number of court sittings impossible to contemplate, as it would further exacerbate the current situation that exists both in the High Court and the Court of Appeal. It should be recalled that in September of 2005, the Judiciary implemented the new Civil Proceedings Rules. These new rules have marked a significant step in the administration of justice in Trinidad and Tobago. The rules represent an important departure from the manner in which

civil litigation was undertaken in the past. The rules are designed to ensure that all parties in civil proceedings are placed on an equal footing before the courts, that expenses are minimized and that cases are dealt with in an expeditious fashion.

The benefits of the new rules are undeniable and litigants before the court can attest to this. However, the rules have had a tremendous impact on the use of scarce resources in the Judiciary. They have caused a concomitant increase in the hours of work of our nation's judges, just to keep up with the time limits imposed by the new rules. Since the introduction of the new rules, there has been a steady increase in the number of matters filed each law term. These numbers have moved from 2,519 to 4,632, between 2005 and 2009, a total of 15,725 new civil matters have been filed.

1.45 p.m.

During the same period, 2005 to 2006; 2008 to 2009, a total of 8,351 matters have been determined. If you do the math, Madam Deputy Speaker, there are still 7,374-odd matters to be determined. In spite of these figures, however, performance under the new rules surpasses that under the old rules. The increase in the number of High Court judges from 23 to 36 is required to respond both to the trends described above and to the imperatives of the new Civil Proceedings Rules.

Since 2005, an examination of the requirements for additional High Court Judges to facilitate the smooth operation of the new Civil Proceedings Rules has revealed that it has become necessary to create two additional offices of High Court Judges to deal only with the substantial backlog of matters before the courts under the old rules, and that is exclusively with matters under the old rules.

The appointment of these additional judges is intended to alleviate the heavy workload with which judges already have to treat on a day-to-day basis and would redound to the benefit of citizens who patiently await justice in the overburdened court system.

The appointment of additional judges is also required for the Family Court. You may recall, Madam Deputy Speaker, the launching of the now very successful Family Court Pilot Project, legal basis of which is the Family Proceedings Act, 2004 which is Act No. 3 of 2004. In 2006, Cabinet approved a one-year extension of the project to facilitate inter alia preparation for the expansion of the Family Court throughout the entire country, but initially to Arima and San Fernando. This project is ongoing.

Madam Deputy Speaker, on the criminal side, the degree of the country's crime problem has resulted in severe pressure being brought to bear on the resources of the criminal courts. The inadequacy of the current complement of

judges also applies to the criminal jurisdiction as is evident by the increasing number of such matters the courts are called upon to adjudicate.

An expanded criminal court system must therefore be one of the steps the Government must take to significantly combat crime. It is well known that a significant proportion of criminal acts committed in this country are perpetrated by repeat offenders and by persons with serious criminal matters pending before the court whilst out on bail.

Madam Deputy Speaker, the Government is committed to adopting measures to promote the rule of law, equity and justice to all citizens and to encourage public confidence in and in adherence to the rule of law. The expected rise in the completion rate of civil and criminal matters in the High Court that would occur due to an increase in the number of High Court judges would of necessity also require an increase in the number of Court of Appeal judges to deal in an expeditious manner with the consequential upsurge in appellate activity which will almost inevitably be generated.

In the Court of Appeal since 2004/2005, the number of appeals filed has steadily increased from 575 reaching a total of 617 during the 2008/2009 law term. The number of appeals from the High Court has increased from 215 to 352 during the period, while those from the Magistrates' Court have declined by a small number from 360 to 265.

The number of appeals disposed of increased from 249 during the 2004/2005 law term to 430 during the 2008/2009 law term. This means that for each year many of the appeals are not in fact disposed of notwithstanding the increased activity in the Court of Appeal. The cumulative total of the appeals now stands at 2,986.

At a disposal rate of 400 appeals a year, it will take approximately seven years to deal with these matters alone if something is not done at this time to increase both the resources and capacity of the Court of Appeal. Our work this afternoon involves the former; we are increasing resources, the latter is a judicial function and we await the actions of the Judiciary in respect of that.

At present, the sanctioned strength of the Court of Appeal is 10; made up of nine judges and the Chief Justice. Currently, three judges form the quorum for hearing appeals from the High Court. The Judiciary is therefore desirous of increasing the sanctioned strength by three judges so that scheduling can accommodate alternate simultaneous sittings of the court and the resultant speedier completion of judgments. An increase of this nature will also allow more sittings of the court in San Fernando and Tobago.

The Government has therefore agreed—and this is in the legislation which is before us this afternoon—to increase the number of Appeal Court judges from a total of nine to 12. It is expected, Madam Deputy Speaker, that the increase in the number of judges will be complemented by an increase in the number of support staff, including judicial support officers, and the Executive awaits the proposals from the Judiciary to give effect to that matter.

Madam Deputy Speaker, separate and apart from the administrative measures, the Bill before this honourable House is part of a package of legislative measures which are being proposed by the Government to implement needed reforms to the criminal justice system. The measures are intended to improve the ability of the State to deal with the criminal activity now taking place in the country.

In fact, those who abuse technicalities and shun substance have shifted the balance between the rights of the individual and that of the society at large and this Government properly foresaw the need for new legislative and administrative measures to recalibrate the balance of rights.

Over the last five years, the Government has made it a priority to introduce numerous reforms in the criminal justice systems. These have ranged from the introduction of DNA legislation to assist the police in the fight against crime, improve procedures to conduct preliminary enquiries to the reform of our evidence rules to allow for the admissibility of hearsay evidence in documentary form in criminal proceedings, including preliminary enquiries.

Madam Deputy Speaker, we also amended the Bail Act to make the offences of kidnapping for ransom or knowingly negotiating to obtain a ransom under the Kidnapping Act, Chap. 11:26, non-bailable offences for a period of 60 days. We also made certain violent offences non-bailable such as; possession of a firearm or ammunition without a licence, trafficking in a dangerous drug, or being in possession of a dangerous drug for the purpose of trafficking under the Dangerous Drugs Act. These are just a few of the measures we have introduced over the past few years to combat the rise in the incidence of violent crime.

Today, we on this side, see the need for even wider ranging reform of the criminal justice system if we are to put a halt to those who would trample the law. I wish to indicate that legislation will soon be introduced to expand the powers of the Director of Public Prosecutions to indict a person before the High Court for certain serious offences.

We amended the Evidence Act a few months ago to provide that the contents of a previous inconsistent statement made by a person is admissible in criminal proceedings to make provision for the admissibility of video recordings of the

Supreme Court of Judicature (Amdt.) Bill
[SEN. THE HON. J. JÉRÉMIE SC]

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voluntary statements of witnesses and to abolish both the statutory position and the common law rules governing the admissibility of bad character evidence and to introduce a rebalanced statutory scheme in its place.

Similarly, Madam Deputy Speaker, there is a Bill on the Order Paper which we shall soon debate to amend the Criminal Procedure Act, Chap. 12:02 to introduce two significant changes to the conduct of criminal trials in the High Court.

The first change will allow for some criminal trials in the High Court to be conducted without a jury in circumstances where there may be a danger of jury tampering. The second change will allow for the court to provide assistance to intimidated witnesses and jurors: The former, when giving evidence, and the latter, when deliberating in proceedings. The assistance will be in the form of the exclusion from the court of specified persons where their presence is having, or is likely to have an intimidatory effect upon witnesses or jurors.

Further, Madam Deputy Speaker, an initiative from the Ministry of the Attorney General on the creation of a special criminal court committee is before the Cabinet to deal with the expedition of the trials of serious criminal offences such as kidnapping, firearms and narcotic trafficking offences.

Finally, Madam Deputy Speaker, public confidence in our system of criminal justice is being eroded daily and the system has been in need of reform for a long time. Legislative measures are necessarily in order to strengthen the confidence of the public in the justice system and particularly at this time.

This Bill seeks to strengthen the rule of law and our criminal justice system and I call upon hon. Members to support the Bill in the interest of our beloved country. In the Senate, it should be recalled that the Independent Bench joined with the Opposition Bench in support of this particular measure, and it is against the backdrop of the foregoing, that the Government now seeks the support of this honourable House in making the proposed amendments to the Supreme Court of Judicature Act by way of the amendments proposed in clauses 3 and 4 of the Bill which is now before us.

Madam Deputy Speaker, with these few words, I beg to move.

Question proposed.

Madam Deputy Speaker: Hon. Member, before you speak, I omitted at the start of the proceedings to acknowledge the presence of the hon. Member for Caroni Central. [*Desk thumping*]

We do know that you have not been here for some time, on behalf of the entire House, we welcome you here again and wish you all the best and hope that all your proceedings in relation to your health have been very smooth.

Mr. Subhas Panday (*Princes Town North*): Thank you very much, Madam Deputy Speaker. I too would like to indicate to my friend on my right how happy we are to have him back with us, and I feel proud to have such a distinguished person sitting on my right.

Madam Deputy Speaker, hon. Attorney General, in your closing part of your speech you indicated that you wanted this honourable House to support this Bill because the Opposition and the Independents in the other place supported it. We want to indicate to you that we are a responsible Opposition, we are a government in waiting and we will be responsible and in those circumstances, you are kicking an open door and this is indeed good legislation and we intend to support it.

2.00 p.m.

But at this time I really want to apologize to the nation and to say how ashamed I am of myself in being such a big man to be hoodwinked by such a little man, the Member for Diego Martin North/East, in passing legislation in this honourable House that brings the House into odium and scorn by the population. I heard on the last occasion the hon. Member for Diego Martin North/East indicate that we are going to do the three Bills today on this Order Paper. I want to let him know—not you, Attorney General—that this is serious legislation and that we should take our time and not really run through legislation for the sake of passing legislation so that at the end of the day we will say, look how many Bills we have passed for the year. But, in fact, we must really pass legislation to serve the people.

Mr. Attorney General, you were not here on the last occasion, but this honourable House passed a Bill, and Madam Deputy Speaker, I crave your indulgence to suspend the Standing Order to refer to a Bill which was dealt with in the same session, because it is so important that it needs to be brought to the forefront. We passed the Motor Vehicles Bill on the last occasion and do you know what we did? We were just trying to play "bad john", showing that we are a "bad john" government; we intend to penalize you and we increase the fines on tickets for breach of regulations under section 106 of the Motor Vehicles and Road Traffic Act. Under Chap. 48:52 which is called the ticket legislation, it derives its strength from section 101 of Chap. 48:40, in that it does not create an offence but merely as an administrative process, imposes fines for tickets which are less than the substantive fine so that we could ease up the backlogs in court.

Do you know what we did? We rushed through this legislation without thinking. That Member for Diego Martin North/East who tries to play that he is a lawyer, bungled everything up and we have increased the fines on tickets which are greater than the substantive law. On a ticket which is supposed to be less than the substantive law, we came to this Parliament—big people like all of us—and increased the fine on the ticket so much higher than the substantive law.

For example, we have increased the traffic offences. Where the fine was \$400 and the ticket was \$150, now we have increased that to \$1,000. For not wearing a helmet the ticket was \$500. I think here we have gone up to \$750 and the substantive amount was \$500. The speed limit, the amount in the substantive law was \$500; we have raised it to \$2,000.

So what has happened is, we have raised the fines in the ticket and left the substantive law as it is. So what happens is, when lawyers read this, they are laughing at us. It means that if one gets a ticket and one pays it, you might have to pay \$1,000. If, however, you do not pay the ticket and you go to court, because we did not amend the substantive law the magistrate could only charge you \$400. So you end up with a ticket worth \$2,000 and the fellow could say, "Yuh see me? I not paying that." He goes to court, wastes the court's time, and the court says, "Hello, I only have the power to impose \$200 on you." This is where we have caused this embarrassment to all of us. In those circumstances, I think we should bring back that legislation—it has gone to the other place—review it and bring it back.

But the point I am making here, we are trying to rush legislation and making such a mess of it, especially by that gentleman at your side there; and waste so much time. We worked up to eight or nine in the night; it goes to the other place and has to come back here to do it over again. Let us take our time with legislation. We have always said that when you legislate, you must make sure you know what you are doing. Do not bungle like him. You do not legislate only for today; you do not legislate only as a kneejerk reaction, but you legislate for the future.

Mr. Imbert: I thank the Member for giving way. The drafters, the legal advisers, had looked at that precise matter. There is the Motor Vehicles and Road Traffic Act and the Motor Vehicles and Road Traffic (Enforcement and Administration) Act and there are several other Acts. Some relate to each other. There are regulations and so on; subsidiary and primary legislation. They had looked at everything and as far as I am aware—I am always subject to correction, but as far as I am aware, the drafters of the legislation looked at the primary legislation, the subsidiary legislation, the interlocking legislation, the governing legislation and all of the fines and penalties have been appropriately increased, so there is no conflict or no contradiction. I am always

subject to correction. The matter has gone to the Senate, so that we will look at your concern—I would not want to call it a criticism—between now and the time that matter is dealt with in the other place and make appropriate adjustments. But the drafters assured me that the matter of which you speak, did not exist.

Mr. S. Panday: So, therefore, you are admitting that it has begun to engage the attention of the drafters subsequent to the passing of the law.

Mr. Imbert: No. No, it has not.

Mr. S. Panday: Okay. Tell me then, why it is you brought in the dangerous driving—

Madam Deputy Speaker: No. Hon. Member, I have—

Mr. S. Panday: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker: Okay. I have allowed you some latitude. Okay?

Mr. S. Panday: I have made my point. I made the point, Madam Deputy Speaker, and just to indicate to that hon. Member there, that you must not rush legislation in Parliament but we must have good deliberations so that at the end of the day we will pass good legislation. That is all. And that he has been misleading the House—

Mr. Imbert: Madam Deputy Speaker, Standing Order 36(1). What does this have to do with increasing judges?

Ms. Kangaloo: Standing Order 36(5).

Mr. Imbert: Yes, Standing Order 36(5) as well; imputing improper motives.

Mr. S. Panday: Okay. Okay. The only problem is, it is strange that somebody who is so ignorant of what he is doing is so confident in what he is doing.

Mr. Imbert: Madam Deputy Speaker, Standing Order 36(5), Standing Order 36(1), both irrelevant and offensive.

Madam Deputy Speaker: Hon. Member, I had advised you a minute or so ago that you should come back to the Bill.

Mr. S. Panday: Thank you, Madam Deputy Speaker. [*Interruption*]

But the point I am making is, the way I will tie it—and I intend to tie it—is that he said on the last occasion that today we are debating three Bills and that is why I brought that point.

Mr. Imbert: Nonsense!

Mr. S. Panday: We have now started with this—may I enter the point about increasing the number of judges—

Mr. Abdul-Hamid: If Jack was here "yuh couldn't talk". [*Laughter*]

Mr. S. Panday: The Bill which is before this honourable House today is the Bill to increase the number of judges of the Supreme Court, and it says to increase the number of judges from 23 to 36. In order to open this debate on this topic, I would like really to start with a statement made by Sen. Mark in the other place. He said:

“...the Judiciary remains fiercely independent and impartial and you have a system of integrity and honesty—the Executive must never interfere in the affairs of the Judiciary. Once we have that in place, we can rest assured...a robust rule of law system in our country; we would allow democracy to flourish in this land...”

I want to agree with hon. Sen. Wade Mark when he made that statement, and that is the independence of the Judiciary. That takes me to a question I want to pose to the hon. Prime Minister: Why so long? Why did you take so long to bring this legislation before this honourable House? You remember that this piece of legislation, this Bill, was on the Order Paper in the last Parliament sometime at the end of 2004. I remember it started as Bill No. 4 and as time passed, the Bill moved up to No. 1 and the moment the Bill reached up to No. 1 they threw it off the Order Paper.

We ask the question: Why did the Government do that then? Why did the Government wait up until this time? Why did they not bring that Bill and pass it in 2005? Why did they have to wait? They said this Bill was to deal with crime. We ask you: Why did you have to wait from 2005 to 2010 to cause thousands of young persons to be killed before you bring this Bill? Why? Why did you not bring it before now?

It is clear that the reason this Bill was not brought before is because of this Government's intention to interfere with the independence of the Judiciary. Independence of the Judiciary is important—very important—and, therefore, not only must the individual judge have independence but the judiciary as a whole, must be independent. But this Prime Minister decides that he is going to interfere and the way he interferes, he tries to interfere in a legal way by using the section 90 veto.

Mr. Dumas: A legal interference?

Mr. S. Panday: Yes, just like what he did to Mr. Gaspard. When the hon. Chief Justice Bernard retired, the next person in line was Justice Sat Sharma. When the name came up, the Prime Minister vetoed it. And what was the rumour we were hearing? The rumour we were hearing was: you cannot leave him there for 13 years; it is too long to have him there. So they brought in Justice de la

Bastide who was a partner in the firm of de la Bastide and Jacelon. Everybody knows who Jacelon was; the treasurer of the PNM. They brought him in there. When his time came—and I say no more. Hon. Justice de la Bastice is a man of integrity, but I am just showing you how the PNM use good people to try to destroy a system and in this case the independence of the Judiciary.

After the term of Justice de la Bastide came to an end, they tried the same thing, and this country went into an uproar. All sorts of statements were made and the Prime Minister was forced to withdraw the veto to allow Justice Sat Sharma to come in. But he never wanted him. The Prime Minister always wants to interfere in the Judiciary. The day he became the Chief Justice, the Prime Minister started to hound him. You are talking about hounding Calder Hart? It was hounding by the Prime Minister of the Chief Justice and, by extension, interfering with the independence of the Judiciary.

They had him going. Eventually, the Prime Minister thought he caught him and imagine a Prime Minister calling a Chief Justice: "Come here. The hon. Attorney General and the Director of Public Prosecutions have made complaints on you. Come here, little boy; come here, head of the Judiciary, resign." Imagine the head of the Executive threatening the head of the Judiciary to resign or else face it. "I will humiliate you. I will put your juniors to try you."

That is the venom of this Prime Minister. That is the way he intends to destroy all the institutions in the country, by interfering with that most important institution, the Judiciary, the independence of the Judiciary.

After that, they charged him. Imagine, pushing knobs—

Mr. Imbert: Madam Deputy Speaker—

2.15 p.m.

Madam Deputy Speaker: Hon. Member, I am sure you are aware of what we are debating today. You need to come back to the Bill.

Mr. S. Panday: We are talking about appointing judges. We are saying when you appoint them, do not interfere with them. Do not try this strict—Do not interfere with the Judiciary, because you could appoint 100 judges, but the moment you interfere with them, you are undermining the whole process.

Mr. Imbert: Standing Order 36(1), the Bill before the House has nothing to do with the appointment of judges. It is simply increasing the number of judges. We do not appoint judges.

Madam Deputy Speaker: Hon. Member, I already indicated that you need to come back to the Bill.

Mr. S. Panday: Increasing without appointing? That is the nonsense we are hearing. You are increasing the number of judges, but you cannot talk about appointment. No, you are talking about—I am saying that the Prime Minister did interfere with the Judiciary. You can increase the number of judges to whatever, 1,000, but the moment you interfere with them, you must talk about it. Therefore, it is not only about appointment but interfering with the Judiciary. It makes no sense increasing the number of judges if you have to interfere with them and put them under your heels. This is the argument I am making.

Now, you want me to come to it, I would come to it now. The Chief Justice is the Chairman of the Judicial and Legal Service Commission. The Judicial and Legal Service Commission is the commission which oversees the appointment of judges. This Government—[*Interruption*] you want to talk—did not want to have the appointment, because if you do not have the Increase, you cannot have the appointment. You must have an increase before an appointment.

In 2005, they sat on the Bill and kicked it off the Order Paper, to increase the number of judges, because they did not want the Chief Justice to have a say in the appointment of judges because of the Prime Minister's vendetta against him. That is the way I intend to tie this debate. This same Bill—you want to stand up again? This same Bill was on the Order Paper, why did you withdraw it? Why now? That is the question I am asking. It is merely to show that this Government is interfering, using all means whatsoever, legitimate and otherwise, and stifling the independence of the Judiciary. Could I then, if you want to raise Standing Order 36(5), ask a question? Why did you take it off the Order Paper at that time and bring it back now? "Yuh want tuh answer? Yuh want to stand up? Yuh want tuh talk? What happen, yuh not hearing? Stick break in yuh ears?" That is an important issue.

That is why I started with Sen. Mark's statement that the Judiciary should be an independent body. This same Bill was withdrawn on the last occasion, because of spite by the Government, and in particular by the Prime Minister's vindictiveness. "Yuh want tuh talk?" This is merely to control the institutions.

Do you remember, in the appointment of the Commissioner of Police, we brought Motions to force them to debate the appointment of the Commissioner of Police? What did you do? Did you not vote against it? Are you telling me that I could have brought it? We have brought things before the Parliament and you have treated it with contempt.

The hon. Attorney General came before this House today and said in his presentation that they have brought this legislation because they intend to ensure that the Judiciary is expanded and that the Judiciary gets what it wants. They give

the impression that the appointment of judges is the panacea for all the problems. With respect to dealing with crime and backlog, you have appointed judges. What funds have you made available for the subsidiary needs of that appointment? For example, we ask you the question: How do you expect the Judiciary to expand, when this Government reduced the allotment for development to the Judiciary?

In the last budget, the Judiciary asked for "300 and something million dollars", instead they gave them \$60 million. Therefore, you are appointing judges, but you are not giving them the funds in order to perform. We ask you: How do you intend for the Judiciary to develop, if you have taken so much money away from the Judiciary? I think during the last two years, the budget of the Judiciary has been cut, especially in the area of development. We ask the question: If you are so concerned about the Judiciary and you are so concerned to the extent that you are going to increase the number of judges, why have you reduced the allotment for the development of the Judiciary? The argument they use is that the funds are low. Do you not have enough funds to give the Judiciary so that arm of the Government could perform to deal with the major issues in the country like crime and the backlog of cases? Yet, you can waste \$2 million on a flag. You cannot give the Judiciary the money it needs to deal with crime, but you can find \$2 million to waste on a flag.

At the same time, they could find so much money for the Summit, hundreds or millions of dollars, and they cannot give the Judiciary money. Look at the hundreds of millions of dollars they have given to UDeCott and you did not give the Judiciary. You have cut the resources to the Judiciary, while you wasted and engaged in corruption. Look at the amount of money you have spent on the Brian Lara Stadium. The sum of \$1 billion has been wasted and gone in corruption. Why is it you did not give the Judiciary what it needed? You have money to do everything else. You have money to waste. You have money to perpetuate corruption, but you do not have any money to help the Judiciary. That is why I raise the point here today, that merely appointing judges is not the issue. The issue is to assist the Judiciary in moving forward.

As the hon. Attorney General spoke earlier today, they said that the aim of the appointment of these judges is to clear up the backlog. You are going to increase these numbers of judges, but do you know judges today, at this point in time, take notes by longhand? In the Magistrates' Courts yes, they still do that. [*Interruption*] They do not. All judges do not have—they cannot use it. You, as the Member for Barataria/San Juan, are saying that you give the judges facilities and they cannot use it. That is the respect you have for judges? Is it not true? I am there. If they had palantypists, video recording and audio recording, matters that take six months will be reduced by half to three months and matters which will take about

Supreme Court of Judicature (Amdt.) Bill
[MR. S. PANDAY]

Friday, March 19, 2010

one month will be reduced to one-half. Therefore, if we merely appoint judges and we do not give them that support, we are wasting time. We will make little or no dent in the backlog of cases, whatsoever. I do not know if we are putting the horse before the cart, in that persons should have been trained as palantypists and other things like that and then we appoint the judges.

Also, if we look at it from another point of view, if you introduce technology and we can reduce the time by half in the courts, then there would not have been the necessity to appoint so many judges, or if you have appointed this number of judges, you would have gotten twice the amount of benefit. That is why we are saying today that we are merely tinkering with the problem and not dealing with it. [*Interruption*] Yes we are supporting it.

Madam Deputy Speaker, we are increasing the number of judges. We ask the question: As you increase the number of judges, do you have space for them? Is there space for the number of judges? You can say, for example: We are increasing the judges and, therefore, those who are acting, we will make them permanent and we will have other judges on standby. We are saying there is no space whatsoever for the increase in the number of judges.

For example, in the Hall of Justice, do you remember Madam Deputy Speaker, they have had to chase the Tax Appeal Board, in order to make space, because there was no space. In San Fernando, they use the robing room now as a court. There is no space whatsoever. Therefore, we are asking: What steps are being taken to increase the space for judges?

Another issue which has been raised in some quarters is that we should attempt to better use our human resources. For example, we are increasing the complement of the number of judges. Why do we not extend the term of the judges? For example, the Act says that a judge must retire at the age of 65. When a judge retires at the age of 65, he goes home. In England, there was a judge by the name of Lord Denning, everybody knows he was a great jurist, and he retired at 84. Why do we not, in order to utilize our human resources, use our sources? At 65, a judge is now in his prime, because law is a learning process. At 65, that judge is still in his prime. Why it is we do not increase the age of retirement of our judges? For example, increase it to 75 and make it optional to go at 65 and 75. Maybe it could be compulsory.

In those circumstances, we will be better utilizing our present human resources. That may lead to another area. We are increasing the number of judges. There is a trend in the society now, where they are appointing younger persons as judges, when in truth and in fact we should have the mix.

2.30 p.m.

Because what happens is, if somebody is in private practice over a number of years, up to 50 years they are still learning and most of them reach their prime in their 50s. If you take a judge at that age, a judge, lawyer or legal person will have the experience, and therefore you would have a better quality of judge. Therefore, at that stage if you are getting that quality from a judge, give him a longer time on the bench so that we could benefit from him. It leads to another question—

Mr. Imbert: I thank the Member for giving way. I am very interested in the comments that he is making now as opposed to what he said before. Are you advocating that it would be best to have judges somewhere around age 50 having about 15 or 16 years experience in the courts? Or conversely, are you saying that somebody who has 10 years experience and might be in their 30s is unfit or unsuitable to be a judge? I just want to know what are you saying.

Mr. S. Panday: What I am saying is mix it, and therefore you must not discriminate against the older persons. Mix it so you would have a better mix in the Judiciary.

Madam Deputy Speaker, if that is done somebody could go, let us say, compulsorily at 75—it eases up that person, because everybody knows that the law says that after a judge leaves the bench he cannot practise for 10 years, so he goes on pension, but when he goes on pension, what kind of pension does he gets? He gets little or no pension and in those circumstances instead of having him there for 10 years doing nothing, he cannot practise and he is still in his prime, why do we not keep him on the bench so the country could benefit?

You spoke, hon. Member, about pension for judges. Only yesterday I saw in the newspaper "Ex-judges want bigger pensions". It says:

"There are some 22 other retired judges, some of whom got good government jobs after they retired from the judiciary."—There are others after they have retired from the Judiciary.

"But there are others who are living hand-to-mouth"—imagine you have people who have made contributions to this society, judges, living now hand-to-mouth—"and in desperate need of medical attention, but they cannot afford, the official added.

The widow of one retired judge receives a \$400 a month pension..."

And he cannot practice. So after he goes off the bench he cannot practise for 10 years.

Mr. Dumas: That is impossible. That is impossible.

Mr. S. Panday: I am telling you, \$400.

Mr. Swaratsingh: That is widows' benefits.

Mr. S. Panday: "while the average pension for other former judges amount to \$3,600 monthly. One former judge is on death's door, the official added. Others barely survive, because not many of them have worked since they retired at 65."

This was the point I was making. Let us increase the age of retirement for judges; so that not only we shall benefit from their experience and expertise, but also, we would prevent them from going into the pasture at that age.

It says after they have retired at the age of 65 they cannot practise for 10 years.

"Among the surviving former judges are two ex-Chief Justices.

Over the past ten years, the former judges have been pleading..."

for increased pensions due to increased food prices and the high cost of living. It said they have gone to the Prime Minister cap in hand.

It also says here:

"Unlike magistrates, judges are not allowed to practise at the local bar for ten years after their retirement."

This means that when you retire a judge at 65 he cannot practise until 75 and by that time the law would have gone and left him. So while we are looking here today at increasing the number of judges we should also attempt to look at the other issue of increasing the age of retirement.

The hon. Attorney General today also spoke about appointment of temporary judges, although he said we are not talking about appointment of temporary judges, there has been an argument—and the Attorney General spoke about the appointments of temporary judges. The hon. Attorney General also said today that in the past there were very bright persons at the bar who offered to give their services for short periods and they decided to go back out into practice. The reason for that is because of this 10-year stricture on retirement.

I humbly submit, although many persons are saying that we should not have temporary judges, I want to submit that judges, when they are appointed should be put on probation and be given the opportunity to leave after six months if they want. In that short period of time they would not have been able to do many cases to affect the practise.

Ms. Kangaloo: OJT.

Mr. S. Panday: Yes, OJT, that is good, because what has happened is— [Interruption] she said OJT, hold on. They are talking about OJT, what I am trying to prevent is the debacle which took place in Mausica where the PNM took up a lot of persons because they thought that they were political supporters, young persons without any experience, while you had other teachers who had to wait five years before they go to training college, you took people just out of college, put them in Mausica, did not know if they wanted to become teachers, you fed them, housed them and when they came out they decided that they did not like teaching.

Mr. Dumas: What is the reason for that?

Mr. S. Panday: The reason for that is because you took people, merely put them there and did not find out if they liked teaching.

Mr. Imbert: What is the rate of loss?

Mr. S. Panday: What is the rate of loss? A high rate of loss. This is why the education system today is suffering like that, because of you.

We are saying because of this stricture where you cannot practise after 10 years, put the judge through a probationary period, which is temporary, for a period of six months, let them go into the practice of a judge and if they do not like it, they could walk out and not suffer any loss. By so doing you would get people to go in the Judiciary who want to stay in the Judiciary.

There are many persons who have taken permanent appointments and have found themselves in a position where they want to come out but they cannot come out. There was one judge after he was appointed he could not take it anymore and he had to resign, he could not make a living here and that judge had to leave the country. So some people are saying, no temporary judges. I say, you may not say you want temporary judges, but judges should be able to go into a temporary situation and then graduate as time goes along.

The hon. Attorney General also spoke about the appointment of these judges who would deal with the backlog of cases. As I have indicated before, that indeed, it might help, but there are other things we might need to put in place to deal with the system. If one looks at the system as it stands, the system creates a backlog. For example, yesterday in San Fernando there was a licensing session. They had 1,000 persons in the courthouse yesterday coming to have their spiritual grocers' licence renewed. When you could have taken that judicial time and done cases, clearing up the backlog, the magistrate had to take all day yesterday, merely calling people and saying granted, not granted, wasting judicial time. [Desk

thumping] We must look at that system. The system of licensing could have been done by an administrative system, the Ministry of Trade and Industry, but instead we are using up judicial time. We have to look at these other aspects before or in addition to the appointment of judges.

Another issue many persons have been talking about to ease up the backlog in these cases is a remand court. Appointing judges like this alone would not clear the backlog; we have to look at other areas so we could deal with it. Last week Tuesday 77 prisoners were brought to the San Fernando Magistrates' Court. The number they brought from Golden Grove was so large that they did not have a sufficient number of police officers to command. When the police officer asked them to go in their cells, they said it is only four of you and 77 of us, the police had to back out and run. They almost broke down the cells downstairs. Do you know what happened in San Fernando? They had to pack back all of those men, put them into the van and they did not see the court up to now.

Seventy-seven cases could not have been called. They came to San Fernando for the ride, behaved badly, not a single person went to court and all the cases were adjourned. We need to deal with situations like that. It costs a lot of money to transport prisoners down to the courts. Therefore we are saying appointment of judges alone is not the solution; increasing the number of judges alone is not the solution. [*Desk thumping*] We need to look at other aspects. We have asked that a remand court be set up at the prison and we should have technology. [*Desk thumping*]

They say that there is one pilot project, but we must be able to have courts in the jail. Let a magistrate be assigned to the jail. Let us have a courtroom in the jail and let the prisoners be brought to court.

Mr. Dumas: You would call it kangaroo court.

Mr. S. Panday: No, not because you look like a kangaroo you think everything kangaroo-like. [*Interruption*]

What would happen is so that lawyers could have a video link set up, so the lawyers go to court in San Fernando, [*Interruption*] maybe in a conference room in San Fernando, Point Fortin and the lawyer would go there and you have a video link with the remand court in the jail and the lawyer would be able to talk to the magistrate in the Remand Yard and his client. The situation will be as though he is there. The client would be represented, because his lawyer could stand up for his rights. For example, he could ask for adjournments, he could ask for bail. The prisoner will not, in any way, suffer by not coming to South or not coming to the outside courts, and he would be duly represented.

By so doing, we would not have to spend large sums of money, bring down people and when you bring them down—77 prisoners coming down. Let us say it takes three minutes or five minutes to do a remand yard, look at the number of hours spent merely in remand. We should find a method to deal with that.

Madam Deputy 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. V. Bharath*]

Question put and agreed to.

Mr. S. Panday: Thank you, Madam Deputy Speaker. As we are on that point and we speak about appointing judges to clear up the backlog, the Magistracy is a part of the Judiciary also and it is there we have most of the problems, so the point I am making is the lawyer could ask for bail. The prisoner does not have to come down and we would not have to spend a lot of money and resources, he could get his bail in jail right there. The lawyer might say, look, I am busy next week; they could set a date for trial so there would be no loss whatsoever to the prisoner, so the system would benefit.

Madam Deputy Speaker, what we could achieve further by that? Do you know what we could do then? We could introduce case management at the magistrate's level where there is the backlog. [*Desk thumping*] For example, the magistrate will be there, the prisoner will be there and we have this video link and they could decide—

Mr. Imbert: Madam Deputy Speaker, Standing Order 36(1). We are not talking about the Magistracy today; this is the Supreme Court of Judicature, not the Magistrates' Court. It is not relevant!

2.45 p.m.

Madam Deputy Speaker: I would allow it.

Mr. S. Panday: Madam Deputy Speaker, foolishness manifests itself in so many forms. [*Desk thumping*]

Mr. Bharath: But particularly one.

Mr. S. Panday: Madam Deputy Speaker, the learned, hon. distinguished Attorney General does not listen. He has no sense. It is the hon. Attorney General who brought this into the system, that we are increasing the number to deal with backlog.

Mr. Imbert: [*Inaudible*]—to deal with the Supreme Court.

Mr. S. Panday: He did not say that.

Mr. Imbert: What?

Mr. S. Panday: The Attorney General cannot be foolish like you to talk about backlog only in the Judiciary, and not backlog in the criminal system. Could not be. [*Interruption*] If he is foolish, what do you want me to do about that? [*Laughter*] Talk to him for being so foolish, not me.

So therefore, the case management—[*Interruption*]

Mr. Dumas: You will be a judge one day.

Mr. S. Panday: Madam Deputy Speaker, there could be case management and I will show you something. If you have case management and you expedite it at that level, then the number of cases going upstairs would increase, and when those numbers of cases go the High Court, then you could work the system. So you need to have case management at the bottom, in order to benefit from the increase in the number of judges. [*Desk thumping*] That is the point I am making, but some people are so bent.

Mr. Imbert: You finally make a point. I had to force you to make the point.

Mr. S. Panday: He speaks about forcing? You must see how he speaks to his colleagues. As I said, we could introduce case management at that level. If we do that, we could deal with the system.

The hon. Member speaks about—I will take his point now—the Bill being myopic, in that we are only talking about increasing the number of judges in order to clear the backlog. I want to tell him something here today. If you do away completely with that PI—where you could sift some things out—and all the matters go upstairs, when one checks the records, out of the 4,000 or 5,000 criminal cases, indictable cases, if 2,000 of those cases go upstairs and go straight to trial before the High Court judge, you would have a backlog at the top. Nine judges would never be enough. You might want 100 judges. So you need to find a system to deal with it.

As a matter of fact, hon. Attorney General, in order to clear the backlog, is not only to deal with the issue of the appointment of judges. But I am certain that you are aware of the Second Schedule of Chap. 4:20 of the Summary Courts Act. What we should really do in order to expedite the system—you will agree with me—we should expand the second schedule and bring more of the purely indictable offences into the hybrid system, and therefore, at that point in time,

increase the power of the magistrate. For example, long ago larceny of motor car was a purely indictable offence, and therefore, every motor car thief case went upstairs and it clogged up the system.

The hon. Attorney General thought it was the distinguished Member for Tabaquite at that time, who was going to open the system and dealt with the point about trial jury at the back of his mind, and he brought larceny of motor car as a hybrid offence. Having brought it as a hybrid offence, he increased the penalty for larceny of motor car from three years to 10 years. Therefore, all those cases which would have gone to the High Court and clogged the High Court—because in the High Court system there is more procedures to follow like the selection of jury, the address of the jury, the summing up to the jury, and things like that.

At the Magistrates' Court you do not have that, and as such, when you increase, you open the base of the law, you open the Second Schedule of the Summary Courts Act and you bring more of those offences to the Magistrates' Court where there is no jury, but only a judge, and you give the magistrate greater power in sentencing. What you can do in those circumstances is to hasten the system. Therefore, when one looks at the appointment of judges, yes, we agree that there is need for more judges, but at the same time that is not the only way we should go. We should be looking at things all over, and by so doing as I say, we could reduce the backlog by another method.

Madam Deputy Speaker, we said that there should be teleconference, and if one looks in the Magistrates' Court, you would see it is old archaic note taking. There are few courts in Trinidad and Tobago that have technology, and we should make an urgent effort to deal with the issue of introducing technology in every section of the Judiciary.

The hon. Attorney General today, spoke—[*Interruption*]

Mr. Swaratsingh: I thank the hon. Member for giving way. Just to let you know that there is an ongoing project with the Judiciary to deal with the roll-out of technology. There is a case management system and we have launched the pilot with the videoconferencing programme in Tobago. We are now working with them, but it has to be led by the Judiciary. We are supporting them in the roll-out of involving or increasing the use of technology in a number of areas, linking the case management system with the videoconferencing and so on.

So what you are talking about is actually being pursued at this time.

Mr. S. Panday: Tell him that. Tell the Member for Diego Martin North/East that. He does not even know what is taking place in government. But the problem

I have is that all of you in this Government, only reach up to the pilot stage in everything, and the whole Government seems to be on autopilot. [*Desk thumping*]

Mr. Swaratsingh: Thank you very much for giving way. You would be the first to recognize that there is indeed a separation of powers and our job is to work with the Judiciary, but it has to be led by the Judiciary. So what we have been doing, we have been working with them and working through all the resources required, and we have committed to giving them all the resources required in order to do it.

Mr. S. Panday: I do not expect less than that from you, and also I do not expect more than that from you; like to interfere in the Judiciary by using the veto to undermine the independence of the Judiciary. At the same time, the hon. Member said that the process must be initiated by the Judiciary and led by the Judiciary. How could the Judiciary lead this process? Where will the Judiciary get the funds? You reduced the development funds from the Judiciary. They asked for \$393 million for that same project, and you gave them \$60 million. Where will they get the money? So that is "ol' talk", and that gives us the impression that you only intend to set up a pilot project and no more. You have the idea, the Judiciary leading the initiatives and at the end of the day, they have no money. Hon. Member, could you give us an undertaking here today, that the Judiciary will get what they requested in the next budget for development?

Mr. Dumas: They have more than they could spend.

Mr. Swaratsingh: Thank you again for giving way. As I have indicated, the commitment is to support the Judiciary in this venture and whatever resources required for a technological roll-out, they would indeed get it.

Mr. S. Panday: I want to thank you for that, and to indicate to the Judiciary that they could expect that issue to be coming.

So, Madam Deputy Speaker, we looked at this and we are saying that we have no problem with increasing the number of judges. However, the Judiciary should be given all the resources that they require, and by so doing, we hope that this position today of increasing the number of judges will bear fruit, not only for the Judiciary, but for all members of the society.

Thank you very much, Madam Deputy Speaker. [*Desk thumping*]

Madam Deputy Speaker: Hon. Members, I had indicated earlier in the proceedings that the Attorney General would make a statement, and the Attorney General will make that statement now.

STATEMENT BY MINISTER
Government of Trinidad and Tobago
(Anti-Corruption Effort)

The Attorney General (Sen. The Hon. John Jeremie SC): Madam Deputy Speaker, when I made my budget contribution in the other place on Wednesday, September 23, 2009, that is, in respect of the 2009/2010 Budget, I gave a commitment that the work of the Anti-Corruption Investigation Bureau of the Ministry of the Attorney General, which had to some extent fallen into abeyance, would be revived. This unit, along with the Central Authority and the Office of the Director of Public Prosecutions, makes the Ministry of the Attorney General a powerful force in relation to Government's anti-corruption efforts.

The Government of Trinidad and Tobago is committed to find and to investigate corruption wherever it exists. I wish to take the opportunity this afternoon, to address this honourable House on recent issues which have engaged the national attention. In so doing, I make it clear that I do not believe that criminal investigations should be the subject of the widespread publicity or comment, and it has generally been the policy of the Ministry of the Attorney General, that these investigations should be conducted with the utmost discretion, in keeping with basic legal principles, including the right to natural justice and the presumption of innocence.

I am forced however, to address the national community through this honourable House, because of the widespread rumour mongering and deliberate misinformation that regrettably has become a feature of our recent history. These rumours have a life cycle that begins in "ol' talk", before quickly becoming transformed into newspaper stories, Internet reports, and sometimes into so-called academic journals.

I have already addressed the House on the issue of the Abu Bakr affidavit, and the fact that a High Court judge who I maintain erroneously, improperly and in direct contravention to the order of the Court of Appeal, referred an affidavit which had been struck out, to the DPP. Despite the origin of that affidavit, the Anti-Corruption Investigation Bureau has an obligation to investigate, and the hon. Prime Minister like any other citizen, has the right to answer the allegations which have been made in the affidavit. This is exactly what I understand to be taking place.

The hon. Minister of Works and Transport was a member of Cabinet at the time that these matters were alleged to have taken place, and therefore, is a likely candidate for interview in the investigative process.

Mr. S. Panday: They should carry him down one time.

Sen. The Hon. J. Jeremie SC: Other Government Ministers are in a similar position. That, Madam Deputy Speaker, is all that has transpired thus far. The law is taking its course as it must, for there to be integrity in the legal process. There is nothing in what has taken place, which warrants the dramatic and sensational headlines which have been dominating our nation's media.

While I would have preferred not to comment on these matters, the unrelenting fervour over these reports and the ease with which they are being disseminated was such, that I had no choice but to comment. I have also read reports that Interpol has confirmed the authenticity of documents produced by the Congress of the People in the Calder Hart matter.

I wish to report that the Anti-Corruption Investigation Bureau and the Central Authority have been diligently pursuing this matter. No such confirmation from either Interpol or the Malaysian Central Authority has been received. That story too, is untrue.

I bring these matters to the attention of this honourable House and the national community, simply to reinforce the point that not every rumour should be taken as fact, that while the Anti-Corruption Investigation Bureau and the Central Authority pursues its work, it will not be distracted by attempts by some to benefit politically, or otherwise from what are serious matters.

3.00 p.m.

Madam Deputy Speaker, I urge the national media and the population to be discerning of unverified reports and conspiracy theories. While, admittedly, we are operating in a time of heightened political activity, much energy is being expended to disseminate misinformation with a clear purpose of disturbing the peace and stability to which we have grown accustomed under this current administration.

Madam Deputy Speaker, I thank you.

SUPREME COURT OF JUDICATURE (AMDT.) BILL

The Minister of Science, Technology and Tertiary Education (Hon. Christine Kangaloo): Madam Deputy Speaker, I rise to unequivocally support the Bill before this honourable Chamber today. Coming on the heels of the contribution of the Member for Princes Town North, you would forgive me if I just make a few observations on his contribution.

It seems that my good friend, the Member for Princes Town North, is really suffering from not attending his party's caucus. [*Desk thumping*] It seems that he came today and was shocked on entering the Parliament, because his contribution was not in tune with what was before the House. [*Desk thumping*] It is either that

or the fact that he started by saying that he was going to support the Bill and the efforts of the Government that threw him into further confusion.

Hon. Member: "He still lost!"

Hon. C. Kangaloo: The hon. Attorney General in his presentation, treated with the issue of this Bill, which is to increase the complement of judges both in the High Court and the Court of Appeal; that is the purpose of the Bill. The hon. Attorney General did not stop there. He did not say, as the Member for Princes Town North said, that this was the only way we could support the Judiciary, that it was the only way that all of the issues to treat with the administration of justice would be solved. He did go on to talk about the fact that he would have awaited the Judiciary to give to the Government what their complement of support staff would be. He spoke about the legislative framework and all these initiatives. The hon. Attorney General in his introduction pointed out that all these were going to work in tandem to treat with the administration of justice in this country.

The hon. Member for Princes Town North started off being a little confused. [Crosstalk] Let us look at what he said; he said some strange things. I wrote them down, because I just could not understand it. First of all, he started by quoting Sen. Mark and once you have to quote Sen. Mark for support, you understand what is going to follow. [Laughter] [Desk thumping] He spoke about the fact that by using the veto we were trying to interfere with the Judiciary in a legal way. I do not know what that means. I do not understand that. [Interruption]

Mr. S. Panday: Legal and otherwise!

Hon. C. Kangaloo: Let me just go now to what we are treating with today and to treat with more of the issues raised by the hon. Member for Princes Town North. He seemed to cast aspersions on this Government in saying that we were not supporting the issue of the independence of the Judiciary. He asked various questions about, "Why so long?" He said that this Government was trying to interfere and suppress this Judiciary. He spoke about a lot of matters.

The Member must remember his history and the administration of which he was a part; he must understand that. To come and accuse us on this side of interfering with the independence of the Judiciary, clearly he is suffering from amnesia today. [Desk thumping]

We all know, we all witnessed the blood bath that took place between the former administration of the UNC, between 1995 and 2001. It was a public spectacle; there were comments made and it is all there. The records could show

that. We had issues of a commission of enquiry being appointed; all of that under the tenure of the former UNC administration.

Let me just quote for you what the hon. former Chief Justice de la Bastide had to say at the opening of the law term on September 16, 1999. I am speaking directly, I am responding to what the Member for Princes Town North has said. Justice de la Bastide spoke about the threats from the Executive to the judicial independence. This was what he had to say:

“The Judiciary is going through a difficult period at present. Its independence is under serious threat.”

That was on September 16, 1999.

Hon. Member: Who was the Government?

Mr. Imbert: Siparia!

Hon. C. Kangaloo: It was a UNC administration. [*Desk thumping*] The Attorney General at that time was the hon. Member for Tabaquite.

Hon. Member: No.

Hon. C. Kangaloo: No? The hon. Member for Siparia was a part of that administration. [*Desk thumping*] They all were there. [*Crosstalk*] So to come to this House and talk about the fact that this administration was interfering with the Judiciary, I say to the Member for Princes Town North, "Shame on you." [*Interruption*]

Mr. S. Panday: Where is the evidence?

Mr. Maharaj SC: Since she read the allegation, I would ask her to read the findings of the commission of enquiry headed by the former Lord Chancellor of England, Lord Mackay and two other distinguished Commonwealth jurists, and the findings which stated that there was no basis for that allegation by the then Chief Justice. [*Desk thumping*]

Mr. S. Panday: You do not read and understand!

Hon. Member: Selective amnesia! [*Crosstalk*]

Hon. C. Kangaloo: Like the Member for Tabaquite, I have also walked with the report. There was absolutely no selective amnesia. The Member for Princes Town North walked into this; he is the one who opened the books of history for us.

Mr. S. Panday: Is true! [*Laughter*]

Hon. C. Kangaloo: Madam Deputy Speaker, the Member for Princes Town North again, in casting aspersions on this Government, asked why we brought this legislation now.

Mr. S. Panday: After so many young persons died!

Hon. C. Kangaloo: I report again to that infamous time in our history; I refer to the former Chief Justice, Michael de la Bastide in his opening address on September 18, 2000. It relates directly to what the Member for Princes Town North raised. This was what he had to say—

Mr. S. Panday: "How long ago you highlight dat?"

Hon. C. Kangaloo: The quote has to do with a proposal we made in a Cabinet Note submitted through the Attorney General for an increase in the maximum number of High Court judges from 20 to 25. The former Chief Justice de la Bastide had that to comment on in the year 2000. Just to put that on the record for the Member for Princes Town North.

The Member then spoke about the fact that we were starving the Judiciary.

Mr. S. Panday: "You write de same speech?" [*Laughter*]

Hon. C. Kangaloo: We have to ask if he really prepared at all; if he prepared anything in coming to this debate, because as the hon. Neil Parsanlal would tell you, facts are stubborn things. We have the facts of what happened with allocations to the Judiciary over the last few years under this Administration.

Since 2002, the allocations to the Judiciary have been steadily increasing, [*Desk thumping*] from \$152.5 million, a budget allocation in 2002/2003, to some \$341 million in 2009/2010. [*Desk thumping*] It actually went in 2008/2009 to \$405.9 million allocated to the Judiciary.

The Member for Princes Town North was at length to talk about our cutting the Judiciary's allocation. [*Interruption*]

Mr. S. Panday: Development!

Hon. C. Kangaloo: The increases in allocations treat with recurrent as well as capital expenditure. In 2007, 90 per cent of the Judiciary's allocation had been spent. In 2007, let me just tell you what the allocation was: \$354.5 million. In 2008, 85 per cent of the allocation was spent. In 2008, the allocation was some \$405.9 million. So we are seeing that as we make allocations to the Judiciary and as we increase the allocations, the Judiciary has still not been spending the full amount.

In capital development, in 2007 the Judiciary requested \$159 million; they were allocated some \$39 million. In 2008, they requested some \$407 million, which is a 50 per cent increase; they were allocated \$68 million, which was a 50 per cent increase from the year before. Out of that, they spent \$48 million. In 2009, some \$473 million had been allocated. So the Judiciary has been increasing their requests they make for allocations, but even though the requests have been increased, they have not been spending the full amount.

That treats to the issue of capacity; that is what we have been talking about. Remember that in the last two fiscal years, we have had to reduce the budget allocations for all ministries; even in doing so, we have found that the Judiciary still got an increase in its allocation. I want to make that very clear.

It goes further than that, because, again, we have to remember that the Member for Princes Town North accused us of suppressing funds to the Judiciary.

3.15 p.m.

What we are showing is that we have steadily increased those allocations even when all ministries' budgets had to be cut; the Judiciary still got an increased allocation. We are showing that as the allocations increased, the Judiciary still did not spend the full allocation that was made to them. Those are the points we want to put on the Table to refute what the Member for Princes Town North has said.

The twisted logic, you still have to look at it, because sometimes when you are treating with the UNC it is almost like there is schizophrenia in their logic and arguments. One day they say one thing, the next day they turn and twist it.

Madam Deputy Speaker, the Member for Princes Town North accuses us of denying the Judiciary funds, and I just want to remind Members of this House of a contribution that was by the then Attorney General and Minister of Legal Affairs, the hon. Member for Tabaquite on September 22, 2001. This, I believe, was his last budget presentation made in the UNC administration.

It was actually a bit of a swan song, in that presentation, the then hon. Attorney General, the Member for Tabaquite spoke about how his budget had been cut and he talked about the things he would not be able to do. He said and I quote:

“Mr. Speaker, in respect of the allocation to the Ministry of the Attorney General, in respect of recurrent allocations to the Ministry, the following are some of the major implications: Under the sub item for vacant posts without bodies, the sum requested was \$10,155,696. The sum provided is \$5 million. This is 50 per cent of the allocation that was requested.”

And he went on to talk about all the different allocations that were made to his ministry and the fact that he could not accomplish many of the things. This was under his own administration.

I want you to understand the hypocrisy of the arguments that are presented in this House. So when in 2010, they are accusing us of starving the Judiciary, we have to understand that in 2001 they were accusing themselves of worse. [*Desk thumping*]

That is what we have to understand, and it is a point I want to emphasize because we have shown very clearly that we have been increasing our allocations to the Judiciary over the years, and doing other things as well to support the Judiciary. But in their own administration, their Attorney General complained about the lack of resources that had been allocated to his ministry.

Madam Deputy Speaker, it reminds me of a saying that the older generation tell us, the irony of that: "Dat 'tief' from 'tief' does make God laugh." That is what it reminds me of because they are quarelling amongst themselves about the allocations. So that is the issue of funding that we have heard about.

Madam Deputy Speaker, I go back to the issue of the Judiciary and the support given to it. I have quoted from the former Chief Justice de la Bastide and the issues that he raised in respect of the Judiciary being under threat and those with respect to the increasing of the request for the increased judges. That is not all.

They spoke about the former Chief Justice Sharma and the Member for Princes Town North raised a lot of issues about former Chief Justice Sharma and I want to put on the record and quote for you something the former Chief Justice had said on the opening of the law term on September 16, 2004. He said:

“The Executive is more receptive to the problems of the Judiciary.”—because he is talking about how the situation has improved the relationship—“This changed position has been brought about, to a large extent, by the Honourable Attorney General...”—and I stop here to say this is the Attorney General, Sen. The Hon. John Jeremie—“and his immediate predecessor.”

I continue to quote:

“The former has brought to this office, a style which has paved the way for a better professional and personal relationship. Today I wish to thank him publicly for doing everything possible to improve the Judiciary.”

I continue because this next part of the address is also instructive. He said:

“Let's face it, there will always be some tension between the Executive and the Judiciary. This I submit is crucial to any democratic society, which recognises and respects the rule of law. The important thing, however, is to ensure that this tension must not bring about hostility, acrimony or bitterness—we have to understand that we are all on the same side in this country—that is, the interest and welfare of the people of Trinidad and Tobago.”

Madam Deputy Speaker, if that is not an endorsement of the cooperation that the Judiciary gets from this administration, I do not know what—[*Desk thumping*] I heard some of the mutterings as I read about that, so I will go now to what the former Chief Justice Satnarine Sharma had to say on September 16, 2005.

“Members of the legal profession, distinguished guests, I wish to inform you that the imbroglio that now exists between the office of the Chief Justice and that of the Honourable Attorney General has not in any way affected the administration of justice. This I submit is professionalism and maturity at its best.” [Desk thumping]

Madam Deputy Speaker, those are the words of the hon. former Chief Justice Satnarine Sharma on September 16, 2005. Understand that even in the teeth of an investigation into the reported conduct of the former Chief Justice Sharma, that Chief Justice reported favourably on the professionalism that existed between this Executive and that Judiciary. [Desk thumping]

So, Madam Deputy Speaker, understand that no one can throw any of those insults at this administration which the Member for Princes Town North attempted to do. I say to them look inwardly, check yourself.

The hon. Member for Princes Town North also spoke very briefly on the veto and the hon. Member for Tabaquite interjected to ask me about the report which he feels had vindicated the position of the UNC administration, which, all of a sudden the Members on the opposite side want to throw at this Government. It says:

“It has been represented to us that the Prime Minister's right under section 111(3) of the Constitution to signify his objection to certain appointments for which the Judicial and Legal Service Commission is responsible should be withdrawn. The appointments in question are closely related to the work of the Executive and we consider this right is appropriate and should be retained.”

Madam Deputy Speaker, the commission of enquiry appointed by the UNC administration. So those are some of the issues that I wanted to address that had been raised by the Member for Princes Town North. He also raised some other issues.

He talked about the courts and CAT Reporting in the courts and the judges are not given enough resources. Let me refer him to the Annual Report of the Judiciary of the Republic of Trinidad and Tobago, 2008/2009. It is instructive. Throughout this report, you will see accounts being made of decisions that affect the progress of the Judiciary which are too numerous to go into.

The hon. Member for Oropouche is a wannabe lawyer and he is studying, so eventually he will start reading all of these documents. The hon. Member for Princes Town North did speak about the Computer Aided Transcripts and of judges having to write longhand. That is not correct as well, there is the audio digital reporting that is going on in the courts now.

In furtherance of that, he did ask about training, and what we were doing to help with those issues. Just to say, Madam Deputy Speaker, that there is a court transcription programme that was developed by COSTAATT in partnership with the Judiciary of Trinidad and Tobago and that programme has commenced. The certificate programme aims at preparing court transcriptionists to produce accurate typewritten record of court proceedings including verbatim reproduction of statements, findings and verdicts.

Specialist software, the audio digital court recording is used to develop competencies in excellent powers of concentration, superb listening skills, excellent punctuation skills and above average vocabulary punctuation skills. The programme develops participants to a level of 60 to 80 words per minute and courses in the programme include introduction to legal terminology, introduction to medical terminology, word processing, introduction to court transcription, keyboarding, English for court transcriptionist, and orientation to court process. All of this is going on; it is a training programme that has been put in place with COSTAATT and the Judiciary.

Mr. S. Panday: Hon. Member, could you kindly indicate how many persons are in those classes and when do you expect to have graduation?

Hon. C. Kangaloo: I am told that the court transcriptionist programme is currently in its second cycle and there are 75 students enrolled in it. So the programme is continuing and because of the role of COSTAATT we are going to have some discussions to see how we can further advance the needs of the Judiciary for the training of the officers.

So, Madam Deputy Speaker, the Member for Princes Town North had said that we were all about increasing the complement of judges, but we are doing more than that. Improvements to the administration of justice will not just be about the human resource, the complement of judges, it is also about the

legislative framework and the hon. Attorney General addressed those issues, it is about training of human resource, the support staff and that is what we are doing.

3.30 p.m.

So I want to say that this Government is doing all that is humanly possible to treat with the administration of justice. As we move towards Vision 2020 we are doing all in our power to improve the administration of justice. [*Desk thumping*]

I hope that all Members of the Opposition will support the Bill, as the Member for Princes Town North has said. He has said that they will be supporting the Bill, but you will forgive me for being a little cautious in that, because you never know, as I have said before, they have some tendencies to flip-flop on certain issues. So as we proceed this evening, I really do hope that we will get the support of the Opposition. This is a critical Bill and we are making leaps and strides into the administration of justice.

Madam Deputy Speaker, I thank you. [*Desk thumping*]

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Madam Deputy Speaker, I rise to make a contribution on this important matter. It is important because judges perform a very important role in our country. Judges are supposed to be the guardian of the Constitution; judges are the persons who, if persons believe that their rights are infringed, they can go to the Judiciary under the Constitution and get redress. So whenever a Parliament is discussing measures to increase the number of judges, it is very important for the Parliament to consider matters relating to the Judiciary and the performance of duties in which judges are engaged.

In the system under which we operate, there has always been a tension, or even recently, between the Executive and the Judiciary whenever there comes administration of public funds. One of the matters on which I want to talk about today is the question of the Government being accountable for the functioning of the Judiciary. Now, we know that the Judiciary is independent and we know that the Executive does not have any control of the work that the Judiciary does in the determination of cases, but what we do know is that the Government is accountable to the Parliament and to the people for the administration of justice and the machinery works in a way in which, if members of the population are complaining about matters in the administration of justice, it is the Attorney General who communicates with the head of the Judiciary in order to report to Parliament.

I think we can start by saying that judges perform a very important role and they make great sacrifices, because when a judge is appointed, his whole private life is affected; he has to live a life in which he has to ensure that his associations

and whatever he does would not compromise his judicial duties. He has to live a certain standard of life and there is no doubt about it that the pensions of judges must be looked at. [*Desk thumping*] Because when judges are retired, they get a fixed pension and, therefore—

Mr. Imbert: Like MPs.

Mr. R. L. Maharaj SC: Yes, like MPs. But judges are not MPs. MPs do certain duties, but judges perform an important role too. I think that the Government should look at the issue and consider whether, if you want persons to be attracted to the Judiciary at a time when a lot of distinguished lawyers do not want to accept judicial appointments because it is known that the kinds of terms and conditions which a judge gets, cannot be compared with the kinds of money which are made by successful lawyers at the Bar. Therefore, you find that a lot of persons who take the temporary appointments of judges are not prepared to take the permanent appointments.

Mr. Manning: Madam Deputy Speaker, I thank the very distinguished Member for Tabaquite for giving way. Are you saying, therefore, that salary should be the major determinant in arriving at who should be a judge or who should not be? Or would you accept, for example, that there is an element of service involved in sitting on the bench or the Bar? And do you accept that the State cannot hope to compensate persons at the same levels that would be compensated in the private sector in determining the terms and conditions of judges?

Mr. R. L. Maharaj SC: Well, I have never said that salaries should be the most consideration. As a matter of fact, I do not think that all of the judges, or most of them, accept judicial appointments because of the money. I think that they accept it because they believe that they have a responsibility to do it and they probably believe that they can make a contribution. The question which arises is whether the selection process for appointment ensures that the persons who are best suitable to be judges are selected, and that is a question which—and I intend to deal with it—the Commonwealth has been looking at. Many countries—as a matter of fact, recently the United Kingdom has looked at that and in a report of Governance of Britain dealing with judicial appointments in 2007, there was a study done; there was a consultation exercise done, in which the British government looked at the whole question of the selection process for judges because it was felt that since judges perform such an important role, every effort should be made to get the right persons appointed, because when a judge is appointed, basically, the judge is there for life; when I say, for life, until he retires.

So I accept the point of the hon. Prime Minister that a judge is not only for the salary, but I also want to make it clear that it is not fair in a system when judges and public servants and even MPs, see how the moneys of the country are being spent, but they cannot get a proper pension plan. That is why the Prime Minister may have been chased out of a pensioner's home the other day, because the pensioner, seeing how the moneys of the country are spent, saw his pension reduced and he feels very aggrieved.

So I would like to make an appeal to the Prime Minister that in respect of the billions of dollars which are being spent in certain directions, that he could probably reserve some of it or cut some of those to give the members of the Judiciary and to even public servants—leave the Parliamentarians for last—in order to give them a pension which would be based on the index of inflation and cost of living. [*Desk thumping*]

Mr. Imbert: I thank the hon. Member for giving way. I would like to pose two issues to you, so perhaps in your contribution you can deal with them. It is a matter of law, under the Judges Salaries and Pensions Act, which I know you, as a former Attorney General will know—Chap. 6:02—the emoluments of a judge are tax free. That is by law. The salary of a judge is fixed by the Salaries Review Commission and the current salary of a judge, taking into consideration the fact that it is tax free, is, in my opinion, adequate for someone to live on. It certainly bears no relationship whatsoever to the fees that a distinguished senior counsel, such as yourself, would charge. In fact, you, hon. Member, might earn ten times the salary of a judge in one case. You might do that.

Mr. B. Panday: Or more.

Mr. Imbert: Or more, yes. As the hon. Member for Couva North has pointed out, you might earn more than ten times the annual salary of a judge on one case. That is not the point. The point is that you cannot compare what a senior counsel would get—\$300,000; \$1 million; \$3 million for a case—with the salary of a judge.

So that is point one. Do you believe that the current salary of a judge, taking into account that it is tax free, is adequate or do you think it should be more? That is question one. And question two: That same piece of legislation gives you the parameters and the formula for calculating the pension of a judge. The pension of a judge is fixed by statute, not by the Salaries Review Commission, but by statute. Therefore, why did you, hon. Member for Tabaquite, when you were Attorney General and you were passing hundreds of pieces of legislation every year, not amend Chap. 6:02 to change the pension arrangements for judges?

Mr. R. L. Maharaj SC: Well, Madam Deputy Speaker, I will deal with it in my contribution, but if I may say very quickly, that the tax free concession for judges, I have not been able to find that anywhere else.

Mr. Imbert: It is in law.

Mr. R. L. Maharaj SC: No, no. I have not been able to find it anywhere else than in Trinidad and Tobago.

Mr. Imbert: Okay. But it is still there.

Mr. R. L. Maharaj SC: No, no. What I am saying, I would agree that that is an additional benefit that the Judiciary got and I think that was a benefit given by the founder of the nation, the late Dr. Eric Williams.

[Mr. Manning stands]

I was not talking about the father of the nation.

Mr. Manning: When you are through with the point, could I be given a—

Mr. R. L. Maharaj SC: No, no. Go ahead.

Mr. Manning: No, I want you to finish the point because you are making an important point.

Mr. R. L. Maharaj SC: So, Madam Deputy Speaker, I would agree that that is a concession which the State has given, but it has become part of the terms and conditions of judges. But what I am saying is that I have not raised any issue about the salary of judges. I have raised the issue of the pension which judges are supposed to get. *[Desk thumping]*

Mr. Manning: Madam Deputy Speaker, I thank my good friend from Tabaquite for giving way and I would just like to remind him that when that concession was made to judges, the Government, included among its ranks the very distinguished Member for Couva North, I think it is, and the very distinguished Member for Couva South, and if I am not mistaken, you might very well have been—that was done in 1990. But the second point I want to ask you is this: Do you believe that all citizens of Trinidad and Tobago should be paying taxes, or do you believe that certain categories of citizens should be exempt from income taxes? What do you think?

Mr. R. L. Maharaj SC: Madam Deputy Speaker, it seems as though I am being cross-examined by the Prime Minister. But I did not come in this debate having to analyze who should pay tax and who should not pay tax; what I am saying is that I agree that the judges of this country get an entitlement or a benefit which a lot of other people do not get.

Mr. Manning: And as a consequence, do you believe, therefore, that that position should be preserved for those on the bench as this time but new entrants should come in under new terms and conditions? What do you think?

Mr. R. L. Maharaj SC: I cannot answer that unless one has consultation with the Judiciary and one studies it. What I am saying is that whatever the situation is, there is a real problem which exists now to attract judges because of terms and conditions, and terms and conditions would also include pensions, and all that I am saying is that the Government should look at this issue.

Mr. Imbert: I thank the Member for giving way. Is the hon. Member saying we should amend the Judges Salaries and Pensions Act to improve the pensions that are in the statute for judges?

Mr. R. L. Maharaj SC: All I am saying is that the Government which has responsibility for the policy of the country should examine the situation and consider improving the pension entitlement for judges. [*Desk thumping*]

3.45 p.m.

Madam Deputy Speaker, before I go into this Bill, I want to put in perspective what the hon. Member for Pointe-a-Pierre has mentioned, in relation to allegations about the Attorney General in 2000, or thereafter. Before I do that, since I referred to the report on governance in Britain, dealing with the judicial appointments, I want to indicate that the present selection process of judges in Trinidad and Tobago does not give to the population, an opportunity for expressing their views on any particular appointee or proposed appointee. Therefore, we have a situation in which the selection process is a bit secret. It would seem to me that all of the recent learning—in this report it considered the position in Australia, Canada, France, Hungary, Malta, Poland and the United States—and all of the reports of the countries, indicated that every effort should be made to have an open and transparent process in the selection of judges.

One of the things I have also advocated and is a measure which the UNC government tried to implement, but needed a special majority, was that persons who wish to be appointed judges, should face the scrutiny of a committee, as they face in the United States of America. There is a situation in which persons who want to be judges are scrutinized by members of the public.

I just want to indicate that, as you know, in the United States of America, before a Supreme Court Judge is confirmed, that judge has to face questioning and some sort of scrutiny. In the United Kingdom, what has been introduced recently by the reform is that a judge must apply. I am reading from the Judicial

Appointment 7th Annual Report 2004/2005. A person applying to become a judge must fill an application form in which his or her qualities and skills have to be assessed against specific criteria. The applicant is invited to complete a short self-assessment against these qualities and skills. That is not all, what then happens, there is a candidate assessment panel, which consists of expert assessors for judicial work. They assess the applicant and then make a recommendation to the appointing body. Under "competencies" at paragraph nine of this report, it sets out the range of skills and aptitudes needed by those who aspire to judicial office. It is on the basis of a more transparent and open process. One sees that there is need for a more open and transparent process in the appointment of judges.

I wish to make it clear that in making that statement, I am not making any insinuation against any judge or any possible appointee. I am making the statement on the basis that I think that the system needs to be improved and it is a concern which members of the public have.

Under the new set up in the United Kingdom, what is important is that the judge must show, by all the processes which are in place, that there is technical knowledge and expertise. The judge must be able to investigate and analyze facts. The judge must be able to resolve facts and principles of law and must be able to show that he or she can do that; and the judge must be able to build positive relationships and show authority in the discharge of his or her duty.

I know that the Government cannot effect these reforms without consultation with the Judiciary. But, if it is that we are to improve the administration of justice and if we are to improve the backlog of cases that are determined in the High Court, I think it is important for us to improve the system in the selection of judges. That would also help in building confidence in the administration of justice.

During the time I served as Attorney General, there was a situation in which there were differences between the then Chief Justice and the Attorney General and the Government. The hon. Member for Pointe-a-Pierre made a statement in respect of the allegations which were made, but she did not, even though we asked her to do that, state what were the findings of the commission of enquiry in respect of that allegation. "I eh saying notten." The allegations which were made by the then Chief Justice—the government of the day decided that it would appoint an open commission of enquiry, like what we asked you to appoint into UDeCott—was that the Executive was attempting to undermine the independence of the Judiciary.

The President, on February 29, 2000, appointed Lord Mackay, who was a former Lord Chancellor of the United Kingdom; Justice Austin Amisshah, who

was a former Chief Justice of one of the African countries; and Dr. L. M Singhvi, who was a distinguished international jurist and expert on the independence of the Judiciary. That commission of enquiry was a public commission of enquiry. It enquired not only those allegations, but the administration of justice, as to whether it was effective. It dealt with the question of qualifications for judicial officers, promotion and other matters. It is important to note what the report stated at page 63 in respect of the allegations.

“After considering the representations made to us and the documents referred to in support of them we have reached the conclusion that the words and actions of the Attorney General referred to were not attempts to undermine the independence of the Judiciary but were intended by him to be in conscientious discharge of his duty in respect of public expenditure to ensure fairness across the various branches of the public service and to promote the efficient administration of justice.”

What we were trying to get at the time is information from the Judiciary to report to Parliament, in respect of expenditure, which the Judiciary had embarked upon and information in respect of delays for judgments, which members of the public were complaining about.

I would like to put on record pages 58 to 59.

“We have reviewed the principles on which the release and draw down of funds allocated for the use of the Judiciary by Parliament should be based and have suggested what the procedure should be for the future so far as that is concerned. We consider that the time honoured method by which the Attorney General acts as a channel of communication between the Judiciary and the Executive and Parliament should continue. If, as we hope, our report helps to bring to an end the current dispute between the Chief Justice and the Attorney General we see no reason why the success that attended their relationship at the beginning of their joint terms of office should not resume.

In particular, we hope that the Attorney General will be supplied by the Department of Court Administration with any piece of information about that administration which he requires. A feeling has arisen that such information is asked for on the basis that the Judiciary are accountable to the Attorney General as such. As we have said, this is not the position. The Judiciary perform their responsibilities in public and in this way account to the public on a daily basis for the discharge of their responsibilities. In addition we greatly welcome the publication of an annual report with the offer to the general public to make any suggestions... However, it is important if the Attorney General is properly to discharge his function in the

Executive and in Parliament that he should be able to do so with as full information and about the Judiciary, its problems and its successes as he can have. The Judiciary on the other hand is entitled to expect the Attorney General to give to the public a fair account when he is required to do so, for example, in answer to questions in Parliament and we are of the opinion that nothing is gained by public disagreement between the Attorney General and the Judiciary.”

It went on to say that it is a higher standard of accountability, et cetera.

I do not think that it was fair and I do not think it was right for the hon. Member for Pointe-a-Pierre to give the impression that the then Attorney General; the allegations which were made were well-founded. I think the hon. Member for Pointe-a-Pierre had a duty to give the full facts.

What we are dealing with is with respect to judges and I think we ought to first deal with the question of what people expect of justice. I think that the quest for justice is universal. People believe that the law must not only speak justice, but must deliver justice. Justice is about the resolution of disputes in a fair manner and on the basis of general rules of law. From a civil law perspective, which is concerned with disputes between individuals, one individual and another individual, and between individuals and the State, people expect those disputes to be resolved fairly. In respect of the criminal law, from that perspective, I think the members of the public expect the rules of the criminal law to be enforced. It is in this context, when we are considering spending more taxpayers' moneys for the appointment of judges, to have more judges, we must consider that the people would expect that the more moneys which are spent would improve the administration of justice.

Madam Deputy Speaker, it is the justice system which upholds the notions of what people consider to be fair and just. I think I would be correct in saying that if the justice system does not perform properly, people would feel that there is a weak support for democracy and people would feel that there is no real respect for human rights. We must remember that under our system, the Judiciary does not only determine land disputes and criminal cases. There was a new jurisdiction given when we got independence, for the Judiciary to enforce the fundamental human rights guaranteed in the Constitution.

There is a link, in my respectful view, between economic growth and the well functioning of our legal and judicial system. If the judicial system does not resolve disputes very quickly and in a neutral way and cannot resolve them in an effective way, then investments would suffer and even the people in our society would not have confidence in it.

4.00 p.m.

It is in this context that the Universal Declaration on Human Rights in 1948 mentioned these words, because the justice system, if it is not administered properly, if there are not proper appointments to the Judiciary, if people are not getting justice, can have a serious effect on oppression and tyranny in a country. If I am permitted to read what was stated in 1948 by the United Nations when it proclaimed the Universal Declaration of Human Rights, it states:

“It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

To sum it all up, what the justice system is about in a country, Lord Woolf, a former law lord of the Judicial Committee of the House of Lords and the Privy Council said these words. I like them and I would like to adopt them:

“The availability of justice in any society is an important feature. It should be regarded as significant in relation to civil procedures as it is in crime. Claimants who have been injured should, if the circumstances justified it, be confident of a remedy proportionate to cost. Commercial disputes have to be resolved efficiently and economically. The citizen needs to be able to enforce those rights. It is no exaggeration to say that the health of a nation depends in part on the quality of its civil justice system.”

I would first like to deal with something that the Attorney General said. I want to make it clear—whatever reservations we have about some of the judicial aspect of the administration of justice—the Government would get its support on this Bill from the Opposition, I have no doubt about that. [*Desk thumping*]

I think it is important for me to say that in some of the things which we would expect that this measure would bring and some of the things which would be improved—now, one of the matters which has been advanced for the increased number of judges is that of the increased workload. But when I look at the crime statistics in Trinidad and Tobago, I am seeing a possible reduction in the workload in the criminal justice system, because the crimes are not being detected. [*Desk thumping*] In order to have people before the criminal court, whether the Magistrates’ Court or the criminal court, you have to have human bodies to prosecute. I am not blaming the Attorney General, he has his job to do, but I just want to read to you what some of the latest statistics are on the crime situation in Trinidad and Tobago. This is data from the police in respect of crimes reported for the years 2002 to 2009, and even up to January 31, 2010. The total number of serious crimes reported in Trinidad and Tobago is 150,489

for this period. The total number detected for the seven years and one month is 34,102. So we have for this period of time over approximately 116,000 persons who have been reported to have committed crimes that have not been detected.

But let us see how bad this thing is, because I think the Government would have to respond and tell us, if it is that the criminal court, the High Court, would not have human bodies to prosecute, why we are going to put all of these judges? What are they going to do? Apart from my friend who talked about the space and whatever it is—what we are doing is that we are increasing the number of puisne judges of the High Court from 23 to 36; we are increasing the number of Justices of Appeal from nine to 12, so it is a vast increase.

When you look at the laws of Trinidad and Tobago, the Supreme Court of Judicature Act, we will get an idea of how far this increase has been from the original law. Because the number of judges of the High Court was supposed to be no more than 12 and the number of Justices of Appeal should be no more than six. So what are we going to do?

Madam Deputy Speaker, let us take murder. The number of murders reported from 2002 to January 2010—that is the period I am talking about—was 2,909. The number detected is 749. So you are talking in terms of about 2,100-plus murders. The persons who have committed these murders have not been detected.

Let us look at wounding and shootings: we have a total of 5,688; total detected 2,047. Then we have rapes, incest and sexual offences: total reported 5,754; total detected 3,833. Then you have serious indecency, 603 reported; 410 detected. Then we have kidnappings, 1,631 reported and only 791 detected, so about 900 kidnappings not detected.

Burglaries and break-ins, a total of 40,391, but the number detected is 5,315; approximately 35,000 burglaries have not been detected in Trinidad and Tobago? Who do we have to prosecute before these judges? [*Interruption*] We cannot prosecute a lot of murders; we cannot prosecute burglars. Kidnappings: let us look again—I dealt with burglaries and break-ins?

Hon. Member: Yes.

Mr. R. L. Maharaj SC: Robberies, well I see that we have made some progress with robberies, 2,508 reported; 2,251 detected. So I must congratulate the Government on that. [*Desk thumping*]

Mr. Peters: "That is people who pick people pocket and thing yuh know."

Mrs. Nunez-Tesheira: I was wondering when you were going to say that. [Laughter]

Mr. R. L. Maharaj SC: Fraud offences, now this is very important because the Attorney General is doing his best and I would like to congratulate him for doing his best [Desk thumping] in order to try and put the legal infrastructure in place, and whatever investigation he can do in order to prosecute fraud. But let us see fraud offences, total reported, 26,271, but Madam Deputy Speaker, do you know how much was detected? You would not believe. I am sure the Minister of Finance would not believe this; 2,745; so 23,000, my good friend the Attorney General—

Hon. Jeremie SC: That is not corruption, that is fraud.

Mr. R. L. Maharaj SC: Well, fraud is a form of corruption.

Hon. Member: "Oooh."

Mr. R. L. Maharaj SC: Okay. [Crosstalk] Well, we do not have a separate category for corruption. Larceny, including larceny of motor vehicles—No, no, I think I made a mistake, the fraud offences were 2,508 and the number detected was 2,241.

Mr. Imbert: "Oooh", apologize, apologize. [Desk thumping]

Mr. R. L. Maharaj SC: I made a mistake, I made a mistake.

Mrs. Nunez-Tesheira: Say that again?

Mr. R. L. Maharaj SC: The fraud offences were—I think I better do this. [Puts paper to align numbers]—2,508 reported and detected 2,251.

Mr. Imbert: "Yeah". [Desk thumping]

Mr. R. L. Maharaj SC: But the robberies were 39,899 and only 6,045 were detected. [Interruption] The larceny of motor vehicles was 26,271 and only 2,745 detected.

Larceny of dwelling houses, 3,597 and only 517 detected. Well, narcotic offences, it seems as though they have 100 per cent, because that is where they actually catch you with the narcotics, total of 4,339 and you have detected, 4,339. I think the police should be congratulated for that. [Desk thumping] Other serious crimes, 7,328 and the total detected 4,544. What I want to find out, apart from this report, these statistics showing, and that my good friend the Attorney General kept on saying, and I took a note of what he said. He said: "This measure would help to promote the rule of law in our country."

According to these statistics I am sure the Attorney General would agree that what we have is anarchy in Trinidad and Tobago. But quite apart from the bad crime fights and the fault of the Government in not taking steps to redress it, we are not on that today. What I want to find out, did the Government consider, in deciding to go with this policy for this increased number of judges, was any study done to show the volume of cases which are likely to come before the High Court, let us say in the next five or 10 years? If it has done that, would the Government be able to state that appointing these new judges would not make a problem if there is not sufficient work for the Judiciary to do? If it is—and this crime situation in Trinidad and Tobago shows that the number of persons to prosecute—

Hon. Jeremie SC: I thank the Member for Tabaquite for giving way, but you are focusing on one aspect of the justice system—the criminal side. I gave comprehensive figures with respect to both, the civil side and the criminal side, and I said, I think, that at present it would take seven years given the manpower they have for us to clear up just the backlog. So your question about a 10-year study is answered, I think, if you study the answer.

Mr. R. L. Maharaj SC: I mean, you all are in Government and you all would know, but I would have thought that if it is that you are going, because I do not know what this is going to cost the taxpayers, but I think that what should happen and what the Government should do probably in its response, is to give the country an idea how much this is going to cost the taxpayer?

Secondly, what study was done to show that even if the backlog of cases was cleared up that these judges would have a volume of work to do afterwards, because what you are having is clearly a reduction in the detection of crime, and it is a massive reduction. If this is going to continue then after the backlog is cleared up, whether the judges would have enough work to do. What I want—as I go on I will show you—to also find out, did the Government consider that there are a lot of cases in the High Court in the civil jurisdiction, which are personal injury cases? But you have a large number of cases, a great volume, which are land cases.

4.15 p.m.

As a matter of fact, with an unofficial study which was done, it shows that at least 30 per cent of the cases in the High Court in the civil jurisdiction deal with land cases. Am I correct? Now, in the laws of Trinidad and Tobago in 2000, there is a package of legislation which was passed, and that legislation dealt with the Land Adjudication Act, the Land Tribunal Act and the Registration of Titles to Land Act. Those three pieces of legislation were requirements of one of the international bodies at the time—

Madam Deputy 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. [*Hon. C. Imbert*]

Question put and agreed to.

Mr. R. L. Maharaj SC: Madam Deputy Speaker, I am indebted to my colleagues and my friends on the other side for giving me the extra time.

Mr. Imbert: It is a very simple question. I thank the Member for giving way. I do not have the current statistics, but I know that in the one year I am familiar with, there were more than 3,000 High Court actions initiated in that particular year. I cannot say if that is the situation now or whether there are more than 3,000 High Court actions initiated and commenced, or filed in any given year. Would you not say that even if this new complement of judges can clear the backlog in a short space of time—although I do not think that is So—it will take them some time? If 3,000 new cases are coming into the system every year, realistically, how many cases can a judge do in one year? Right now, if you file a matter today, you might not get a hearing if you are lucky, for another year or two. Why are you saying these things? Do we not want a developed country to be able to start a matter today, and have a judge hear and dispose of it within a six-month period?

Mr. Ramnath: How many matters do you have before the court? [*Laughter*]

Mr. R. L. Maharaj SC: Madam Deputy Speaker, I am not saying that cases should not be expeditiously dealt with. I am not even saying that we should not approve this measure. All I am saying is what the Government should do to satisfy the public, should be properly done. But what I want to say is—and I will come to that when the new rules—[*Interruption*]

Hon. Jeremie SC: I thank the Member for Tabaquite for giving way yet again. During my introduction, I quoted some figures. I said that we had done a study which carried us back five years, and that the figures at the beginning of the study showed that there were about 2,500 new cases coming to court every year. Towards the end of 2009, the figure was twice that number. So it is close to 5,000 new cases. If the backlog would take us seven years, and if in five years you had 100 per cent increase in the workload, then that I think is a conclusive answer to your question, as to what these new judges will do. Of course, it answers the question as to whether or not we have, in fact, done the study.

Mr. R. L. Maharaj SC: Well, I intend to deal with the new rules and the civil court system in a short while, because I have my perspective on it. I have extracted some information from the report of the Judiciary and I want to deal with the question of the new rules, because it is not achieving the objective that it is supposed to achieve. What I want to deal with now, is whether the Government had considered having alternatives to having the court system crowded with some of the cases—[*Interruption*]

Hon. Jeremie SC: You pointed to three pieces of legislation: the Land Tribunal Act, the Land Adjudication Act and the Registration of Titles to Land Act. There are defects with those three, and there is another one, the State's Suits which we are looking at. The answer to your question is, yes, we are examining a package of legislation and we hope to bring it to the Parliament within the next month or so.

Mr. R. L. Maharaj SC: I would not join the issue with anything about effects, because that is your policy. But if this legislation was passed in the year 2000—just like the DNA Act—and there were defects—and we are now in 2009, according to the legislation at the same time, which is the same department that advises you now, that advised me, you had the Law Commission, CPC, and all the people who were involved in drafting and implementing the policy. You have the Land Adjudication Act—and what these three pieces of legislation did, is that whenever there is a dispute as to a boundary with respect to land, the adjudication officer under the Act would have dealt with that, and if there was a need to appeal that decision, it would go to a land tribunal, in which the chairman and the deputy chairman would have been appointed by the Judicial and Legal Service Commission, and if there was any appeal from that tribunal, it was an appeal on questions of law, mixed questions of fact and it will go to the Court of Appeal or to the Privy Council. It was found at that time in respect of land matters, they were clogging up the court system, and therefore, it needed a specialized tribunal to deal with this issue, and we found that if you took out land cases from the civil court system, you would have found room in order to be able to get some increased work from the other cases.

Hon. Jeremie SC: I thank the Member for giving way, yet again. This is a matter that I am looking at now, so that I can speak to it with a fairly good sense of what took place. It was your note that recommended that these pieces of legislation not be proclaimed. There was a proclamation clause in each of them. You recommended to the Cabinet at the time—you might not remember—that they should not proclaim these pieces of legislation because the line Ministries had not provided adequate policy directions, and they were deficient. I have added

to that the State's suits because there is a difficulty in terms of the limitation period, after which land should vest an adverse title against the State. But that has taken some time. The Attorney General has certain responsibilities, but I must depend on my line Minister, and the line Ministry has only now come to me with comprehensive instructions which would allow this matter to come to the Parliament.

Mr. R. L. Maharaj SC: Attorney General, I am not blaming you. What I am saying is that the Government has this policy. If it believes that the legislation was defective, the fact of the matter was that it had the opportunity of correcting it. I agree with you, you cannot implement the law if the line Ministries are not prepared and every time we passed a law that is one of the problems we had. Because you pass a law, the Cabinet agrees on the policy, but then the line Ministries probably take a long time in order to be able to implement the law. So I understand your difficulties. All I am saying is that even if at this stage we agree to pass the law, the Government can still re-examine the situation, because this is a time in which money is going to be very difficult for the Government. Let us face it, the Government already has a deficit. It will have to borrow moneys for the next two years at least, and therefore, if it is that the Government can save this money, it is something to look at. All that I am saying is it means that if you look at the situation—because you also have other situations that you can look at. You can even look at the whole question of the Magistrates' Court and the length of time. The Magistrates' Court has a bearing on the High Court and you can look at it, but in order to have an alternative mechanism to determine the land matters, I think it is a very important way of even re-assessing the situation.

So, Madam Deputy Speaker, let me proceed and deal with the civil side of this matter. From the 2008/2009 annual report of the Judiciary, it clearly shows that the question of access to justice is important, and what we are doing here, is a measure in which we are trying to improve the access to justice. On the cover page of the annual report of the Judiciary, there is an excerpt from the Latimer House Principles which dealt with access to justice and accountability. It says:

“People should have easy and unhindered access to courts, particularly to enforce their fundamental rights.”

At page 5, the hon. Chief Justice, Mr. Ivor Archie, speaks of the philosophy that drives the Judiciary. It says:

“...to provide an accountable court system in which timeliness and efficiency are the hallmarks, while still protecting integrity, equality and accessibility and attracting public trust and confidence.”

Then the Chief Justice also quoted an excerpt of bringing justice home.

So, Madam Deputy Speaker, it is clear from what the Chief Justice stated and quoted in his report, that the increased number of judges is a tool in which there should be greater access to justice. But this merely deals only with the human resource capacity, what about the system under which the judges are expected to function?

It is now about five years since the Civil Proceedings Rules have come into effect, and we all know that the legal profession initially had resisted these rules. It would seem from what my colleague lawyers are saying, that there are significant problems with the operation of these new rules, and there are many procedural barriers.

As a matter of fact, what is happening now, there is a lot of front loading of cost. So, long ago, when you could have filed an action and a lawyer could have helped poor people, what is happening now, before you reach the stage of a trial, you have a lot of paperwork which incurs a lot of cost. So you have the front loading of cost, and therefore, justice for poor people has become more expensive. [*Desk thumping*]

Mr. Imbert: I agree.

Mr. R. L. Maharaj SC: As a matter of fact, when these new rules were published, I was the Attorney General. The Law Association at the time took the position that we should not go carte blanche with the English rules, and what would happen, is that you will reach a stage where you were putting judges as managers of the list and you were going to cause a greater backlog of cases, instead of causing greater expedition. What is happening now, when you appear before a judge, the judge is under pressure—poor judge—because he has to manage the case, he has to decide the case, he has to read the case, he has to research the case and he has to decide the case. So before, you had the registry and a court administration managing the file. Now he has to manage and decide, and probably what we should do, is that we should reassess the whole question of what is good in the rules. When I say we, you would have to talk with the Chief Justice and members of the Judiciary, so it can be looked at again, to see what is good to be kept, what is not working should be got rid of—[*Interruption*]

Mr. Manning: Obey the rules.

Madam Deputy Speaker: Hon. Members, the sitting of this House is suspended for tea and we shall resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. R. L. Maharaj SC: Madam Deputy Speaker, when we suspended I was talking about the new civil rules which were introduced. Although the intention was for them to improve the administration of civil justice in Trinidad and Tobago, it is my respectful view that it has made litigation more expensive and it is denying persons access to justice. It is in that context I mentioned just before the break that probably the Government should see whether representations could be made, having assessed this, to see what is good, to get the Judiciary to keep what is good and what is not working well to have them excised.

I just want to mention that when those rules were proposed, I supported the Law Association in not supporting them. At that time, as Attorney General, I got opinions from different experts in respect of those who knew of the operation of those rules in different jurisdictions. Their opinions were unanimous that they would not work in Trinidad and Tobago and that they would make litigation more expensive.

One of those opinions was given by one Prof. Michael Zander who is well known in the United Kingdom and internationally. In his opinion he said that if those rules were introduced they would result, inter alia, in the following: A great deal of time and money would be spent on drafting witness statements. What happens now before the trial, witness statements have to be drafted and filed, which increases the costs. The introduction of new pre-trial case management would generate new costs for the litigants. Thirdly, he said that the requirements that attorneys must attend the case management conference and any pretrial review, might fail because there might be last minute changes of counsel and this would also increase the cost.

The task of training the profession to draw documents in accordance with the new rules, would be near impossible to achieve, having regard to the work involved in having the procedural judges check the drafting of the pleading. It was a long opinion, but I want to quote these words that he said:

“One of the most worrying aspects of the reforms is that they usually increase the amount of discretions exercised by relatively low level judges who will have little guidance from the Appellate decision, since the Appeal Court would just refuse to interfere. It may not be wise that pre-trial review should be conducted by the trial judge, since judges will be tied up, unable to take other cases, because they are due to take the trial in another case where they have conducted the pre-trial review.”

Apart from the front loading of costs, there have been a lot of procedural barriers in the interpretation of the rules. One of the complaints which reached my ears

was that these new rules were unforgiving in setting time frames for case preparation. The sanctions for not complying with the time frame could result in the effective shutting down or dismissal of a case. There was a recent decision of the Court of Appeal in Civil Appeal No. 91 of 2009, *Trincan Oil Limited v Keith Kechny*; it was delivered on February 03, 2010. It involved an application for extension of time to amend the notice of appeal and from relief from sanctions. In that case the appeal was dismissed and the court refused to extend the time. The judge of appeal, Justice Jamadar, explained that he was bound by the words of the rules and that it could only be done if there were changes.

As I said before the tea break, the judges are under pressure. In another recent case, there was a default decision against the State and there was no extension of time. So it would seem to me that we should really look again at these rules, because it may be that they are adding to delays in the administration of justice, apart from it being more expensive and denying access to justice.

I have reviewed the Judiciary's annual report for 2008 and 2009. There is a wealth of statistics and graphs. At Table IV on page 98, there is information on the number of civil cases filed in the High Court from 2003—2009. When the new rules came into effect in 2005, there was a decrease in the number of cases filed. For 2003—2004, there were 6,185 cases filed; in 2004—2005, it fell to 5,976. In 2005—2006, there were 4,121 cases filed. Since then the figure has steadily increased from 4,950. We were given information on the number of cases determined for each year.

What is interesting about those figures in the report is that nowhere have we been given a breakdown of the number of CPR cases thrown out for non-compliance and those that have been summarily dismissed at a case management conference. I think the evil which the rules have created is that the judges are under a lot of pressure and it makes it more difficult for them to effectively case manage and to decide cases.

One of the matters which the rules were supposed to have also—the rules anticipated that there would be a Small Claims Court, a regulated system of contingency or conditional fees and that there would be compulsory professional indemnity insurance for attorneys. Those matters have not been implemented. It was Judge Greenslade in 1998 who recommended these procedural changes which were to accompany the new rules, and after 12 years these things have not been done.

If we had a Small Claims Court, it would have meant that a lot of cases which go to the High Court, which is just in excess of \$15,000, could have gone to the Small Claims Court and that also would reduce the volume of work in the High

Court. Because of the front loading of costs, it has been recommended and implemented in other countries that you should change the laws of Trinidad and Tobago to make it possible for a regulated system of contingency fees, because the new rules obstruct a lot of lawyers from helping poor people. The lawyers cannot put out the moneys to, in effect, help those clients, because there is a lot of front loading of the costs.

The rules anticipated that lawyers would be able to take contingency fees; that is to say, if the case was successful, they would recover the costs that were awarded in the matter and whatever is regulated as part of the regulation could be recovered. It may be that we should really look at these rules again.

One of the issues which have caused a lot of complaints and concern in Trinidad and Tobago is delayed judgments. The Chief Justice said in his address:

“We accept our responsibility and are putting our house in order. At the last meeting of judges held in July we adopted a 120-day time limit for the delivery of reserved judgment. The code of judicial conduct is now substantially complete and will be formally adopted and circulated for public information before the end of the year. This is the standard to which we will publicly agree to hold ourselves accountable and which you are entitled to expect and demand of us.”

I think the Chief Justice ought to be complimented for this initiative, because it has to start from the top. The Chief Justice has stated that he would put this 120-day time limit and that the long awaited code of conduct was going to be ready in a short while.

It would seem to me that the Judiciary, through the Government, should also consider what the commission of enquiry said about delayed judgment, because that may also be a good way of dealing with this problem. At page 56 of the report, the Commissioner said in relation to dealing with delayed judgment that:

“We do not believe that this problem can be easily dealt with by making a fixed rule about the time between the conclusion of trial or the hearing and the date of a judgment since cases vary greatly in the amount of work required for the preparation of a judgment and also this time depends crucially on the other responsibilities that the judge is required to undertake. Trinidad and Tobago is by no means alone in having this problem and we have seen recent comments in the press in England about its existence there. We have to note that we have been informed that the standard of legal research carried out by attorneys who appear before the judges is not always sufficiently reliable for the judges to proceed on the basis of those submissions... In this connection the provision of up-to-date textbooks and law reports requires to be kept in view. However,

excessive delay in giving judgment is not confined to cases in which this could be a relevant consideration and our own observations suggest that the standard of research and presentation is often very high. We suggest for consideration by the Chief Justice that a practice direction affecting both the Magistrates' Court and the Supreme Court should be made which provides that on the conclusion of a trial or hearing where judgment is reserved the date on which that judgment will be given should then be fixed and publicly announced. If for any reason unforeseen at the time the hearing or trial is concluded that date cannot be met the case should be called on that day and the judge should give the explanation for the delay and fix a new date for the judgment. This explanation should detail the reasons for the unanticipated delay and a copy of it should be sent to the Chief Justice or the Chief Magistrate, as appropriate.”

Madam Deputy Speaker, one of the matters which adversely affect the administration of justice is delayed judgment. I want to put it on record that the judges have a difficult task in most of these cases. As a matter of fact, some of them are very new principles of law, but that does not prevent us from putting in some mechanism in order to ensure that the public is kept abreast and that we could have a system in order to expedite this.

5.15 p.m.

In conclusion, I do not think we can not support this Bill; it ought to be supported, it has to do with the improvement in the administration of justice. My concerns had to deal with getting the Government to look at some of these matters again and see whether moneys can be saved or the system made better.

Thank you, Madam Deputy Speaker.

The Minister of Public Administration (Hon. Kennedy Swaratsingh): Thank you very much, Madam Deputy Speaker. As I rise in support of this Supreme Court of Judicature (Amdt.) Bill, I wish to comment on a few things that were said by my hon. colleague, the Member for Tabaquite.

Even as he was quoting the statistics he had with him, I sometimes was confused because even though we talk about those things we are yet to do to impact on the dispensing of justice in the country, it is important that we understand.

The Attorney General began in that framework of all the things we are doing in order to ensure to do whatever is in our power to do to assist the Judiciary and all the agencies of state as we seek to bring about a speedier and more complete system in ensuring that justice is done in our country.

In fact, some of the questions he raised in terms of available spaces as we seek to bring on additional expertise and resources to help the Judiciary, as we increase the number of puisne judges as well as those in the Court of Appeal, we recognize the fact that in today's environment we require a wider team of persons in order to make the dent we want to make. As a consequence, this amendment will create an additional cadre of resources that is not now available to us.

The hon. Chief Justice at the last opening of the law term highlighted a number of things we would be able to do with the Judiciary: one, is that Phase 2 of the Point Fortin Magistrates' Court is refurbished and is now complete; construction service providers have been engaged to mobilize for the provision of modern facilities in Couva, Rio Claro and the Siparia Magistrates' Courts. Couva and Rio Claro would be completed before the end of the term and Siparia nearer to the end of 2010.

Approval has been outlined for the acquisition of lands for the construction of the Chaguanas Magistrates' Court Complex. The building originally earmarked to house the court temporarily will now be used to accommodate a centralized coroner's court.

We have also had an agreement in principle to acquire lands in Arima for the Arima Judicial Complex and just a couple months ago, the Chief Justice and myself visited the lands in Arima and as soon as we have the requisite approvals and an agreement from the landowner, we will be approaching Cabinet to approve those lands to begin the Arima Magistrates' Judicial Complex.

Madam Deputy Speaker, as my learned friend intimated—and at the end of the day we need to recognize the fact that while we could lament all the things that are outside our power to change, at this time this Government is focused in making sure that the things we can change we do change them.

Time and time again, we are accused of a number of things, but one of the things we cannot be accused of is making use of the opportunities we have to impact positively on the administration of justice in this country by supporting the continued development of an expanding judicial system.

In this Bill, we seek to ensure that the Judiciary has expanded resources available to it and we are doing so in a number of areas by making available resources required to ensure that we have spaces made available and ready. In fact, I was one of a team of three Ministers and the Chief Justice who visited the Tobago pilot rollout for the videoconferencing system sometime last year.

One of the reasons we are able to commit so readily to resources that they require is, as the Chief Justice pointed out in his address:

“Unfortunately the fact that capital allocations in this year's budget have been further reduced...That means there will be no Family Court roll out this year...”

But a supplementary appropriation will be sought. Sessions with our stakeholders to refine the protocols, the videoconferencing equipment for the remand hearings have been successfully installed and tested at selected courtrooms in Scarborough, St. George West, San Fernando Magistrates' Court, Tobago and Frederick Street Prison and the Arouca Remand Yard.

The Tobago pilot goes live next month and is expected to facilitate remote visitations as well as remands. Videoconferencing is expected to have major impacts on transportation and security costs and risks as well as saving transit time and relieving crowded Magistrates' Courts lists. That is why the investment in technology is one where we continue to gain value for money. As we do that, we reduce all the other incidental costs that sometimes make a number of these interventions all the more worthwhile.

Madam Deputy Speaker, new technology continues to be one of the ways in which we again make another intervention as we assist the Judiciary in ensuring that we create greater efficiencies in the administration of justice. I therefore, unequivocally support the Attorney General in bringing this measure and continue to look forward to—not the support of the other side in this regard, but even if they say yes, because they say so tongue-in-cheek. No one could underscore this Government's resolve in ensuring that we move with a greater sense of urgency to do whatever is required to do to support the interventions that ought to be made and which we are making to bring about a more speedy resolution to issues of the administration of justice.

In fact, whatever the statistics are, any crime that goes undetected or otherwise is never anything for us to gloat or laugh about. Members of our communities must always be assured that the Members of this House on both sides are doing whatever we can to bring about a situation where nobody's circumstances are left undetected and unresolved.

We as a Government, continue to be painfully aware of all the circumstances people find themselves in when it comes to crime and the administration of justice. In my own constituency—[*Interruption*]

Let me inform the Member for Tabaquite that my information is that the person who blocked the Prime Minister does not even reside in the San Juan constituency. That is my information.

Mr. S. Panday: "It hurt you, so yuh investigate it."

Hon. K. Swaratsingh: I do not know if he came from Princes Town North because I know nobody in Tabaquite will want to represent you in that way, but nonetheless, at the end of the day, what we need to make sure is that we continue to treat with all these issues with reference to the administration of justice with a matter of seriousness and commitment that this measure requires. That is why I rise in support of it.

We continue to find so many ways in which we have to assist and work with the Judiciary in ensuring that as we seek to create a system where there are greater resources focused on reducing the backlog of cases, increasing the number of judges available to ensure that justice is more speedily given to citizens of our country.

Just to add some statistics of our own, in 2008/2009 the following rates were indicated to us in terms of cases filed and disposed: The Appeal Court, 617 new matters were filed, 430 were disposed; the High Court Civil Registry, 4,632 new matters were filed, while 4,968 matters were determined; in the Criminal Registry, 116 indictments were filed, 101 were disposed; in the Magistrates' Court, 90,437 new matters were filed, 79,226 were disposed.

So to add to the numbers you would currently have, it goes to show how many new matters are coming on every year, and this is the kind of material now available based on the case management system that is now operated. There are other technological systems that are incorporated into the Judiciary. As a consequence of that, we have a very strong platform that we could continue to build on, but it is a building process and we continue to commit ourselves to working with the Judiciary in ensuring that the rules, the technology, additional spaces that are required, and the human resources required—there is no way in dealing with a Bill like this you could come with all the requisite tools that would talk about its roll-out because persons have to be hired, trained, to ensure that we have all the tools that will allow these judges to function adequately.

One of the things as we deal with these measures is to not fool ourselves into thinking that not because we do not have all the human resources in place that we cannot support this measure and begin the process. So many of us sometimes want to go to the end and not recognize that it is a process. We have to start somewhere, we have to make certain decisions and as we make those decisions, we will work through all the requirements that are necessary to make these come to fruition. Sometimes when we speak; we do so as if there is some wand someone could wave and fix everything in one go. It concerns me sometimes

when I hear Members of this House and others speak. There are times when we need to start to put the requisite resources in place so that we could begin the process; it must start at some stage.

Even as we listen to the statistics quoted by the Member for Tabaquite, a bigger injustice will be done if, based on what is before us, we fail to act. We have to act, we have to support and make sure we put the tools in the hands of those who require them in order to make sure that justice is speedily given. For far too long too many persons have had their justice delayed and as a consequence of that, their justice denied.

5.30 p.m.

So we come today, as we look at the amendment before us, to recognize the fact that this Government in this one small measure, has taken a quantum leap and placed the faith of a number of existing and emerging scenarios in the hands of our well qualified nationals who will now take their place alongside those who are currently there.

We have very good practitioners in the judicial system in Trinidad and Tobago. We have all the confidence that we have the resources that exist in our country in order to make this amendment one that will come to fruition in the not-too-distant future. As a consequence, the other areas where technology is impacting and based upon what the report from the hon. Chief Justice at the opening of the law term last year indicated, that the promised recruitment, orientation and training of customer service representatives has been completed; electronic screening and surveillance systems have been installed at the Scarborough High and Magistrates' Court and at Point Fortin, and Cabinet has also approved the acquisition of St. Joseph's Convent building for customization to deliver family court services in San Fernando. There are now no more matters to be assigned from the old civil rules backlog.

So we have been working assiduously to ensure that as far as we can and in whatever we could make available, that the administration of justice continues unabated and unhindered. But I need to correct some of the things, because at the end of the day we must not give the impression that this is the only thing that we are doing and that is why we need to make sure that the people understand quite unequivocally, that the Government, in a number of areas, is working with the Judiciary to bring about a better administration of justice.

But it goes beyond that. I think there are some areas where—and the administration is one of them—we have to be very, very cognizant of what is required to ensure that every citizen of Trinidad and Tobago, not only has access to, but is assured of their own

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circumstances being dealt with efficiently and effectively and within a reasonable period of time. That is why we must all be concerned, not only about issues of undetection and so on, but the length of time things take to be resolved. We must all be concerned about the well-being of those who have to sit—I mean, I listened to the Member for Tabaquite talk about the persons who have to change their lives in order to commit to serving on the bench. But as we think about them and their well-being, it is equally important for us to ensure that it is a case ratio that there are persons who can help share the load that is required to look after, not just the backlog, but all the cases that are being filed in the various courts.

So as a consequence, it makes good sense for us to, at this time, come to seek to increase the number of puisne judges, as well as those in the Court of Appeal. It makes good sense for us to do that at this time as we seek to give the Judiciary an additional boost of expert resources required to deal with these matters.

It is also important even as others spoke about temporary judges, that there will, in my view, continue to be a mixture of strategies that must be used as we seek to ensure that cases are heard in a speedy manner. We, in this country, cannot, again, delude ourselves into thinking that in a population of 1.3 million people, that we will always have available to us all the resources that we require. As a consequence, in a number of instances, as this case clearly demonstrates, a mixture of strategies is required in order for us to get the job done. The important thing, therefore, is for us to recognize the fact that this Government, in bringing this measure now, demonstrates yet again its commitment to ensuring that justice for all and the administration of justice is continued. [*Desk thumping*]

No one could deny, therefore, that in our country at this time we need to work together and to collaborate with all our institutions to ensure that our country continues to progress to where we want to go. Far too often in our country, even as we speak of the independence of institutions, far too often that goes to a point where there is failure to collaborate and there is stymied progress because of turf issues and because of issues where, clearly, we sometimes find ourselves asking how do we even as we administer and administrate, how do we have strategies that seek to build on all that is available.

I must tell you that since the advent of my tenure here—and let me, in that regard, pause to wish the residents of St. Joseph; for those in the Catholic community, today is the feast of St. Joseph. I want to wish all my constituents happy feast day. [*Desk thumping*]

Mr. Bharath: You did not invite St. Augustine to join?

Hon. K. Swaratsingh: If I did not invite St. Augustine? Yes, but that would not include you. The Member for Chaguanas West said you are never there. But do not worry. We will issue a newsletter of our own.

It is important that in this instance we benchmark the fact that there has been great collaboration in a number of areas, working with the Judiciary, Public Administration, the Attorney General's office, National Security, and other agencies to see how collectively we could impact positively on the administration of justice. That is why we continue to recognize the fact that there is an expectation that even as we put in all these measures, that our statistics will begin to improve. But clearly, we have to recognize the fact that even as we incubate some of these things, that a faster roll-out has to be contemplated. That is why there is a requirement at this time, in my view, to increase the number of judges we have available. There is a requirement to increase the number of courts, of spaces. There were times when we talked about how do we, as a government, work with the Judiciary. Clearly this is one measure that as a government it is a very good thing for us to bring forward and it is a very good thing for everyone to support.

No one wants to stand in the way of the Judiciary, ensuring that they have the resources that they require. We recognize that there are other areas that we have to focus on. We recognize that even as we talk about the remand situation, that things are being put in place now to deal with the remand of prisoners—I think they have to appear every 10 days or so—that we have to put in place a number of facilities to ensure that ongoing support is being given for the Judiciary.

But at the heart of all of this is the desire by this Government to make sure that all our citizens feel adequately served; feel secure in the knowledge that their Government is doing all within its power to ensure that all their matters are resolved to their interest and the interest of our national community. That is why we continue to live the view and we continue to live the fact that this Government cares about all our citizens and cares consequently about all the actions that we have to be faced with.

It is why, in these measures, it would be good of us to recognize more and more the efforts—and that is one of the reasons I rise to contribute in this debate, to recognize all that the Government is doing in support of the Judiciary. I want to repeat that. It is important to recognize all that this Government is doing in support of the Judiciary. I wish to congratulate the Attorney General. I wish to congratulate the Ministry of the Attorney General. I wish to highlight the ongoing collaboration between the agencies, the Attorney General and the office of the Chief Justice as we work with them to bring about improved efficiencies in the Judiciary.

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It was also said, it is expected that for the new law term commencing 2009/2010, based on cases increased over the past five years, the number of civil cases filed would be a figure of approximately 4,000. So the increased manpower will assist with the following: alleviating the heavy workload which judges have to deal with on a daily basis; providing justice in a timely manner, therefore improving the public perception of the justice system.

There are very many people who have to find themselves week after week, month after month, for long periods of time going to court and having their matters put off, put off, without coming to a conclusion. It would aid in the administration of justice by disposing of the backlog in the court system.

There is adequate and clear reason why this measure is important and why, indeed, it must be supported by all. The appointment of additional judges, as it lessens the workload of individual judges, will also allow for a swifter administration of justice to the people of the nation. I think we need to ensure that persons whose matters are before the courts, recognize that this Government is doing whatever it can to support the Judiciary in ensuring that there is a swifter dispensing of justice.

The Government's approach to crime seeks to strengthen the structures and functionalities of the criminal justice system by addressing the deficiencies in legislation that have led to lapses in the administration of justice. So we continue to recognize that there is a requirement for us to work with the Judiciary, to support them and to do whatever we can as we continue to build the capacity of all our institutions in various aspects of our governance system. That is why, even as we stand in support of this Bill and even as we have the assurance of the Opposition of their support as well, there are other things that we would need to look at, to support and to work with in order to have a complete renewal of the efficiencies that are required as we seek to bring about a new order in the dispensing of justice.

I, therefore, would like to, again, assure the Attorney General of our highest considerations in this matter; stand in support of this measure and, indeed, I am gratified that all of us recognize its importance and in so doing, are willing to support it.

I thank you, Madam Deputy Speaker. [*Desk thumping*]

5.45 p.m.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Madam Deputy Speaker. I rise to make a brief intervention on the matter before us, as it relates to, basically two issues and issues that have been raised by my colleagues opposite.

I want to begin by congratulating the Member for Princes Town North and the Member for Tabaquite who have really laid a solid foundation, in terms of placing this debate in its perspective.

While the purpose of the Bill before us speaks to the increase in the number of judges at the High Court and the Court of the Appeal—on the face of it, a significant increase, as the hon. Attorney General indicated—there are issues that are related to this debate which deals with much more significant and profound issues. It was the Attorney General who anchored his presentation on this matter in the context of the Government's approach and policy in dealing with crime.

The Attorney General gave us the history of attempts to increase the number of judges. He spoke of the importance and the significance of the measure today, in the context of the backlog of matters before both the High Court and the Court of Appeal and in the context of both criminal and civil matters. We have had a lot of data on that. The Member for Tabaquite took that argument a bit further and dealt with the detection rate. I think it is being understood now that we are dealing with three areas, in terms of the fight against crime; they are prevention, detection and conviction and we are locating our argument along that line.

The Attorney General also sought to locate the Bill in the context of the wider government attempt to deal with the issue of crime. He made mention of efforts to deal with kidnapping, trafficking in dangerous drugs and other serious crimes. He alerted us to other amendments and other pieces of legislation that the Government will be debating in the very near future, as they relate to criminal procedure and the law of evidence. That was the backdrop.

The Member for Princes Town North gave us very good detail on the challenges facing the Judiciary from his own perspective at the Magistrates' Courts, because he is a prominent practitioner there as well. He gave us the nuts and bolts of the problems facing the Judiciary.

I want to begin by addressing some issues raised by the Member for Pointe-a-Pierre. The Member for Pointe-a-Pierre sought to rebut, somewhat, the statements made by the Member for Princes Town North. Thankfully, the Member for Pointe-a-Pierre had the latitude, which we welcome, to raise several matters, which she did. It is incumbent upon me to respond to her carefully thought-out presentation.

The Member for Pointe-a-Pierre spent quite some time and made heavy weather on the issue of the independence of the Judiciary. We recall the Member for Pointe-a-Pierre speaking about events that took place in 1999. We were fortunate to get a little history/tutorial on events that took place in 1999, as

they relate to what the Member for Tabaquite was saying; the sort of natural and in some cases healthy tension, between the Judiciary and the Executive.

The Member for Pointe-a-Pierre told us about, what the Member described in her own words, a bloodbath between the Judiciary and the Executive, where the former Chief Justice de la Bastide who is now President of the Caribbean Court of Justice, spoke about that conflict. [*Interruption*] How do you pronounce that word? Ramkhelawan is it? Pronounce that first. Anyway, let us proceed. We would deal with that later. The Member for Pointe-a-Pierre spoke about this bloodbath. I was quite interested in the bloodbath that the Member mentioned. It was really left for the Member for Tabaquite, who was a prominent participant at the time, who brought to the table, the Mackay Report from the Commission of Enquiry, in which the then UNC government was vindicated of all the allegations that were raised in the context of interference in the Judiciary.

The Member for Pointe-a-Pierre did not stop there, but went on to make statements about that conflict in the Judiciary in 1999/2000. The Member was not clear as to who was the Attorney General at the time, but remembered the event. I want to say at the outset, whatever may have been the issues in 1999 and 2000, the electorate had an opportunity in 2000, 2001, 2002 and 2007. The electorate had ample opportunities to pronounce on those issues and to pronounce on that administration; whatever we may believe and however we may want to defend or attack. The electorate has already, in a way, given its verdict on those matters in 1999. But in a couple of years, the electorate will have to give another verdict and the electorate, having already decided on the events of 1999, will have to decide on the events of 2000—"2000 and whenever". They will have to decide.

I am so happy that the speaker before me actually raised the issue of the address of the current honourable Chief Justice, Mr. Justice Ivor Archie. The last speaker for St. Joseph introduced his address, of course. I wanted to remind Members opposite, particularly the Member for Pointe-a-Pierre, who really went back to 1999, to look at this problem and the tension between the Judiciary and the Executive. That was just a few months ago. We do not have to go far. It was Wednesday, September 16, 2009, where Mr. Justice Ivor Archie, delivered his address at the opening of the law term, an address which many people, including my friend from Mayaro, described as "Prince Gallaway's Archie buck dem up." I think that was the calypso of the 1960s. This shocking address—a sitting Chief Justice addressed an incumbent administration today, a few months ago, not 1999, 2000 or 2001. The Chief Justice reflected on the issue of the independence of the Judiciary, his perspective on where this issue was going and his concern about the

introduction of a new Constitution that had serious implications. That was the issue the Member for Pointe-a-Pierre was getting at. She was dealing with the issue of the independence of the Judiciary, raised by the Member for Princes Town North and reminding anyone who was listening that in 1999, there were issues involving the former Chief Justice and the UNC administration.

In 2009 and continuing, the Chief Justice brought to our attention the issue of the proposed introduction of a new Constitution. I just want to quote from page 17. I have to, in response to my friend from Pointe-a-Pierre.

“It is against that background and understanding that I must confess to some concern when I read...the provisions of the draft constitution... They do not meet the objectives that have been...publicly articulated... in fact...if passed, take us in the opposite direction. In my respectful view they stem from a fundamental misunderstanding of our role and function and have disturbing implications for judicial independence.”

This is a few days ago.

“I refer in particular to clauses 121 to 125, 136 and 142. The misunderstanding lies in the assumption of a false dichotomy between the judiciary’s judicial and administrative functions and the assumption that one can be independently exercised without the other. The danger lies in the potential to gradually and systematically strip the judiciary of its independence...”

I would repeat that.

“The danger lies in the potential to gradually and systematically strip the judiciary of its independence...”

That is the warning from a sitting Chief Justice; a shocking warning. I want to repeat what was before. That was the current Chief Justice a few months ago. I want to repeat that. People are appointed judges from the highest—

There are certain characteristics of a judge that the Member for Tabaquite raised. You must be a bit controlled and very calculated in what you say and what you do. This is the Chief Justice warning us of this impending crisis of undermining the Constitution. We commend him.

“If you were one of the parties to a lawsuit, would you feel comfortable in knowing that the party on the opposite side could have access to the judge’s chambers, could control the filing of documents and the keeping of all the records in the matter, the selection of the judge...the scheduling of courtrooms and other resources, the

composition of the judge's support team including his or her research assistant, all the information, technology and security associated with the matter...the judge's leave and travel approval, training, reading material and personnel records?"

This is what the Chief Justice said. I am not saying this. I am quoting from the Chief Justice, the incumbent office holder of today, and his concern. The Government will do well to respond to his concern. Unless I am mistaken, the official line was everybody could talk. He has a right to talk like anybody else and that is true. But also we must recognize that this is the Chief Justice of the country and give the appropriate weight to his concerns.

He continues:

"You might with some justification entertain great apprehension that the scales could be tilted against you. Well all of those things are part of what Court Administration is about..."

He continues by raising concerns. How can the Chief Justice be responsible and therefore accountable for that which he cannot control? He is suggesting that the proposals in the public domain for a new Constitution would undermine the ability of the Chief Justice to control his administration and his judicial function.

The Member for Pointe-a-Pierre was comfortable taking us back to 1999; very comfortable. This is 2009, a mere few months ago. I encourage Members opposite to respond to the concerns of the Chief Justice, if not the UNC, at least from the head of the Judiciary. That is the concern I think we should be responding to.

He continues. I quote:

"The Permanent Secretary for the Judiciary who will be appointed by the executive President and responsible for the day to day administration of the Judiciary will report to the Minister of Justice and not to the Chief Justice. Outside of the construction of buildings, which is the only pertinent example cited thus far, it is difficult to think of any other aspect of Court Administration that could be safely devolved from the judiciary without impinging on its independence."

The Chief Justice went on and on, raising the issue of the role of Parliament. I had this with me. I read it in preparation not knowing that I would have to depend extensively of this speech, but had to when I heard the Member for Pointe-a-Pierre.

6.00 p.m.

The Chief Justice said:

“Perhaps the most worrisome clause is clause 125, which gives Parliament the power to confer on any court any part of the jurisdiction and powers conferred on the High Court by the Constitution or any other law. It requires no special majority, nor does it require that the new court or courts enjoy the constitutional protections designed to ensure the independence of the”—Judiciary—“Arguably, the most important power of the Supreme Court inherent in the separation of powers and recognized both at common law and by statute, is the power of judicial review of executive action. It is the only protection that citizens have against arbitrary or unlawful state action.”

It says:

“Under the draft...members of the Judicial and Legal Service Commission are all appointed by the Executive President.”

Look who is talking, look what they are saying. The Chief Justice, and it is my information that the very Member for Pointe-a-Pierre—and the Member could correct us if we are wrong—was indeed, a member of a committee that drafted this Constitution which I am referring to and which the Chief Justice dealt with. So, the Member for Pointe-a-Pierre, a coauthor of this draft Constitution is talking today about the independence of the Judiciary [*Interruption*] and then speaks to us after drafting, to take away the independence of the Judiciary.

Mr. S. Panday: What she came here and said? [*Desk thumping*]

Dr. R. Moonilal: Let me repeat this. [*Interruption*] The Member for Pointe-a-Pierre, who drafted a constitution to take away the independence of the Judiciary, today gave us a lecture about the importance of the independence of the Judiciary [*Interruption*] and sought to condemn the administration of a decade ago for whatever actions and policies they sought to implement at the time. [*Interruption*]

Madam Deputy Speaker, that would have been funny had it not been tragic. That would have been funny, but there is a tragedy here. The tragedy of course is the delivery of justice. The Chief Justice says:

“Given our political realities and the way in which its composition would be determined, the fact that the House of Representatives must approve these appointments hardly provides a convincing check, or at least one that is likely to foster public confidence in the independence of the Judiciary. In fact the Chief Justice will cease to be a member of the Judicial and Legal Service Commission...”

This is the shocking conclusion of the Chief Justice a few months ago referring to policy of this incumbent PNM administration. [*Desk thumping*] Not 10 years ago, I remind you. The speech of the Chief Justice should require reading for every professional and every student in Trinidad and Tobago to understand the issue and to deal with the threat to our democracy, because I think it was a Member before who said that the role of the Judiciary is to protect the Constitution and our democracy. That is the role of the Judiciary. Our role, of course, is to make law pursuant to the will of the people who vote for us. But the Judiciary has a function that we cannot attack and undermine, and the Chief Justice ended, of course, with the words of an anonymous author:

“I sought to hear the voice of God
I climbed the highest steeple
But God declared Come down again...
I dwell among the people”

I think Selwyn Cudjoe wrote something about this today. "But God declared: "Come down again, I dwell among the people". What he is saying is get to the ground, listen to the people. [*Desk thumping*] And a PNM apologist activist member, balisier tattooed member, Selwyn Cudjoe, is writing these days, and the only thing he is not saying is, "You all out, try to listen to people quick to see if you could change it". [*Desk thumping*]

"Save the PNM" is the title of a serial he is now issuing, and clearly nobody is listening to him so he has to write, because after speaking to the PNM, nobody is listening to him so he is writing now, but they are trying to save.

Another writer a few Sundays ago described the Prime Minister—with great respect it is really the words of Prof. Selwyn Ryan—as dead in the water. That is how Prof. Ryan described the incumbent Prime Minister. Then Selwyn Cudjoe, prominent Central Bank director and PNM activist says, "Look, this thing apparently reached the point where they cannot pull it back, you have to listen to the people".

Mr. Imbert: Madam Deputy Speaker, Standing Order 36(1).

Dr. R. Moonilal: But I am responding to the Member for Pointe-a-Pierre on the issue of independence—

Mr. Imbert: You are not, you are not.

Madam Deputy Speaker: Hon. Member, yes, you are so responding, but in reference to the writings of Prof. Ryan and Selwyn Cudjoe, that is not directly responding. But in using the speech of the current Chief Justice, yes, you are.

Dr. R. Moonilal: Okay, thank you very much. Let me continue with the speech of the Chief Justice.

Dr. R. Moonilal: Madam Deputy Speaker, you are so right, one should ignore Selwyn Cudjoe, I agree, [*Laughter*] as being irrelevant to this debate.

The Chief Justice concern on the administration of justice and the Judiciary is also important on a second limb. This evening, we have heard from Members opposite—the Member for St. Joseph and the Member for Pointe-a-Pierre, and in the speech of the Attorney General—about the work of the Government in supporting the Judiciary, but it was the Chief Justice who alerted us in September 2009 that the budget for development programmes was slaughtered and to quote page 9 of the Chief Justice's speech:

“We requested \$393 million for the development programme. Our budget allocation was \$42.5 million”.

That is 11 per cent.

Mr. Dumas: That is not a reduction.

Dr. R. Moonilal: And 11 per cent of what they requested. It is not my intention, certainly of getting into UDeCott and Calder Hart and so on, but only to say that \$393 million could have been found easily if they did not feed that to UDeCott to waste on those expensive projects, [*Desk thumping*] where today we cannot find Calder Hart and we cannot find any heart.

Let me return to this problem of the Judiciary—11 per cent for the development programme. I want to just continue by indicating that the Judiciary like any other ministry or public department and so on, there are two areas for budgeting. There is what is called recurrent expenditure and capital expenditure. Now, recurrent expenditure increases regularly because it is the day-to-day expenses including wages and salaries which invariably would almost be 60 per cent or more of a ministry's budget and so on. But the work of a ministry, department or the Judiciary really, their heartbreaking work is in their capital budget for capital funding for development programmes.

So by telling us how much money the Judiciary spends on wages and salaries every year, their recurrent expenditure, that does not give us the full picture. The full picture comes from how much is given to the Judiciary for their development programmes. I want to remind my friend from St. Joseph, while we were happy to hear about the Member for Point Fortin and his trip to Tobago, the Chief Justice says that this cut, this slaughtering of the budget for the Judiciary means that there

will be no Family Court to roll out this year without a significant supplementary appropriation, and we cannot deliver on the refurbishment of physical facilities, especially in the Magistrates' Courts and that was what the Member for Princes Town North was talking about.

Mr. S. Panday: True!

Dr. R. Moonilal: The critical need for enhancement of infrastructure in the Magistrates' Courts. [*Desk thumping*]

The Chief Justice is saying, given this slaughtering of his budget, the Magistrates' Courts will have no improvement.

Mrs. Nunez-Tesheira: Thank you very much for giving way, and through you, Madam Deputy Speaker. That was an issue raised earlier on when the Chief Justice made his speech and the Budget Division has confirmed, as I had said earlier, that the amount that the Judiciary received in terms of their percentage request was consistent with what every other ministry or state agency had received, in fact they received more in terms of their percentage of what they requested. In fact, in every budget the members from the Judiciary come to the Ministry of Finance and consult with the Ministry of Finance. If the Chief Justice—as it has happened on previous occasions—is for some reason unhappy about the allocation, we have met with the Chief Justice, not in the ministry, at whatever accommodation or wherever he wishes to have the meeting, and his requests are not only entertained, they are acceded to.

In this case the Chief Justice made no request and the allocation he got was consistent with the allocation based on what ministries asked for. You would not see that in your budget allocation, because ministries come with their whole wish list, and on that wish list you have to cut it down and the cutting down that was made for the Judiciary was no different than was for other ministries.

Mr. S. Panday: We are speaking about the development fund.

Dr. R. Moonilal: Thank you very much, Minister of Finance. If I understand you correctly, you are saying that the amount granted to the Judiciary was not average, but actually more than other departments of the State and government [*Interruption*] based on what they asked for, so the 11 per cent that they got was more than other areas in terms of a percentage not the absolute figures.

Mrs. Nunez-Tesheira: What I am saying is, they got 11 per cent of the budgetary allocation, but every ministry comes with a wish list, and when they come with a wish list at the Budget Division, they come asking for billions of

dollars, but at the end of the day what the Budget Division would grant them—what each ministry got in terms of what they asked for from the Budget Division was approximately 11 per cent. I am not saying what they asked out of the budget, I am not saying that. The budget allocation—there are different allocations, but based on what they asked for from the Budget Division, they got on average the same figure that every ministry got, so they got treated no differently. In fact, I am making the point, in the past if a Chief Justice asked for a special meeting with the Budget Division it was not only entertained, the meeting took place and the request was accorded.

Dr. R. Moonilal: Madam Deputy Speaker, I would like to respond to the Minister of Finance. First, I would like to begin by saying that if the Chief Justice is listening to me now and the Parliament Channel, please contact the Ministry of Finance to have a meeting with the Minister of Finance, because they would like to meet you, Sir, and members of your administration [*Interruption*] to discuss a further appropriation. [*Interruption*] Okay, we have sent a message to him now.

Mrs. Nunez-Tesheira: [*Inaudible*]

Dr. R. Moonilal: Madam, you uttered 10,000 words just now, could I respond to you?

Mrs. Nunez-Tesheira: As long as it is the truth. [*Crosstalk*]

Dr. R. Moonilal: Thank you for your compliment.

Madam Deputy Speaker, I want to quote from the annual report of the Judiciary 2008/2009—a very colourful document—and I am just asking the Minister of Finance—[*Interruption*] I will permit you another 2,000 words. There is on page 82, Financial Review. I just want to quote and I would give you a chance to respond.

“The Judiciary was allocated the sum of Three hundred and sixteen million, four hundred and seventy four thousand, eight hundred dollars (\$316,474,800) to facilitate both the recurrent”—operational—“and capital”—developmental—“expenditure for fiscal 2008-2009. This allocation represents 0.68% of the total sum provided to all Ministries and Departments and a 7.07% decrease over the allocation provided for fiscal year 2007-2008.”

Mrs. Nunez-Tesheira: Could I answer you?

Dr. R. Moonilal: Please, I want you to respond to something else. [*Interruption*] I have—just write a note. Take a pen, [*Interruption*] call the Clerk for a notepad and just write it down for me. [*Interruption*] So, you could respond to this and another query I am going to raise now as well. You would need to borrow a pencil from somebody.

6.15 p.m.

Madam Deputy Speaker, let us look at what is happening with the development programme. I want to give a quick outline of the sums. The Minister of Finance has a big, big chart with tables in front of her, so she can respond. In 2002/2003, the Judiciary asked for \$45.6 million for capital projects to include computerization, refurbishing, construction; they got \$29 million.

Dr. Gopeesingh: Sixteen million dollars less.

Dr. R. Moonilal: So they got \$29 million out of \$45 million requested in 2002/2003.

Dr. Gopeesingh: Sixty-six per cent.

Dr. R. Moonilal: Sixty-six per cent. Today, they got 11 per cent. In 2004/2005, they were allocated \$44.2 million. In 2005/2006, the Judiciary requested \$125 million. They were allocated only \$53 million out of a request of \$125 million. What per cent?

Dr. Gopeesingh: Forty per cent.

Dr. R. Moonilal: Forty per cent. So we are going down. In the annual report of 2006/2007, the Judiciary advises that their total allocation represents 0.7 per cent of the total sum. Same thing! I wanted to ask the Minister: When UTT asked for money; when UDeCott asked for money; when they were piling up money for the Brian Lara Stadium and every week there was a cost overrun and millions went, millions and millions, to the point where the Government cannot count the millions now—because we do not know—is that the same approach that they were using for the Judiciary? So how it is you can increase cost overrun for stadium, NAPA, "DAPA", for hotel, for everything, but the Judiciary—I have to call on the Chief Justice tonight, to meet you. I want to take offence with one other issue you raised, so you could respond at the same time. I am hearing the Minister and I know it is not her deliberate intention, but when the Minister says that every Ministry comes with their wish list with all that they want, we sit, go through and determine what you can get. But, Madam Deputy Speaker, the wish list includes refurbishing the Magistrates' Court, accommodation for judges, and the Family Court. Do we consider that, as we would think of the wish list to buy curtains at the Prime Minister's house—[*Interruption*]

Mr. S. Panday: That is the wish list.

Dr. R. Moonilal:—to build the moat? Is that in the same weight? I am asking. Would you put the same weight to expand the mini cultural centre next to the Prime Minister's residence? Would you put the same—\$16 million, I think—weight on that as

opposed to the request from the Judiciary to enhance, upgrade, refurbish Magistrates' Courts, family courts, equipment, and so on? On that note, I just want to ask the Member for St. Joseph—because I think the Member is concerned with government's accommodation and so on—whether or not there are plans to either expand the Hall of Justice, or to take functions from the Hall of Justice and expand into another government building in the vicinity of the Hall of Justice, as had been proposed I think some time ago to assist with accommodation? Because at the Hall of Justice today, I daresay from the information reaching us, these 13 new judges that we are giving legal authority to appoint, there is no place for those 13 judges. So they cannot be appointed. They cannot sit in their cars in the car park to conduct the business of their judicial functions. You think of the support staff, but office and chairs. So we are giving the legal authority to appoint more judges, but they cannot be appointed by definition. Please!

Mrs. Nunez-Tesheira: I hope I can say it, and hopefully through you, Madam Deputy Speaker, I would be as clear as I can be on this. What I have said is this, that when you look at the total budgetary allocation for all the government agencies and ministries, the Judiciary, in the context of that, you have quoted 0 point something per cent. Well let me remind then, that in 1995, you gave them 0.64 per cent; in 1996, 0.78 per cent; in 1998, 0.77. The point I am making is this. *[Interruption]* What I am making is not— Listen—*[Interruption]*

Mr. S. Panday: Is that what you give way for?

Mrs. Nunez-Tesheira:—we are not talking about absolute numbers. We are talking about in terms of percentage. In fact, when we were in power, in 2004/2005, the largest percentage of the central government expenditure was given by this administration. The point that the Member for Pointe-a-Pierre made—even when you gave them the percentage, it was a full 1 per cent of the budget in 2004; in 2003 we gave them 1.01 per cent of the budget; and the highest you ever reached when you were in power was 0.77 per cent. But the other issue is this—*[Interruption]* But my goodness! May I just make one other point? Let me just make one other point. *[Interruption]* The point that the Member for Pointe-a-Pierre made which I will make for you, even when you were there, not in one year did the Judiciary spend the allocations they were given. So clearly, they have gotten more than they asked for. Clearly, they have gotten more than they have needed because they were never able to spend more than needed, and your percentage was no more than ours. In fact, it was less on some occasions.

Thank you very much.

Mrs. Persad-Bissessar: Because we did it, you must do it?

Dr. R. Moonilal: Madam Deputy Speaker, I am terribly sorry to interrupt the Minister of Finance. I am really, really sorry, but I have to and I want to thank you again. At the word count for this *Hansard*, I am afraid the Minister of Finance will have more words than the Member for Oropouche East on the—it would be more words, but not more wordy. [*Crosstalk*]

Mrs. Nunez-Tesheira: You do not understand.

Dr. R. Moonilal: So I want to thank—even when I talk you are still talking. Karen! Karen! [*Crosstalk*]

Madam Deputy Speaker: I am sure you know that it is one thing to have crosstalk, but when you are on the floor, that you do not refer to hon. Members by first names. Okay?

Dr. R. Moonilal: I am so sorry. I was just hearing the calls next door. I am so sorry, I withdraw that. Madam Minister of Finance, hon. Minister of Finance, may I? Madam Deputy Speaker, I know I encourage them with my data, but I want to quote again and tie up this issue, from the hon. Chief Justice. He was referring to the report and he is concluding, comparatively speaking, that fewer resources have been devoted to the Magistracy than to the Supreme Court. The rate of spending on the Judiciary as a percentage of the national budget also compared unfavourably to regionally accepted norms. [*Desk thumping*]

Let us go there again. I will give you another 20,000 words on this one. I want to say that the Chief Justice is saying—because apparently we cannot out-talk the Minister of Finance on the earlier issue. We can out-think, but not out-talk—that when you compared the Trinidad and Tobago Judiciary to the Judiciary in the Caribbean, regional comparison, the national budget of Trinidad and Tobago compared unfavourably to regionally accepted norms being approximately 0.8 per cent, as opposed to the benchmark of 2.3 per cent.

Mrs. Nunez-Tesheira: Of what?

Dr. R. Moonilal: Of their budgeting. Madam Deputy Speaker, he says that I might add that despite increasing in the absolute quantum that reflects general price rises, that ratio remains the same today. [*Desk thumping*] In a nutshell he is saying that you are not giving him enough money.

Mr. Manning: Madam Deputy Speaker, I thank the hon. Member for Oropouche East for giving way. The point that the Minister of Finance made at great length a few minutes ago, is that not only did we give them a higher percentage of a significantly larger budget, but that they were not able in any particular year to spend the money allocated to them. How therefore could you make that conclusion? But it is not so.

Dr. R. Moonilal: Thank you so much, and I thank you for your relatively brief intervention. Madam Deputy Speaker, let me make this point. I do not want to quarrel too much on that because you are really—what about the regional comparison that I raised now, that the Chief Justice is raising in the context of the region?

Mr. Dumas: May I?

Dr. R. Moonilal: But what is happening here? [*Laughter*]

Mr. Manning: I was going to take you again, you know.

Mr. Dumas: Madam Deputy Speaker, I would like the Member for Oropouche East to tell us what he thinks the Judiciary will do with 2.5 per cent of the budget of Trinidad and Tobago, which is more than he himself, has asked for?

Dr. R. Moonilal: Thank you very much. I think I would leave that for the next speaker to respond to. I want to move on and I want to say that one of the problems with the Magistrates' Court apart from the lack of funding is that—Madam Deputy Speaker, do you know why they cannot provide more money?

Hon. Member: Why?

Dr. R. Moonilal: It has to do with their wasting of money. The rental cost I want to say, that the State has been paying handsomely to rent a building to house the other courts. There are arrangements in place, and we all know of the arrangements in Chaguanas and in San Fernando. I have the note. In San Fernando, they are paying \$40,000 per month.

Mrs. Persad-Bissessar: Since when?

Dr. R. Moonilal: Since 2003. Seven years! They are squandering the money, and that is why they cannot find it to supply the Judiciary.

So imagine \$70,000 per month for a building. There is a link between the payments of these rents, the landlords and the Government. There is a link and that is why they cannot find it in absolute sums to give to the Judiciary. So when the Judiciary asks for a \$100-odd million, you give them 11 per cent, and say that is more than other ministries on average. Then you say they came with a wish list and the wish list is the Magistrates' Court, the Family Court and infrastructure. That is what you say. Then you go further to say they cannot spend the money when they get it. So why do you not send Shanghai Construction to extend the Judiciary; to build offices for judges? You could send Shanghai Construction to build everything, but you cannot expand the Judiciary. You cannot expand the operations for the Magistrates' Court, but you focus on everything else.

Mr. Manning: Madam Deputy Speaker, I think I better thank my young friend, the Member for Oropouche East for giving way. I want to let him know that the ultimate test on whether a proper allocation is made to a department or not, is their ability to effectively and efficiently spend it. You could call all the absolute figures; you could call all the percentages if you wish, if at the end of the day the department is not able to spend it, it does not have the capacity to absorb that level of expenditure, then not only have you satisfied the requirement, but you have gone above and beyond the call of duty. This is what is happening on our side.

Mr. S. Panday: Member for Oropouche East, I would like to answer the hon. Prime Minister. The reason why they cannot spend the money is because the money is released on the 30th.

Dr. R. Moonilal: Madam Deputy Speaker, I think we will create a record here. [*Interruption*] Please?

Mr. Swaratsingh: Madam Deputy Speaker, I wish to correct on record, first of all the Government's responsibility is not to outfit the buildings for the Judiciary. The Government's responsibility is to provide the rental. It is the Judiciary's responsibility to outfit it and occupy it. [*Desk thumping*]

Dr. R. Moonilal: Whose moneys are they using? [*Crosstalk*]

Madam Deputy Speaker: The speaking time—

Dr. R. Moonilal: Of the Minister of Finance— [*Laughter*]

Madam Deputy Speaker: I am almost tempted to be mischievous because there have been so many speakers. Anyway, 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. [*Hon. P. Manning*]

Question put and agreed to.

Dr. R. Moonilal: Thank you, and thanks to all my colleagues. Madam Deputy Speaker, I just want to respond to the Prime Minister's intervention and then the Member for St. Joseph.

6.30p.m.

Madam Deputy Speaker, I really want to respond quickly. One of the issues here is that the Prime Minister and the Government are arguing, in a nutshell, that people are asking for money: the Judiciary, ministries, everybody, and you have to look at their capacity to spend and probably what they have spent over the

years, when you determine how much you give. That is a fact. But there is also a spiral effect; when you determine what you are giving, they then change their plans. They alter their plans, because they cannot now plan to effect their capital development programme, so they downsize what they are doing because they do not have the allocation. The allocation determines the plan for actual expenditure. So if you reduce allocation, you are downsizing their plans. Therefore, you are involved in perpetually downsizing and contracting the development programme of the Judiciary. That is my argument for now.

I really want to respond to the Member for St. Joseph; I will get back to the Member for Tobago East.

The Member for St. Joseph now—granted that the Hall of Justice was constructed in 1985 by the Chambers' administration, 1981—1986, granted the realities of that time in the context of crime, of the Judiciary and so on, would you agree that the facilities at the Hall of Justice are today much less than is needed?

Mr. Manning: Yes, we agree.

Dr. R. Moonilal: I now move from St. Joseph and I come back to the Member for San Fernando East. There is an agreement that the facilities were constructed a generation ago in Port of Spain. What are your responses to that, given the fact that it is the responsibility of the Judiciary to expand and construct, but they require financing? If you recognize a problem, do not close your eyes to it; enter into discussions with the Judiciary and the Chief Justice, given the crisis that we know they face.

Although we are making light of it, when a Government says, "Well, dey did not talk to us, so we doh talk to dem."—[*Interruption*]

Hon. Member: Nobody said that!

Dr. R. Moonilal: Clearly there is a problem; there is a public service responsibility for you to meet and speak, given your knowledge of the problem. So whether the Chief Justice "phone" you up or not, you have a responsibility, given the crisis faced in the Judiciary, to enter into discussions as to the expansion of facilities. [*Interruption*]

Mr. Manning: Thank you, Member for Oropouche East. It turns out that a proposal has just come to the attention of the Government that could address that issue, but the matter has not yet been discussed with the Judiciary nor has it yet been accepted by the Cabinet. As Prime Minister, I have seen a proposal to address that issue, because I asked for it.

Hon. Member: Did it come from UDeCott?

Mr. Manning: In fact, it came from UDeCott, but it has not yet been considered by the Cabinet nor has it been discussed with the Judiciary. It is a development plan really. Therefore, we are in no position to talk about it, but we propose to consult and discuss it with them not too long from now.

Dr. R. Moonilal: The Prime Minister has now alerted us to a new development, in that, he has information, based upon correspondence, that there is a proposal, vis-à-vis expansion of services, and it came from UDeCott. That for some, not for us, including you, would be more worrying. [*Desk thumping*] They may be expanding the Judiciary to deal with their own matters. [*Laughter*] [*Crosstalk*]

Hon. Member: Special courts! [*Laughter*]

Mr. Manning: Hon. Member, UDeCott is the Urban Development Corporation of Trinidad and Tobago; what they have presented is a development plan. It is a plan that has nothing to do with the execution of the plan. It is merely a plan for the provision of accommodation for, among other agencies, the Judiciary. It is a plan.

Dr. R. Moonilal: So UDeCott brought a plan for the expansion; it is before the Prime Minister, but not yet to Cabinet. That is the information.

Mr. S. Panday: Do not show it to them; they will not believe it!

Dr. R. Moonilal: There are a couple of other issues I want to address; interrupt me if they want. [*Interruption*]

Please, you are enjoying this debate. I want to quote again from page 83 of the annual report, and, again, I stand to be corrected.

The Judiciary is telling us on page 83, "Development Programme"—that is what we are concerned with—approximately 15 per cent of the annual allocation, amounting to \$46 million, more or less, was allocated for development programme expenditure. This represents a decrease of \$7 million from the available allocation the year before. They allocated here, and that was the point I made earlier. They do a pie chart—we do not have access to audio-visual equipment here, but let us just look at the development programme, because that is a critical point and what constitutes a development programme in the Judiciary.

Madam Deputy Speaker, 45 per cent of that development programme is addressing the Family Court; 34 per cent, building, refurbishment and rehabilitation. So for the development programme, building, refurbishment and rehabilitation; 15 per cent, technology; 3 per cent, comprehensive security system; 3 per cent, institutional strengthening. Almost 80 per cent of their development programme is located between

the Family Court, building, refurbishment and rehabilitation; so 80 per cent of what they are requesting, has to do with the real issue of infrastructure, of better facilities and so on and that is the one that has been cut. They have their reasons for it, of course, but that is the one which is affected. I am really hoping that the Chief Justice will make the call, to get a meeting to discuss a supplementary appropriation to assist him for the coming year. [*Interruption*]

You can tell him do not spend the money; I do not want to be a speaker for you. When you talk you send your message. I want to move on quickly. [*Interruption*]

Madam Deputy Speaker: Normally in cricket when there are interruptions, you use Duckworth method to decide on injury time. I do not know if you have any suggestions. [*Laughter*]

Dr. R. Moonilal: Madam Deputy Speaker, with the character of my colleagues opposite, it will be a John Dyson declaration. [*Laughter*] I may think I am winning, but with the character of my colleagues opposite, it will be a different statistic.

I want to just move quickly to what would be for me the final issue. The Member for Princes Town North raised the matter where he connected the fight against the criminal elements between prevention, detection and conviction, and made the point of the importance of the police in the entire set up. It is not a secret that one of the problems we face is not only the lack of judges, which we are addressing today, but really the police in doing their investigative work and enquiries.

You would hear from the attorneys-at-law, practitioners, officers from the Office of Director of Public Prosecutions (DPP) and so on that many times when a case collapses, it is rooted in the poor work in some cases of the police officers and their lack of training; not all the time, of course, but on several occasions. I think this is an area, police investigation, the capacity of the police to conduct proper inquiries, to come to the court on top of their matters, follow proper procedure and observe proper rules. This is an issue that the Office of the DPP has raised over the last couple years. Sometimes at the Magistrates' Court—and the Member for Princes Town North would know this—you have a prosecution, a preliminary enquiry, and it is the police work that is under query. Related to police work is, at times, the interference in the work of the police, from those above, from others in ministries, in the State and so on.

The police must be allowed to do their job without any political or other influence in the conduct of their investigations. That is a principle. This is why I am often very concerned when an office holder, like the Attorney General, can come to a Parliament and tell us about the nature of an ongoing investigation. If

the Anti-Corruption Investigation Bureau is conducting an enquiry and there is a newspaper report that may be true or false, then it is for the police and the DPP to appeal to the media and the public on that matter. It is not for a Member to come to the Parliament and tell us what the police are doing or not doing. So when we hear today that Interpol is not involved and the Malaysian Central Authority did not do this and do that, how does the Attorney General know that?

Mr. Manning: We asked them!

Dr. R. Moonilal: "How he know dat? What you doing in their business? Who is we, de Attorney General and you?" You asked them what they were doing, whether they went Malaysia, Thailand or Singapore? That is not your business. The Government must not get involved in the Anti-Corruption Investigation Bureau, because by telling us what they are not doing, you are telling us what they are doing. [*Crosstalk*]

Mr. Imbert: I thank the hon. Member for giving way. I admire your solo enthusiasm and all that passion you have.

Hon. Member: Do not tell him that.

Mr. Imbert: That was just an introductory remark; that was foreplay. [*Laughter*] The fact of the matter is that the Anti-Corruption Investigation Bureau was established by the UNC Government as a department of the Attorney General. There is a relationship between the ACIB and the Attorney General, and it is quite proper, because that was how you set it up, for the ACIB to give the Attorney General information of that nature.

Dr. R. Moonilal: Madam Deputy Speaker, I am so happy for the clarification from the Member for Diego Martin North/East, and to indicate to him it is improper, in the first place, for a bureau under a political office holder to be investigating UDeCott and Calder Hart. If the UNC did that 10 years ago or whenever—[*Interruption*]

Hon. Members: Ooh!

Dr. R. Moonilal:—the public has pronounced on that; you need to respond to the public of today, not the public of 1999.

Hon. Member: "It is de same people!" [*Crosstalk*]

Dr. R. Moonilal: I want to indicate that the Government has admitted in the Parliament today that the Attorney General is in touch, in communication and receiving information on an ongoing criminal investigation into UDeCott and Calder Hart. [*Interruption*]

Mr. Manning: Madam Deputy Speaker, I wonder if my good friend, the very distinguished Member for Oropouche East, is saying that this method of organization is acceptable if the UNC does it, but not acceptable if the PNM follows the UNC lead?

Mr. S. Panday: Do not answer that.

Dr. R. Moonilal: I want to tell the Prime Minister that I could go back to the *Hansard*, which I will not do now, because I did it on the last occasion with your statement, and find the statement that the Member for San Fernando East made in this House, when he sat on the seat next to me on my right, and condemned the approach of putting the Anti-Corruption Investigation Bureau under the Office of the Attorney General. He condemned it then, went into power, kept it and used it. Mr. Prime Minister, if we believe it is wrong now, we were wrong then.

Hon. Member: Orrr! [*Crosstalk*]

Dr. R. Moonilal: The UNC did some very good things, but there may have been policy decisions that were wrong; 10 years later we know. You went into somebody's yard last week trespassing; that was what you did. You could say that you were wrong and you were sorry, 10 years ago. If it is wrong, it is wrong. I am not saying that it is right for the UNC and wrong for the PNM. [*Interruption*] It is wrong for both political parties.

[*Mr. Manning rises*]

You are going to read now from a text.

Mr. Manning: Madam Deputy Speaker, my good friend from Oropouche is very cooperative this evening and I thank him very sincerely. I did not raise it, but he made reference to an incident that took place in the St. Joseph constituency on Monday afternoon when we were on a walkabout. It turns out that the 81-year-old gentleman in question is a resident of Winnipeg, Canada.

Hon. Members: Oooh! [*Crosstalk*]

Mr. S. Panday: "We do not believe dat; we want to see de immigration papers!"

Mr. Imbert: "He doh live here."

Mr. Manning: He returns to Trinidad and Tobago to spend the winter.

Dr. R. Moonilal: Madam Deputy Speaker, do you know what is fascinating about this?

6.45 p.m.

Dr. R. Moonilal: Madam Deputy Speaker, you know what is fascinating about this? The Prime Minister of a country went and checked out the man who told him not to come in the yard and investigated it. I want to repeat what you said because I think somebody missed it.

Somebody at home at 6.45 p.m. must have gone to make tea, returned to the living room and did not hear what the Prime Minister said. He pulled out a little chit, I thought he was going to declare the election date, so I quickly sat. He pulled out this chit of paper from his back pocket and said the 81-year-old gentleman who threatened to cause him grievous bodily harm is a resident of Canada who comes here in the winter.

Mr. Prime Minister, he could be the resident of Tokyo, if he is occupying there in whatever legal capacity and he tells you not to come in his property, you are trespassing to go. It is frightening that you used immigration, customs and the authority of the State to find out where this man living. This poor fella may now have to flee back to Canada before the winter ends.

Mr. Manning: Madam Deputy Speaker, I am just telling my friend, the Member for Oropouche East, that I do not have to use the immigration or customs; I just have to use the machinery of the People's National Movement. [*Desk thumping*]

Dr. R. Moonilal: I want to tell him that that gentleman will respond along with thousands of others to the machinery of the People's National Movement. On the next election day, along with over 300,000 they will respond to the machinery of the PNM.

Madam Deputy Speaker, I want to go back to my point before the Prime Minister successfully took me on this diversion about the 81-year-old man who threatened him a few days ago. It is wrong to have an investigation bureau dealing with sensitive political matters involving heads and leaders in the State sector responsible for billions of dollars under the watch and in communication and giving information to a political appointee as the Attorney General and by extension, the Prime Minister. [*Desk thumping*]

I am now in a position to advise the national population and the PNM that when on the next occasion, very few of them sit on this side, the Member for Siparia will undo that and remove the Anti-corruption Investigation Bureau from the Attorney General.

On that note, Madam Deputy Speaker, I thank you.

The Minister of Community Development, Culture and Gender Affairs (Hon. Marlene Mc Donald): Madam Deputy Speaker, I rise in support of the Bill to amend the Supreme Court of Judicature Act. I need to make a few observations before I make my very brief contribution.

Madam Deputy Speaker, I have listened to the Members for Tabagite and Princes Town North and I have to say when I listened to the Member for Oropouche East, I ask myself and I kept looking and wondering and came to the conclusion of what a little learning can do; it is a dangerous thing sometimes.

[MR. ANTHONY ROBERTS *in the Chair*]

The Member for Oropouche East quoted extensively from the Chief Justice's speech delivered on Wednesday, September 16, 2009 and he spoke about the impending threat of undermining the Constitution. He launched a scathing attack on the Member for Pointe-a-Pierre. But when we are talking to the national community, we must give them the whole truth. In the same speech the Chief Justice said:

“The judiciary is a necessary component of the system of justice but is not an arm of the executive. Policy decisions taken in either sphere will of course have implications for the functioning of the other and a healthy working relationship is necessary for the efficient functioning of the whole justice system.

I have been encouraged by the cordiality and cooperation that has been the hallmark of relationships between the Judiciary and the Ministries of Finance, Public Administration, National Security and the Office of the Attorney General in recent times.” [*Desk thumping*]

This does not sound like a Chief Justice who is stating that this Government is undermining the Constitution. Please, when you quote, quote the whole and not part thereof, Member for Oropouche East.

The second point is the fact that you are accusing this Government of not giving the Judiciary sufficient funds and I want to quote some figures. In 1995, under your administration, of the total budgetary allocation given, the percentage is .64 per cent; in 1996, you gave .78 per cent; in 1997, you gave .65 per cent; in 1998/1999 .77 per cent; 1999/2000, .72 per cent; 2000/2001 76 per cent. This was under the UNC administration. The total budgetary allocation for those years stood at \$565 million.

Let me give you this Government's record. The total allocation given is \$2.354 billion and we increased the percentage of the total budgetary allocation in 2001/2002 was .75 per cent; in 2002/2003, .93 per cent; 2003/2004, 1.01 per cent; 2004/2005, 1 per cent; 2005/2006 .74 per cent and 2006/2007 .84 per cent; 2007/2008 .88 per cent.

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Member for Oropouche East, when you are quoting please try to understand your figures because you are talking to the national community and you need to put the truth out in the national community, and this is it.

Mr. Acting Speaker, all of us in this Lower House are elected by our various constituencies to represent their views and I always try to put myself in the shoes of my constituents. When we come here, I want to hear for the small man, that ordinary person who might be listening to us on the radio or looking at us on Channel 11. What is this Bill all about? What is this amendment about?

The Government has brought an amendment today stating they would like to increase the number of judges from 32 to 48; from 23 at the High Court level to 36; from nine in the Court of Appeal to 12. What is that going to do for me as an ordinary person? I have constituents who will ask; you are going to participate in a debate, but what is it going to do for me?

I have just three simple reasons that I am going to proffer this afternoon why we are going to increase the number of judges. The first one is to deal with the backlog of matters outstanding. There is a mechanism of appointing temporary judges which is used to try to alleviate those backlogs.

As a matter of fact, the Attorney General in his presentation said that the appointment of a temporary judge is between six months to two years at the end of which you demit office and we are still left with the backlog. I am speaking in a language which the national community could understand.

Added to this, in September 2005, the new Civil Proceedings Rules came into existence. The intention was that this measure will give rights to the equality in treatment to every litigant, in addition to speeding up the process. This certainly was in comparison to the old rules which were seen as being too hostile to a quick determination of matters.

What transpired in September 2005 when the new rules came into existence? There were just over 4,000 matters still to be determined under the old rules and, of course, there was an ever increasing number of matters being filed. As a matter of fact, for 2006/2007, 4,211 new cases were filed under the new rules. So there was this very precarious situation where there were outstanding matters from the old rules added to which there were an increasing number of new rules matters to be determined.

This gives rise to the temporary appointment of judges which was in January 2006 and they were basically assigned to civil matters. So you still had the problem of how we were going to deal with the backlog.

The other point I want to look at, and one which I think I have not heard any speaker mention this afternoon is that there is a need to increase judges in Trinidad and Tobago but it must be seen within a particular context and that is, as we become more and more sophisticated, as we journey to developed country status, we are becoming more litigious as a society and I will tell you the evidence of this is the judicial review process which is relatively new, 10—15 years old, but it is like a runaway horse right now.

Anybody who is bypassed for promotion or whatever, always goes to get this remedy of judicial review. It means now that you are bringing on new areas of law. We see the intellectual property is a new area facing us; you are looking at international law and maritime law.

Additionally, we have much more fraudulent matters to deal with which could engage a judge's time for up to three months.

7.00 p.m.

I am saying that with all of this going on, the fact that we are becoming more sophisticated and the backlog in the system, there is need for this Government to act, and if we are following our vision—because we are not just operating outside a vision, as the opposite side; we know exactly what we are doing—it means that we need to give the Judiciary some flexibility and leverage.

I do not think that the Judiciary is going to employ all 13-odd judges at the same time. This will give them time. They do not have to be coming back and forth to the Government asking for one or two or three judges. What we are trying to do here is to try to move away from the temporary judges. It is better, as the Member for Tabaquite said, as well as the Attorney General, you have appointed judges—permanent judges—as opposed to the temporary nature of some of these judges.

Another point is the introduction of the Family Court. This is very dear to me, because I deal with a constituency where there are lots of single women; lots of single heads of households and every Monday morning these women would be going to get some kind of redress from the Family Court. So if it is one intervention that has touched the soul of this nation, it is the establishment of the Family Court. [*Desk thumping*] This Family Court was inaugurated in May 12, 2004 as a pilot project. It has worked so well that emanating out of the working of the whole family court—at the end of it—we are now going to roll it out in San Fernando as well as Tobago.

This means that there would be the need to have more judges on board. At the end of the day what is the role of the judge in a democracy? What is the role? Justice Michael de la Bastide, in his address at the opening of the 2001/2002 term, said that the failure of judges to give judgments on time is due not to laziness but rather to reluctance to turn

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away work. This conscientiousness coupled with the fact that judges have been sitting in court day in day out, month in, month out, has meant that they take on more cases than they can handle and soon build up a backlog of reserve judgments. I say this, not by way of excuse but in order to illustrate the importance of providing each judge who sits in the civil court with a break in his schedule in order to give him time to write his judgments.

The Lord Reform Commission of Australia, underscoring the critical role to be played by the judge, said:

“The Commission's consultations confirm that judges play a critical role in case management, case resolution and in assisting to engender compliance with court timetables and orders. As practitioners describe it, judges have clout. Their directions generally are followed and their suggestions concerning settlement heeded by the parties.”

What I am trying to say here is that when we look at the backlog, when we look at the fact that we are becoming more sophisticated, coupled with the fact that we are going to be rolling out the Family Court in San Fernando and in Tobago, all these touch the ordinary man outside; it touches my constituents in Port of Spain South. So I believe that we are left—and this Government being a caring Government, we are left with no alternative but to bring to Parliament this amendment here to increase the number of judges in our system.

Basically, I want to say that despite what the other side might say, I want to quote Sen. Prof. Deosaran when he said that our judges must have soul. However, equally important is the fact that they must not be overburdened, because what we are doing with the present crop of judges, we are overburdening those judges. We need to come in as a caring Government to, at least, assist in the work of those current judges. I therefore support this amendment and certainly this, indeed, would provide a good measure that would bring great relief to the Judiciary in this country and more importantly, not to the Judiciary so much, but to the constituents who they serve, the constituents called the general public.

I thank you.

Dr. Tim Gopeesingh (*Caroni East*): Mr. Deputy Speaker, we would not detain the House very much longer, but there are a few important issues which have to be cleared up in terms of what has been brought forward from the other side in terms of expenditure. The last speaker, the Member for Port of Spain South, gave a dissertation about the UNC expenditure when we were in government for the six years, 1995—2001. She said that we spent \$565 million on the Judiciary and the PNM government, since 2001 to now, nine years, have spent \$2.35 billion, which

is approximately four times the amount. But let us compare what the UNC had as a total budget for the six years that we were in government. Our total budget was \$55 billion, which is equivalent to one year of the PNM's budget. And their total budget over the nine-year period has been more than \$300 billion.

So from your \$300 billion you spent \$2.3 billion, which is about less than 1 per cent. We had \$55 billion. In six years we spent \$565 million. It is even greater than the 1 per cent. So to say that the UNC did not spend money on the Judiciary, it is wrong. The UNC spent more in terms of percentage on the Judiciary than the PNM has spent as a percentage on the Judiciary during their period of time.

To substantiate further what we are saying on this side, we have no difficulty in the question of having more judges. There is a surfeit of cases that are coming and a number of appeals are coming from even the Magistracy. So there is definitely the need for more judges in the system, because, of course, judges need to write their judgments and they need time for their judgments, et cetera. But when the Judiciary is looking for funding for development programmes, first of all there are a number of courts in Trinidad and Tobago—the court right across the road on this side here, the Hall of Justice, cannot accommodate these 36 High Court judges and the 12 appeal court judges. As our colleagues have been saying, there would be no room for the additional judges from 23 to 36; 13 and their support staff.

So the Government has to look at creating more infrastructure to support the number of new judges that are coming on to the system. The Chief Justice has always said; he said—let us look at some expenditure as far as development programme, because development programme is needed to have more space for the judges to work in and for more courts.

Let us look at what has been happening to the development programme of the Judiciary in Trinidad and Tobago. 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. So they asked for \$45.6 million; they got \$29 million. In 2004/2005, they were allocated \$44 million. In 2005/2006, they requested \$125 million; they were allocated only \$53 million. But their actual disbursements were only \$33 million. So they were short changed by \$72 million in 2005/2006. They asked for \$125 million; they got \$53 million.

In 2006/2007, they got less. What has been stated by the Chief Justice is:

“This dramatic request is a culmination of the need to provide the Judiciary with the required tools to allow for the provision of accessible safe, courteous, timely, equitable, accountable and independent justice for all and gives description of what focus of increase must be there for the Judiciary.”

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[DR. GOPEESINGH]

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He was talking about the increase that the Judiciary needs for development programmes. In 2008/2009 they were allocated \$48 million; in 2009/2010 they had requested \$393 million for development programme alone, but got only \$42.5 million for the development programme.

So what Chief Justice Archie was saying in his speech on the occasion of the opening of the law term this year at page 9 to 10 of his speech, was:

“Unfortunately, the fact that capital allocations in this year's budget have been further reduced will have a crippling effect on our development plans. We requested \$393 million for the development programme for 2009/2010. Our budget allocation was \$42.5 million. That means there will be no Family Court roll out this year without a significant supplementary appropriation and our ability to deliver on the refurbishment of physical facilities especially in the magistrates’ courts, is severely restricted. But we never cry over spilt milk, we will just do the best we can, as always.”

These are the words of Chief Justice Archie in 2009/2010, telling the Government: "We asked for \$393 million for development programme; you give us \$42.5 million; \$350 million less."

So we are saying now, the Member for Port of Spain South spoke about family courts rolling out, but here it is the Chief Justice is telling you:

“That means there will be no family court roll out this year without a significant supplementary appropriation and our ability to deliver on the refurbishment of physical facilities especially the in magistrates' courts...”

The Chief Justice statement in 2008/2009 contained a report. He spoke about a World Bank Report commissioned in 1996 which identified a number of areas to ensure that there is equitable justice for all in Trinidad and Tobago. He spoke about procedural reform, introduction of new technology, increase in and development of the human resource, both judicial and non-judicial; new physical infrastructure and adequate financing, among other things, as essential to the development of an effective and efficient judiciary. Chief Justice Ivor Archie, in his opening address in the 2008/2009 law term spoke about the World Bank Report of 1998 identifying the main areas which need to be focused on by the Government, so in helping the Judiciary to work well.

Procedural reform: The procedural reform in the civil matters, the civil procedure rules which had been brought out, have been working and the Member for Tabaquite spoke about it. They need to have a new look at the civil procedure rules in term of the

civil cases. Chief Justice Ivor Archie indicated the reform for the criminal matters has not come into being as yet and they need to look into that. Therefore, there is more money needed for funding of the first part, the procedural reform.

Introduction of new technology: The members on the other side got up this afternoon and spoke about new technology being introduced. There is need for audio digital recording in all courts of Trinidad and Tobago. There is need for palantypists in all courts in Trinidad and Tobago and my colleague from Princes Town North indicated that some of the judges still take written notes rather than having the audio digital recording and having good palantypists in court. You may have it some of the High Courts, but you do not have it in all. Of course, you do not have those in the Magistrates' Courts.

7.15 p.m.

When the Government says that they are doing something for the Judiciary, this whole question of the introduction of new technology in the Judiciary leaves a lot to be desired. They have failed in that regard for years upon years. They have not put in the infrastructure to make sure that the judges' lives are easier and that people get their judgments in time. Do you know how long people are complaining about their judgments from judges, because the judges do not have the adequate support systems to ensure that they get their judgments in time?

- Increase in the development of human resources, both judicial and non-judicial.

The Government is making an effort to bring in more judges and we welcome that, because we know the life of a judge is a very difficult life. They need to write their judgments after hearing the cases and matters and they need to have research.

I understand that judges do not have any research people to help them in their research. Why can the Attorney General not ensure that he has discussions with the Judiciary, in terms of giving what the World Bank Report said as non-judicial human resource increase and development? It is not only the judges, you need the support staff, research people, good library facilities and good secretarial staff. I believe this is where many of the problems occur.

We have spoken about physical infrastructure and adequate financing. We understand the Industrial Court in Trinidad is having difficulties. They have to move tons of binders from one place to another; from where the matters are filed, to where the court is being held. That needs a lot of work by this Government. In the Industrial Court, the people have been complaining a long time.

My colleague from Princes Town North, who works in the court system and a number of colleagues have been telling us that the Magistrates' Courts leave a lot to be desired. There are "40-something" Magistrates' Courts in Trinidad and Tobago. Most of them are run down, rotten, people are falling through the floor, the roofs are leaking and people are being injured. Even the magistrates are fearful of their own courts. How can this Government speak about doing something for the infrastructure when a lot of the magistrates' work comes for appeals before the Appeal Court?

In fact, this book, the annual report, shows a number of criminal cases coming from the Magistrates' Courts to the Appeal Court. In fact, over 300 magisterial appeals were disposed by manner. Let me see if I can get it. Table one on page 93 states the appeals filed by court for the period 2003 to 2008/2009, appeals in the Magistrates' Courts filed 2003/2004, 346 cases; 2004/2005, 360; 2008/2009, 265. The Courts of Appeal in Port of Spain and San Fernando have almost equal amounts filed from them. The appeals that are being heard in the Appeal Court do not alone come from the High Court, but a significant amount comes from the Magistrates' Courts. We need a proper functioning Magistracy in Trinidad and Tobago. There are 43 Magistrates' Courts and 43 buildings that are dilapidated and the infrastructure is chaotic, poor, unhygienic, unsanitary and unacceptable for magistrates to be working.

There are policemen who are court prosecutors. The population has been asking for court prosecutors in the Magistrates' Courts to come from the DPP's office. Policemen are the people who are doing the matters in the Magistrates' Courts. That might be one of the reasons you are getting so many appeals coming from the Magistrates' Courts to the Appeal Courts. There are a number of police officers who do not come when the cases are being heard and, therefore, the cases are dismissed as well when these police officers are not there.

Do you know how many cases come through the Magistrates' Courts per year? It is about 90,000—95,000 new cases. Do you know how many they are able to deal with? It is approximately 70,000 per year. It is 93,000 cases. I have it here somewhere: "New cases filed per year and type in the Magistrates' Courts/case load statistics." It is in this book. I think the population must know this. For the period 2008/2009, 90,437 cases; and 2003/2004, 79,258 cases. That is a jump of about 11,000 more cases in the Magistrates' Courts. Do you know what that is reflective of? It is the increased criminal activity in Trinidad and Tobago. It is not a matter of just dealing with the Judiciary alone; it is a matter of dealing with the prevention of criminal activity and the prevention of crimes. Therefore, if this Government moves swiftly to deal

with preventing crime and preventing criminal activity, you would not have the increase of 79,000 cases in 2003, from the Magistrates' Courts, to 90,000 cases in 2008/2009. Hear where it comes from: capital cases, 293, that is murders and so on; non-capital, 28,000; family, 12,000; domestic violence, 11,000; traffic, 23,000; ejection and inquest, et cetera.

For the proper functioning of the Judiciary, a lot of work and time has to take place in the proper functioning of the Magistracy and this is where the people of the country look for justice; the ordinary citizen. They do not bother to go. It is only 500 or 600 cases that are filed in the Appeal Court per year. When 92,000 cases are filed in the Magistracy per year and about 70,000 are heard, and not necessarily dealt with, over 20,000 cases are left unattended in the Magistrates' Courts on a yearly basis. Can this Government say that is justice given to the population? Do you know how long some of the cases in the Magistrates' Courts have been languishing there? It is six and seven years. More than 50 per cent of the cases in the Magistrates' Courts are waiting to be heard before completion. People die while waiting for their cases to be heard. There is definitely tremendous room for improvement by this Government, in terms of assisting the Judiciary, hon. Attorney General SC. You do not necessarily just bring on High Court judges and Appeal Court judges and hope that everything will be fine. That does not work at all. As the World Bank Report has shown, you need procedural reform, more technology, development of the human resources, physical infrastructure and adequate financing. We have shown conclusively on this side, that the financing has been inadequate for the Judiciary over the last few years.

I want to juxtapose the funding that you give to the Judiciary, versus what you give to the CCJ. Just let me make that point. The CCJ has been given over US \$100 million. [*Interruption*]

Hon. Jeremie SC: This point has been made over and over again. The point is that the Government of Trinidad and Tobago has not given—I make it again. I know you will listen to me and you that will come and you will make the same point again. It is my duty to correct the record. The Government of Trinidad and Tobago is not giving the CCJ US \$100 million. The initial fund to establish the CCJ had contributors. All the states parties to the Caribbean Court of Justice Agreement contributed to that initial trust fund. That is supposed to be a one and done expense.

The Caribbean Court of Justice Fund is managed by a board of trustees. Those trustees are to ensure that the fund is managed in such a way as to ensure that judges are paid and that the expenses of the CCJ are met. Do not bring the Government of Trinidad and Tobago into that. Trinidad and Tobago is part of

Caricom and part of the states, which are parties to the Caribbean Court of Justice Agreement, which your government signed. Put the facts on the table.

Dr. Moonilal: No need to repeat that.

Dr. T. Gopeesingh: We understand you. We heard you. Trinidad and Tobago Government gave approximately 29 per cent of the US \$100 million, which is approximately US \$29 million, around there, because we have the majority funding. What is also important—I am sure the hon. Attorney General SC knows—is that the Caribbean Court of Justice is located right here in Trinidad. [*Interruption*]

Hon. Jeremie SC: Why is that?

Dr. T. Gopeesingh: You have to tell us what is the expenditure?

Hon. Jeremie SC: You asked for it to be brought here. Barbados wanted it—

Dr. T. Gopeesingh: But you are giving money. How many cases from Trinidad, related to Trinidad issues, are held in the CCJ? Not one.

Hon. Jeremie SC: There are quite a few. Trinidad Cement Limited—

Dr. T. Gopeesingh: That is the only one, but that is a Caribbean cement company.

Hon. Jeremie SC: You asked for one and I gave you one.

Dr. T. Gopeesingh: The fact is that there is increased expenditure from the State, in supporting the Caribbean Court of Justice headquarters and paying for all the ancillary things that go with the continuation of the Caribbean Court of Justice. That is an added expenditure. We are not saying you must not give money for justice, but you have to make sure that your systems are working well. If you do only one or two cases, one case the cement case, by the Caribbean Court of Justice, which has not impacted not only on Trinidad but all Caribbean countries, that amount of money could have been used for improving the Judiciary and to manage things a lot better.

Most of the other issues have been dealt with by my colleagues. But, the most important thing is, from our perspective, the management of the Judiciary must be a transparent and accountable process. As my colleague from Tabaguite mentioned earlier on, in 2003, Tony Blair in the United Kingdom had to do a substantial amount of review of the judicial process in England. The Chancellor was head of the Judiciary. He was in Parliament and all over the place and they had to remove the post of Chancellor. Therefore, that needed a certain amount of reform of the judicial process. We have been asking for an open, fair and transparent way that judges are appointed and still it is thought to be a relatively

secret thing. We know they advertize and some people apply, but after the application, there is a quietness about it that people feel very disturbed about. The whole process of selection of judges ought to be looked at again. We are not saying that you just do away with the Judicial and Legal Service Commission. We do not do away with it, but it must be done in a process that is more accountable and more transparent as happening in Britain at the moment.

The most important point we are bringing over this evening, in addition to what has been discussed by my colleagues, is the question of the need for improvement in the Magistracy by funding more magistracy; more funding for infrastructure development in the Magistracy; even more magistrates in the courts; improvement in the technology in the courts and the human resource development, to give support to the judges who are going to be employed; and more infrastructure for housing the judges whom you have now employed. These are the challenges that the Attorney General will have to face in discussion with the Judiciary, which the hon. Chief Justice has mentioned adequately in his two reports of 2008/2009 and 2009/2010. We advise this Government to work with the Chief Justice in implementing their wishes, so that the Judiciary will feel satisfied.

With these few words, I thank you very much.

7.30 p.m.

The Attorney General (Sen. The Hon. John Jeremie SC): It is late and I know that there is an agreement that we would wrap up the debate on this Bill quickly and we would then take the other two pieces of legislation together. *[Interruption]* This is the agreement from your leader, Member for Princes Town North. This is what I was told. *[Interruption]* Your leader—

Mr. Imbert: Go ahead.

Sen. The Hon. J. Jeremie SC: If I could just begin with the contribution of my friend from Caroni East. *[Interruption]* Everybody is my friend. You are my friend, Member for Oropouche East and the Member for Siparia used to be my neighbour in Barbados. *[Interruption]* But the Member for Caroni East, just to respond to the point you made about the vast sums of money, the \$100 million—I see the ladies are now entering the Chamber after your contribution has been made. *[Interruption]* There is a reason for that and I am sure that you know the reason, but I am not going to get into your business, Member for Caroni East *[Interruption]* The Member for Caroni East pointed out that US \$100 million—

Mrs. Nunez-Tesheira: You see unity? This is unity. *[Desk thumping]*

Mr. S. Panday: Woman power.

Mrs. Nunez-Tesheira: Unity at work. We understand the meaning of unity.

Mr. S. Panday: Woman power.

Mrs. Nunez-Tesheira: Real unity, not pretend. [*Crosstalk*]

Sen. The Hon. J. Jeremie SC: All of the ladies entered the Chamber after the Member for Caroni East sat down, except the Member for Siparia. I do not know why, there must be a reason, but I would leave that alone.

Mrs. Nunez-Tesheira: As a good lawyer.

Sen. The Hon. J. Jeremie SC: I would leave that alone. [*Interruption*] All I can say is that somebody whistled to me that it was something to do with what the Member for Caroni East said. [*Desk thumping*] Something that he said about women—

Mrs. Nunez-Tesheira: Yes. [*Desk thumping*]

Sen. The Hon. J. Jeremie SC:—one of whom finds himself seated next to, not his immediate right, but to his right, but who, obviously has not taken the position that these women have taken in relation to his comments. [*Desk thumping and crosstalk*]

The Member is wrong in respect of his statement, that the Government of Trinidad and Tobago—[*Crosstalk*] "Mr. Acting Speaker", can you assist me, I can hardly hear myself. [*Crosstalk*]

Mrs. Gopee-Scoon: You see that, that is nasty.

Mr. Anthony Roberts (*in the Chair*): Could we have some order please!

Hon. Member: "Ooh yes." [*Desk thumping*]

Sen. The Hon. J. Jeremie SC: The Member for Caroni East is wrong when he said that the Government of Trinidad and Tobago put US \$100 million into the Caribbean Court of Justice.

Mr. Imbert: He is denying that too?

Sen. The Hon. J. Jeremie SC: He is also wrong, if he said that the Government put US \$29 million into the—

Mr. S. Panday: He did not say that, he said 29 per cent.

Sen. The Hon. J. Jeremie SC: I think that 29 per cent of \$100 million would be \$29 million. [*Desk thumping*]

I am not a mathematician, but I think it might be. [*Desk thumping*] So, he is wrong on both scores. Whichever way he chooses to slice his argument. The point is that every Member State in Caricom borrowed money from the Caribbean Development Bank to contribute to the Caribbean Court of Justice Trust Fund. Now that trust fund was initially US \$100 million. You signed the agreement, you should know about this, and if you do not know perhaps you can ask your leader, the distinguished Member for Siparia.

The point is that as far as I am aware, no Member State has contributed directly to that \$100 million. They borrowed money from the Caribbean Development Bank, the Caribbean Court of Justice was established, there is a trust fund which is managed by trustees, which is independent and it is supposed to earn income and relieve the Member States of a responsibility to continue making payments—

Mrs. Persad-Bissessar: Thank you very much. I recall—and I am asking for clarification in the Parliament—when we had come with a supplementary appropriation, I think it was \$500 million at some point, for the CCJ and I believe on more than one occasion the estimates, there were appropriations for the CCJ, were those for different purposes than this other money that you are speaking about that was borrowed to put in the trust fund?

Sen. The Hon. J. Jeremie SC: I am not sure what you are asking about, but I believe that the State which is the host of the CCJ, which we are the host country for the CCJ, because you obligated us to be the host country for the CCJ.

Now, we are doing what is responsible in terms of the payment of rent and these services which are required. [*Interruption*] It would not be anything that is close to US or TT \$500 million. I do not know how much it is, but it certainly is not that. Trustees for a fund manage the fund and manage the affairs and relieve the State of the responsibility for making any further contributions to the CCJ.

If I could turn to the more substantial contributions which were made—well, the one substantial contribution which was made came from the Member for Tabaquite, my good friend. Now he made a series of recommendations, none of which spoke to the Bill, but in deference to him I will respond to the points which he made. He spoke to the necessity to increase judges' pensions. I think that is something that we can agree to look at. There is certainly a case to be made in respect of members of the Judiciary who are elderly and who I know find themselves in difficult circumstances at this time. I have been approached by persons on their behalf and that is a matter that I think we ought to pay some attention to.

He spoke to there being a more open and accountable system for judicial appointments. I am sure the Member for Tabaquite and the Member for Siparia,

as well as my friend, the Member for Princes Town North would understand that requires a constitutional amendment and it would require us to work together if we are to achieve that objective. If you are prepared to do the work then I am certain that we on this side are prepared to look at the issue of constitutional reform, in this respect and in a broader sense.

In respect of the CPR rules, I agree that there are problems with the rules. As a matter of fact, there is a Motion on the Order Paper which arises from a decision which went against the State and the decision went really on procedural grounds. It is on appeal. I am instructed that we carry the matter to the Privy Council and I would not like to say more about that matter. It took place and it was not under my watch, but I put up my hand and take responsibility for it. It took place before I took office.

But I agree that there are problems with the rules insofar as the rules have the effect, in some respects, of actually shutting out certain litigants [*Interruption*] and that, I think, raises a constitutional issue, a due process issue, and I think, perhaps, it is a matter that we require the—well, I have asked the Privy Council to have a look at that particular matter—the universal projects matter—and I think that we need to revisit certain aspects of the rules themselves.

Mr. Imbert: I agree with that too. [*Desk thumping*]

Mr. S. Panday: You are not "no" lawyer, you know. [*Laughter*]

Sen. The Hon. J. Jeremie SC: The Member for Tabaquite also raised the issue of the small claims court. There is a draft Bill and that is a matter that we can agree to look at as well. He spoke about the necessity for a contingency fee system. I think that is a matter which has been considered for some time. If my memory serves me correctly, I am not sure of this—do not haul me before your privileges committee—but I believe the Law Association has done some work, they might even have produced a paper on the contingency fee.

There are arguments pro and con, there are arguments on both sides, in the United States the contingency fee system has served the interest of— [*Interruption*] No, it has distorted the legal system as a matter of fact. It has done serious damage to their medical mall practice cases and it has enriched lawyers. That in what it has done in the United States. So it is something that we can undertake to look at, but it is something that we need to be very careful about—the need to provide professional indemnity insurance to the extent that it does not now exist. I think there is a scheme at present. I can find out the details on it, but to the extent that it does not now exist, I think that is a useful concern.

He spoke about the need for the delivery of judgments. He said the Chief Justice had spoken about a need to establish standard time-frame for the delivery of judgments. That is, I think, a useful point, obviously it cannot come from the Executive. If the Chief Justice has in fact said that, I did not hear him say that and I am not aware that he did in fact say that, but I think that would be a useful thing. Of course it cannot come from the Executive; it has to be an initiative which has to be driven from the Judiciary, separation of powers principle.

Having dealt with the substantial points made by the Member for Tabaquite, I think that we can turn to the lighter comments made by the Member for Oropouche East, which I believe is either a lawyer or on his way to being a lawyer.

Mr. Imbert: On his way.

Sen. The Hon. J. Jeremie SC: On his way to being a lawyer. Well, his contribution this evening—I used to teach law—if I was to grade it, I am not sure what grade I would give to your contribution this evening, so I would be fair to you—*[Interruption]* I would respond to every single thing you had spoken about.

He made the point that the Government between 2002—2009, reduced the money given to the Judiciary for capital expenditure.

Hon. Member: What part of law is that?

Sen. The Hon. J. Jeremie SC: The fact is, for years the Judiciary has, in fact, returned money to the Treasury in respect of its capital expenditure. I am not criticizing the Judiciary here. I am stating the fact. The Judiciary has not done well in respect of the construction of court buildings, it has not done well in respect of certain other non-core judicial functions.

So when the Member for Caroni East spoke to the use of IT technology and audio-visual technology in the courtrooms and so on, that is perhaps a matter that—I know that the Judiciary in all fairness to the Chief Justice and the Judiciary, they are in constant dialogue with my colleague in the Ministry of Public Administration, which is the line ministry, which treats with government IT issues. I am not an IT person myself, but I know that they work together, and perhaps greater synergies can be derived from that relationship.

7.45 p.m.

There was a question raised by the Member for Oropouche East, as to whether there is space at the Hall of Justice for these new judicial appointments? The fact about the matter is that, these appointments have been sought by the Judiciary. We are

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responding to their needs and their request. It is my understanding from my discussions with the Judiciary, that they are looking to put non-core judicial functions outside of the Hall of Justice to free up space, and to that extent there will be greater space in the Hall of Justice. I am not sure what other solutions can be found, but I am certain that working together, the Judiciary and the Executive will be able to find space, if space needs to be found outside of the precincts of the Hall of Justice for these persons.

My friend spoke to the Magistracy and the percentage of our national budget which goes to the Magistracy. I do not think that point can be—even if you call yourself a non-lawyer or a non-finance person, 2 per cent of \$10 million is going to be less than .2 per cent of \$60 billion, and the size of our economy is five or six times at least the size of the Barbadian economy. The analogy really does not hold, I think.

On the point about the Anti-Corruption Investigation Bureau being under a political appointee, that is misconceived. It is contradicted by the Member for Tabaquite in his contribution when he moved the second reading of the Mutual Legal Assistance in Criminal Matters Bill, and he spoke to why there is a necessity for an Anti-Corruption Investigation Bureau, why there is a necessity for a Mutual Legal Assistance Treaty and a Mutual Legal Assistance in Criminal Matters Act, and why you must have an agency under the control of the civil authority. In any event, in any western style democracy, the cursive powers of the State are always subject to the civilian authority.

[MADAM DEPUTY SPEAKER *in the Chair*]

That is how democracies were, and we—I think—are a democracy.

Madam Deputy Speaker, with those few words, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 4 ordered to stand part of the Bill.

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

House resumed.

PROCEDURAL MOTION

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, in accordance with Standing Order 10(2), I beg to move that this House continue sitting until we complete the committee stage on this Bill and our other business, which will be the commencement of the introduction of the other two Bills.

Question put and agreed to.

SUPREME COURT OF JUDICATURE (AMDT.) BILL

Bill reported, without amendment, read the third time and passed.

CRIMINAL PROCEDURE (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Criminal Procedure Act, Chap. 12:02, be now read a second time.

RELATED BILLS

The Attorney General (Sen. The Hon. John Jeremie SC): Madam Deputy Speaker, in moving the second reading of this Bill, I seek the leave of the House to debate together the other Bill before this House, which relates to this subject of debate, that is, a Bill to amend the Evidence Act, Chap. 7:02.

Assent indicated.

CRIMINAL PROCEDURE (AMDT.) BILL

The Attorney General (Sen. The Hon. John Jeremie SC): Madam Deputy Speaker, both of these measures, a Bill to amend the Evidence Act, Chap. 7:02 and a Bill to amend the Criminal Procedure Act, 12:02, are intended to improve the criminal justice system. In the Evidence (Amdt.) Bill, we seek to revive the doctrine of recent complaint to the benefit of persons who are victims of sexual offences.

This Bill also seeks to expand the scope and nature of the coverage of the use of the audio-visual technology, for which we legislated last November, in the Evidence (Amdt.) Act, 2009. In the other place, the Evidence (Amdt.) Bill which I propose to debate first, was passed with the votes of the entire Independent Bench.

Madam Deputy Speaker, there are several reasons why a responsible government will seek the revival of the doctrine of recent complaint. The revival of the doctrine of recent complaint is advantageous to the victim of a sexual assault, and we speak both of women and especially of vulnerable young children.

Mr. Imbert: What about men?

Sen. The Hon. J. Jeremie SC: I do not know about men being sexually assaulted. Madam Deputy Speaker, I have been asked what about men, but I choose my words very carefully. I said women and infants.

Mr. Imbert: Okay.

Sen. The Hon. J. Jeremie SC: There are several reasons why the revival of this doctrine is advantageous to the victim of a sexual assault. First, the exclusion of recent complaint evidence often means that the victim is denied the ability to adduce evidence of recent complaint, where it exists in support of her credibility. Second, unlike other offences, sexual offences most often occur in private. Therefore, other than the victim, it is unlikely that there will be another person who could give eyewitness testimony. That fact can severely impede the prosecution's case, and it is precisely why evidence of recent complaint might be decisive in a particular case. So we are seeking this evening to protect the interest of women and young children. The third reason why we seek to revive this doctrine is because of the difficulty of gathering corroborative evidence of a sexual assault.

Ultimately, as I have said before, it is the victim's word against that of the alleged perpetrator. The inability of the prosecution to tender evidence of recent complaint, would often mean that a complainant who is being aggressively cross-examined by defence counsel—and this is often the case with women and young children—would be subjected to further stress and trauma without being able to adduce evidence in support of her credibility and consistency. We submit that there no balance here, and we propose by the revival of the doctrine to rebalance the scales of justice.

Madam Deputy Speaker, if I can pause there this evening and resume when next we resume the debate, that would be entirely in order.

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, I just want to point out that the Attorney General has not completed his introduction, so that he will resume when next this matter is before the House. I beg to move that this House do now adjourn to a date to be fixed.

The reason why I am doing that is that some emergency may arise and we may need to call back the House for some reason. So rather than putting a date sometime in the future, I would simply beg to move this House be adjourned to a date to be fixed.

Adjournment

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Madam Deputy Speaker: Hon. Members, before I put the question on the adjournment, there are four matters and I believe that there are two matters for which there is an agreement, Nos. 1 and 4. Which one are we doing first? So, No. 4. The hon. Member for Caroni East?

Hon. Members: No. No.

**Lighthouse of the Lord Jesus Christ Church
(Questions on Construction of)**

Dr. Tim Gopeesingh (*Caroni East*): Madam Deputy Speaker, the Motion that is before this House—

Madam Deputy Speaker: Hon. Members! Hon. Members, in the event that you all are not aware, the House is not adjourned.

Mr. Imbert: They are not leaving.

Madam Deputy Speaker: Everybody is getting up and grumbling. I know. But he has to make his contribution.

Mr. Imbert: Only the ladies are grumbling.

Madam Deputy Speaker: Only the ladies are grumbling?

Dr. T. Gopeesingh:—this evening, is the necessity for clarification on whether there is a relationship between UDeCott, Nipdec and the Shanghai Construction Company, in the construction of the Lighthouse of the Lord Jesus Christ Church, in terms of financial contractual obligations.

We raise this motion on the adjournment because of a number of issues surrounding the construction of this church.

8.00 p.m.

The *Express* newspapers on Friday, March 05, said that Mr. Calder Hart was the Chairman of UDeCott and also the Chairman of Nipdec; so the Motion is the relationship between UDeCott, Nipdec and the Shanghai Construction Company. Mr. Calder Hart, who was the former Chairman of UDeCott and Nipdec, helped to organize professional services relating to the design of the Lighthouse of the Lord Jesus Christ Church in the Heights of Guanapo. The newspaper indicated, quoting unimpeachable sources, that around 2005 Mr. Hart, acting in a private capacity, mobilized a number of consultants to do design work for the church, including architect Stephen Mendes, who did the work for free.

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Mr. Mendes is the architect who also designed the Government campus, which is a UDeCott project as well, so the relationship between Mr. Mendes and Mr. Hart, UDeCott and Nipdec, comes into play immediately, because Mr. Mendes did the design work as the architect for the Heights of Guanapo church.

The *Express* said that its sources stated that Hart approached a company called CEP, Consulting Engineering Partnership, and asked it for help with the structural drawings and structural designs for the church. So the same Chairman of UDeCott and Nipdec, approached another company called Consulting Engineering Partnership and asked for help with the construction of the church. The report stated that Hart wanted it done without charge, but CEP requested a nominal fee for the work. So Mr. Hart asked, not only Mr. Mendes for the design, but CEP for structural designs for the church.

The article said the company had told the media, when they were asked, it had no comment to make on that matter. That is CEP. Another firm was engineering consultants, ENCO, adding that ENCO official Mr. Teelucksingh confirmed that ENCO did the electrical and engineering designs for free.

So CEP did it for free, ENCO did it for free and the other company, which Mr. Mendes owns, did it for free. The Consultant Engineering Partnership and ENCO did everything for free.

The article continued:

“‘We don't charge for churches generally. We are very sympathetic to churches,’ he said.”—the paper quoted Mr. Teelucksingh as saying.

Mendes asked for help with the church, noting that ENCO does a lot of work for Mendes. The Shanghai Construction, which is building the church, had done extensive work for the State with contracts exceeding \$1 billion. All Shanghai company projects are under UDeCott's management. Some of the projects that the Shanghai company did were the Prime Minister's residence, the National Performing Art Centres in Port of Spain and San Fernando and the executive jet facility at Piarco. So the Shanghai company did all these projects and they were hired by the State.

The Shanghai company will also be constructing the Carnival Centre in Port of Spain, according to the Prime Minister, Mr. Manning. The Works Minister said that he did not know how Shanghai became involved in building the church. He said and I want to quote:

“‘That information would be known by the owners of the church,’” ‘That question is best directed to the incorporators of that church because they hired the contractor.’”

You said that the church hired the contractor, Shanghai company.

The first issue is that the Shanghai company is a government-to-government arrangement, is it not? The company, Shanghai Construction, has been a government-to-government arrangement so they could and do the construction of the performing arts centres.

Mr. Manning: That is not true.

Dr. T. Gopeesingh: All right. The Prime Minister, therefore, must tell this country how come Shanghai got that contract. How did Shanghai get that contract, when we know that Shanghai is supposed to be a government-to-government relationship? It is not a private company. [*Crosstalk*]

Who authorized this company for the Government to do the work for what Mr. Manning claims is a private job? You claimed it was a private job; where is the \$30 million for the church coming from? The country wants to know.

Mr. Imbert: "Ask dem; why you asking me for?"

Dr. T. Gopeesingh: Since Shanghai is hired by the State, because they came in on the invitation of a government-to-government relationship.

The second issue is: What is the Prime Minister's involvement in the church? The people are asking; the Prime Minister must come clean on this matter, about reports that he met with architect Mendes to redo the design.

In fact, I want to read from an editorial in the *Newsday*, in addition to what the *Express* had said. Prime Minister, you would remember the newspaper's headlines:

“Prime Minister impassioned plea to Parliament: Stop bashing born again.”
“Manning charges religious prosecution.”

You spelt out the amount of dollars given for religious bodies and then the Belgrove family denied links with the Guanapo church. There were too many unanswered questions on this whole issue. The Prime Minister said:

“Journalists have spiritual experience in Guanapo”

Then the head of another church said that the Prime Minister's statement was a con job. I want to quote from the editorial of the *Sunday Newsday*, February 28, 2010:

“We wonder what impression Caribbean Parliamentary visitors must have had on Friday of Prime Minister Patrick Manning's display of religious fervour—some would even say religious rage at what he perceives as persecution of himself and of the Full Gospel churches in Trinidad and Tobago?”

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The Speaker used the word ‘extraordinary’. We can think of other terms to describe the spectacle of our leader ranting about his faith and moral upbringing as he took 53 minutes of Opposition parliamentary time to detail how much money the State has granted to churches, temples and mosques in the last ten years.

He reeled off a list of religious denominations who have benefitted from State aid under the ‘ecclesiastical grant’, which not surprisingly is under the PM's portfolio in deference, no doubt to his superior spiritual values.

It left us with no doubt as to the extent of his religious practices which he now deems have attracted religious persecution.”

Here is what is important in this editorial:

“We should be forgiven for seeing Mr. Manning's statement as an attempt to obfuscate and pull the wool over our eyes with respect to the construction of a multi-million dollar church deep in the Heights of Guanapo, out of sight, but about which Mr. Manning clearly knows more than he is saying.”

It is in this context that the country and the population have been asking for answers to this question.

The article continues:

“We know he has visited the site once and according to him in broad daylight with full security detail. We know that he knows that two reporters who were brave enough to venture on the holy premises had ‘a spiritual experience that scared the life out of them’.

We know that he knows there was a split among the church members. We know that he knows that a ‘benefactor’ paid what, in our view, amounts to a bribe to get a squatter off the land to facilitate construction of the church. The question however remains: Does Mr. Manning know all this from media reports or does he know from first hand informers such as members of the Guanapo church? Is it usual for the Prime Minister to know so much about the goings on at a church construction site?

What the media has reportedly found out is that the church is being constructed by the Shanghai Construction Company using Chinese labour. Given the unsavory revelation about certain construction projects in this country, alarm bells have been ringing loudly...

Let it be said that the Church of the Lighthouse of the Lord Jesus Christ Church should be similarly entitled to State-aid but shouldn't we know the names of the people behind it since State land is involved?”

Who authorized the construction of the road going to the church? Did the church have planning permission to do the construction? [*Crosstalk*] Did it have the Environmental Management Agency's approval to do the construction?

The question now that everyone is asking is: Why all these private companies, CEP and ENCO, that have been working with UDeCott over a period of time, where Mr. Hart was the Chairman, and Nipdec of which Mr. Hart was also the Chairman? What is the relationship between UDeCott, Nipdec, Mr. Hart, the Prime Minister, Mr. Manning and the construction of that church? The country has been asking this question and it has been here for discussion for about three weeks now. We want to find out: Have you allowed this whole thing to die down deliberately? [*Crosstalk*]

Mr. Imbert: "We do not allow nothing to die down?"

Dr. T. Gopeesingh: So why did you not answer the question in the first week when the matter was filed on the adjournment?

Dr. Moonilal: What about the two reporters, they repent or anything?

Dr. T. Gopeesingh: Why was this matter not brought up earlier? In any case, it is better late than never.

Mrs. Persad-Bissessar: They had an epiphany? [*Laughter*]

Dr. T. Gopeesingh: We ask the questions on behalf of the citizens and the population of this country. The Government has to answer. I referred the Prime Minister to a very serious editorial written in one of the newspapers, and the editorial in the *Newsday*. But the *Express* newspaper is the other one which asks the questions.

Mr. Imbert: Who wrote it?

Dr. T. Gopeesingh: I did not write that; I read it straight from the editorial. [*Crosstalk*] The question is the association between the Prime Minister, Mr. Calder Hart, who was Chairman of UDeCott and Nipdec, and the Shanghai Construction Company in the construction of this church. A lot of questions have to be answered and the population awaits answers from you.

Thank you, Madam Deputy Speaker.

The Minister of Finance (Hon. Karen Nunez-Tesheira): Madam Deputy Speaker, I am sorry that the Member for Caroni East seemed disappointed that the matter has died down. Perhaps it is because the matter has been ventilated quite comprehensively in the national community. In fact, as you have made the point, for 53 minutes the Prime Minister responded.

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The Motion has been filed and in deference to the national community I could answer it in one word, the answer is no. In deference to the national community, I will be more expansive.

Clarification was sought as to whether there was a relationship between UDeCott, Nipdec and the Shanghai Construction Company in the construction of the Lighthouse of the Lord Jesus Christ Church, in terms of financial arrangements.

With regard to UDeCott—UDeCott has sent me a copy of their release of March 11. I will read from the release which answers the question on the Motion. It said it very clearly and unequivocally:

“There has never”—and the word 'never' is used—“been any contract between UDeCott and any party for the design, engineering and construction works for the project in question.”

The project in question is the Lord Jesus Christ Church project.

“There has never been any contract between UDeCott and any party for the design, engineering and construction works for the project in question.” [*Desk thumping*]

UDeCott also went on to say that it:

“...categorically denies erroneous reports that it hired two local firms to do designs and engineering works related to the construction of the church.”

That is UDeCott.

We then move on now to Nipdec. I wrote to Nipdec as the Minister of Finance and I gave them a copy of the Motion and asked them to respond to it. I got the answer from the General Manager, Wendy Ali, in a letter dated March 11, 2010.

8.15 p.m.

Reference is made to the captioned matter and to your letter dated March 11, 2010 requesting information on behalf of the Minister of Finance.

This was addressed to the Permanent Secretary, Ministry of Finance in order to respond to a Motion raised in the Lower House of Parliament.

In response to your request for information please be advised as follows:

There is no relationship, nor has there ever been any relationship between UDeCott, Nipdec and the Shanghai Construction Company in the construction of the Lighthouse of the Lord Jesus Christ Church in terms of financial, contractual obligations.

Nipdec remains available to assist further if required.

That is Nipdec.

I went further, Madam Deputy Speaker, because I felt I should ask the Budget Division of the Ministry of Finance for clarification. It was not asked of me. I was asked specifically about UDeCott and Nipdec, but because this Government believes in being transparent in its dealings with the national community, I went beyond what was asked of the Motion and I asked through the Permanent Secretary, to the Head of the Budget Division. I said I wanted the answer in writing to determine whether the Budget Division, the Ministry of Finance has given any allocation in any form or fashion to this Lord Jesus Christ Church and this is the answer through the Permanent Secretary.

Permanent Secretary,

The following is forwarded in order to assist with the response of the matter to be raised on the Motion for the Adjournment of the House of Representatives.

And they went through the name of the Motion.

The Ministry of Finance, Budget Division has never released resources to meet any expenditure related to the construction of a church or facility for the Lighthouse of the Lord Jesus Christ Church at the Heights of Guanapo. [*Desk thumping*]

I do not think—as much as there is the cut and thrust of politics in the honourable House—they would want to impugn the integrity of our technical personnel, Permanent Secretaries or Heads of Department.

However, I was told—and I am reading from the information that was given to me because I wanted a very clear, comprehensive response.

Releases have been made annually to the Office of the Prime Minister in the sum of \$401,205 to assist the ecclesiastical bodies. The assistance which is disbursed in equal quarterly tranches is distributed to the Roman Catholic Church, \$115,724; the Hindu, \$71,109; Anglicans, \$51,576; Muslim, \$40,328; Presbyterian, \$26,440; Methodist, 10,148; Seventh Day Adventist, \$17,608; Baptist Spiritual, \$13,246; Baptist Orthodox, \$16,904; Moravian, \$3,589; Pentecostal, \$25,080; Jehovah Witnesses, \$4,808; Church of God, \$3,225.

In addition, the National Commission for Self-help has received 192 requests from religious organizations for assistance since 2005 for help with such activities as the construction of new places of worship, renovation or repair of places of worship, execution of external work including the paving of yards.

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I believe that was the Divali Nagar site by the Ministry of Works and Transport, \$2 million was spent to pave that site.

In response to these requests, \$18,601,351.46 has been disbursed to a range of organizations affiliated to religious bodies.

So, Madam Deputy Speaker, I got the information from the National Commission for Self-Help for funding and for the Hindu religious organization, between 2005—2010—[*Interruption*]

Because you have asked about disbursements and financial arrangements for various religious organizations and since the question was intended to give the national community the information they believe is necessary and we are trying to put it on the record very clearly.

They asked about UDeCott and UDeCott has unequivocally said they have given no money. They asked about Nipdec, the General Manager, in writing, has said very clearly they have given no money. I went to the Ministry of Finance, I was not asked that, but I wanted to check. I said, Budget Director, I want to know: Is there any line item? Will I find a line item? Because if it is so, I need to know because at the end of the day, as the Minister of Finance, I need to be able to do that and I did that.

Madam Deputy Speaker, in responding to the Motion on the Adjournment I have answered the response that unequivocally there has been no funding to that organization. However, as I indicated, from the Self-help funding to religious organizations between 2005—2010, the Hindu religion as a group got nearly \$7 million representing 37 per cent of the budget; this went to the Hindu religion.

The Pentecostals got 27.2 per cent; the Baptists got 16 per cent, this is out of the \$18 million. The Catholics got 4.5 per cent and the Presbyterian 3 per cent, Muslims 4 per cent and so forth. I believe I have answered the question very clearly and I hope the answer has been comprehensive in respect to the Motion that was raised.

Thank you, Madam Deputy Speaker.

UDeCott Board
(Resignation of)

Mrs. Kamla Persad-Bissessar (*Siparia*): Madam Deputy Speaker, I thank you for granting me leave to raise this matter on the adjournment, namely, the need for all members on the Board of UDeCott to be dismissed, having regard to the role it has played in the undermining of public confidence in the operations and integrity of this state company namely UDeCott.

Madam Deputy Speaker, we want to remember UDeCott, a company which I will refer to as the company incorporated on December 28, 1994 under the Companies Ordinance. It was continued by the Companies Act thereafter, Chap. 81:01. The company's operations are governed by the Act's provisions and this means that it cannot derogate from or contract out of these provisions.

By section 21(3) of the Companies Act, this company has the capacity to carry out its business, conduct its affairs to the extent of the laws that the Republic permits. So that is its jurisdiction as given by law.

By section 60(b) of the Companies Act, the directors are required to direct the management of the business and the company's affairs. By section 99(1) of the Act, the company's directors have a fiduciary obligation in discharging its powers to act honestly and in good faith with a view to the best interest of the company and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

The directors have fixed responsibility to award contracts; if any director dissents to any resolution or action, he is required by section 100 of the Act to request that to be entered in the Minutes of meetings. The Director is accountable to shareholders for decisions, and the shareholders, in this case—yes, there is Corporation Sole, but Corporation Sole holds in trust for the people of Trinidad and Tobago so their shareholders are, indeed, the people of Trinidad and Tobago with respect to UDeCott.

So the directors are accountable to the shareholders for decisions which are unlawful, illegal, or in breach of statutory or fiduciary duty and the company's shareholder, as I say, is Corporation Sole holding in trust for the people of Trinidad and Tobago. And so the directors assume collective responsibility for the acts and defaults of one or more of the members.

They are presumed to have knowledge unless the contrary is demonstrated of any illegal or corrupt acts. Further, the directors are mandatorily required to carry out an investigation report to shareholders in respect of allegations that a director is acting fraudulently or contrary to the best interest of the company and there is a case coming out of the English Court of Appeal, *Neville v Krikorian & others* of 2006.

At common law as well, the directors in addition to the statutory fiduciary obligation at common law, where more than one director is involved in the same breach of duty, they are jointly and severally liable to the company for the total amount that may be misappropriated and there is again case law for this. The duties of directors are stricter and more rigidly enforced following the corporate

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excesses that we saw in the early 2000 with the Martha Stewart fiascos which led to passage of their law in the US and that requires accounting officers to personally sign off on financial statements of companies.

However, in our jurisdiction, the case of Neville that I mentioned before, means that directors through their silence and inactivity cannot escape joint and several liabilities and are required to take steps to rectify breaches once they have been brought to their attention and may be held personally liable for their failure to do so. So you have joint and several liability on the part of directors. *[Interruption]* Yes, once it is brought to your attention you have a duty.

The directors of the company are jointly and severally liable for the following types of breaches:

Permitting their chairman to participate in a decision to award a contract to an organization which has a family interest which is undeclared.

Electing not to take any and/or proper steps and to investigate whether the family links were real or tenuous once it was brought to their attention, and in this case it was brought to the attention through evidence in the commission of enquiry and has been so for quite some time.

So they were under duty to take steps to investigate.

Continuing to defend the status quo in the face of evidence of a family link

Electing not to take any steps to set aside and vitiate the contract through fraud and/or misrepresentation.

Not accounting to the shareholder, not acting in the best interest of the company.

In the absence of any decision of collective responsibility and refusal to resign the director should be dismissed.

And there are investigations under the Prevention of Corruption Act which deal with corruption in public office that should also be launched in cases such as these.

Under section 242 of the Companies Act, there is a very interesting kind of action that could be brought against directors for breaches under the statute. It is known as an oppression action and by saying this, it is for us further to underline, as I am saying, the need for these directors to resign, albeit they have not been found guilty in a court of law. But given the circumstances, it is incumbent upon them with the duty they have to the shareholder, and that is through Corporation Sole, the taxpayers of the country, that they should resign in all of the circumstances. *[Desk thumping]*

Madam Deputy Speaker, this oppression action is where a complainant who is a member of the public, a shareholder, pursuant to section 242 can go to a court for an Order pursuant to this section to set aside any contract granted on the ground the directors have and/or continue to exercise their powers oppressively or prejudicially and which affects unfairly as regards the shareholders' interest.

Under this section, the court has power to remove directors. So there is this possibility in the circumstances for an oppression action to be brought and after today, we would determine whether we would go in that direction, but today we are appealing to Members on the other side to consider certain matters.

So in the law, there is a collective responsibility on the part of directors to act in the best interest of the Corporation Sole and through them the shareholders. I will not go through the ecology of what has happened except to say that I know we came to the Parliament recently with a matter of Urgent Public Importance for Mr. Calder Hart to be dismissed. We did not gain the support of the 11 Members which was required, and we did not get the Government's support, nor those on the Back Bench and we did not have the 11 persons, so that matter went by the way.

8.30 p.m.

But subsequently, within a few days after the Prime Minister spoke—and the Prime Minister has admitted—with Mr. Hart on the telephone, Mr. Hart did, in fact, resign, so that matter became *otiose*.

Mr. Manning: Who tell you it was the telephone?

Mrs. K. Persad-Bissessar: Well, I am so sorry: After the Prime Minister admitted that he spoke with him. You are correct; I do not know it was on the phone. The Prime Minister did say that he spoke with him. So after the conversation, whether by phone or otherwise, which we do not know at the moment, but what is true and known is after a conversation, Mr. Hart did resign. I think that fact is in the public domain from the press conference given by the Prime Minister. He did resign thereafter.

Now, evidence has come forward, disputed or not. On the one hand, it is saying that Interpol has confirmed that these documents are genuine documents establishing a family relationship.

Mr. Imbert: How you know that? [*Inaudible*]

Mrs. K. Persad-Bissessar: When I am done, Sir, you have 15 minutes on the other side, so if I may be allowed. The time is very short in these matters.

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There is evidence. There are those who are of the view that the documents are genuine; there are those not of the view, as the Attorney General said, so I am acknowledging that. But in all of the circumstances, you do not leave persons who may be in some way impugned whilst an investigation is to be carried out, in charge of all the documents, having custody of all those documents. It is a standard principle of the law that pending an investigation, these persons be removed where they cannot tamper with; they cannot contaminate the evidence that is there.

You know, I heard the hon. Prime Minister had said, a person is innocent until proven guilty and used the analogy like in a murder case; they are innocent until proven guilty. But everybody knows in a murder case you get locked up pending determination of the charges. So there is a risk; there is a possibility that evidence could be contaminated; evidence could be lost, that would be crucial. It is like saying you would go to these directors now; you have an investigation ongoing and you go and say, "Listen, give me all the evidence that will show that you are guilty." It is beyond just common sense reasoning. So that in cases like that, you pull those persons out, pending the investigation.

Further, there are investigations with respect to possible conflict of interest on the part of two directors. One of them has to do with director Sen. Annisette, in terms of the leasing of lands from the Government at about \$2.-odd million and thereafter selling it to UDeCott whilst he was a member of UDeCott. He was part of the directorship and shareholding of the company involved in the lease purchase from the Government of \$2.-odd million; sold it back to UDeCott for \$5 million more within 10 months. There is, therefore, a possible breach again of the Integrity in Public Life Act—alleged conflict of interest.

With Dr. Bahadoorsingh as well, a director, again, a possible conflict of interest on the part of Dr. Bahadoorsingh with respect to a road built to his—*[Interruption]* Let me finish. You have 15 minutes—with respect to a road built to his private development whilst he is sitting as a director of UDeCott. So in those two cases, there are possible allegations of conflict of interest.

So whilst you are investigating these matters, these members should not be allowed to continue to sit on that board. *[Desk thumping]* They should not be allowed, pending those investigations, in the interest of the shareholder, which is the taxpayer. I know that Dr. Bahadoorsingh has given the defence that this was a promise that was made 17 years ago by a former administration—17 years ago. The promise is statute barred under contract law, and so on. But notwithstanding that, the number of promises that have been made one year ago and that have not been kept, to rely on a 17-year-old promise is all well and good, but you are

sitting on the board of UDeCott when this road is agreed to be built to your private development. I mean, it begs the question, and it is a matter that should be investigated for possible breach of the Act for conflict of interest.

In all of those circumstances, it is my respectful view that these members should not continue to sit on that board while these serious matters are outstanding with respect to the Calder Hart issues and with respect to the evidence and the allegations that deal with a possible breach of the Act with respect to conflict of interest, and I so move. [*Desk thumping*]

The Minister of Finance (Hon. Karen Nunez-Tesheira): [*Desk thumping*] Thank you, Madam Deputy Speaker. All that the Member for Siparia said sounded very nice and, in fact, it was not unexpected. In fact, I expected that she would have taken that line of argument, having herself been responsible for the new companies law. I remember very well attending a session on that when the new companies law was brought into effect, so I knew that she was then the Attorney General for a short time, perhaps—

Mr. Imbert: For 10 days.

Hon. K. Nunez-Tesheira: For however long, but I expected that.

But let me just go to what I believe—if I distil or extract from the Motion—are the two important principles, and trained as a lawyer, as the Member for Siparia is, we understand that you look at facts and try to distil, in fact, whether the principles underpin those facts. And there are two principles that underpin those facts.

One is the rule of law and two is collective responsibility. What those two principles really say—it really speaks and underscores and emphasizes the unbridled, unmitigated and shameless hypocrisy of the other side and I make no apologies for saying that and I would be able to illustrate it. I believe I would be able to illustrate it with no spurious allegations but a factual matrix.

Why do I say that? We all know that in any civilized society, the bedrock of any civilized society is respect for the rule of law; the opportunity to be heard and a person, of course, is presumed innocent until proven otherwise. That is how we operate in a civilized society, because we know if it were otherwise, what we would have is the rule of the mob; we would have anarchy and we certainly would not be standing and be really representative of what a civilized society, what a democracy stands for.

When we talk about respect for the rule of law, we understand that a person is entitled first, to have some wrongdoing; the facts brought to the fore and an

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opportunity to be heard before one takes action. What this Motion is asking is for summary dismissal of directors on this basis of collective responsibility. It is saying, in fact, on two bases that they should do so: on the basis of integrity and on the basis of the operations of UDeCott.

When we speak of the issue of integrity we know that once you speak of our integrity, we know a company, which UDeCott is, is a legal person but it operates through its human agents. Therefore, when one makes allegations of integrity, one is talking about personal to the individual; it is a personal accounting that the individual must make. And if one is going to make an allegation of a lack of integrity or calling upon persons to be summarily dismissed on the basis of a lack of integrity, or on the understanding of the rule of law—the opportunity to be heard—we understand that we must respect the right, first, for those facts to be established and an opportunity to be heard.

I remind the other side, because one of their Members, the Member for Tabaquite—that is a good example of what I speak. In fact, the case went all the way to the Privy Council. Any student of law would be very familiar with the issue of contempt of court and the right to be heard. When the hon. Member for Tabaquite was in a matter in the Magistrates' Court, it was alleged that he had made a statement to the magistrate that he would not have gotten justice in that court, or words to that effect. Immediately after that, the magistrate determined that it was contempt of the court and he ordered the immediate arrest of the Member for Tabaquite. What happened was that the matter went all the way to the Privy Council and the decision was vitiated. Why? Whether or not he had said it; whether or not that was a fact, they had not had an opportunity to be heard. So that in this country without due process, you do not have a civilized society and the Member for Siparia is a lawyer; the Member for Siparia is a seasoned parliamentarian and an erstwhile Attorney General.

But I want to bring the point closer to home, because I said it was hypocrisy. Having said that, I imagine that the Member would be very familiar with those concepts of rule of law. In fact, there was another case; Justice Crane, who is now deceased, there was a decision made by the Judicial and Legal Service Commission to remove him from sitting in any of the courts and he was served with the documents by a police officer on the steps of the Hall of Justice and told that he was not to sit in any court. He went all the way to the Privy Council and he won, because, first, charges were made against him and he had no opportunity to answer those charges. Whether the charges were true or not, the point is, due process had not been observed. Those are two Privy Council decisions which I am confident that the other side is familiar with.

But let me bring it home to the hypocrisy. Why do I say, quite apart from the learning on the law that we are all familiar with? Let us talk to the hypocrisy. I know that the Member for Couva North is not here and I mean no disrespect to the Member for Couva North. In fact, I want to say, for the record, in all the time that I have been in this honourable House, the Member for Couva North has treated me, unlike—I cannot say that for other Members on his side, and I have not come to this decision recently. I found that to be my experience from the very beginning. He has always treated me with deference and respect and for that, I thank him. So I want to say that at the beginning.

But why do I say an opportunity to be heard and rule of law? The Member for Couva North was charged and is charged. The Member for Couva North is before the courts of this land with charges against him whilst he was a sitting Prime Minister, the leader—if you want to say, the chairman of the board, so to speak, of the Cabinet; a sitting chairman, so to speak, of the Trinidad and Tobago Cabinet. Charges were laid against him and, Madam Deputy Speaker, you are an attorney, you do not charge someone unless there is prosecutable evidence, especially when you are talking about a criminal wrongdoing, because the burden of proof is beyond a reasonable doubt.

The Member for Couva North was not only charged; he was convicted. It went all the way to the Appeal Court and the only reason he was not acquitted, a retrial was ordered, not on the substance of the case but on process again, apparent bias. However, the Member for Siparia, who is sitting here telling us that the directors, without any—[*Desk thumping*]*]*—and you know the use of the evidence and as a lawyer. They well understand the meaning of evidence. Evidence is a technical term. And in spite of the fact that there is no evidence; there have been no charges, nothing of that nature; one rule for them and one rule for us. Today is today, yesterday is yesterday. Do as I say, not as I do. Because if I follow the principle of law, if there was any case calling for a dismissal of a sitting Prime Minister, the head, the chairman of the board, so to speak, it was the Member for Couva North.

But not only was he not dismissed, the Member for Siparia, her erstwhile guru, I understand, because this is what he was referred to; she said that was her guru—would have defended him stoutly, and rightly so, and said he has a right to be heard; we had to respect the rule of law, he was charged and not convicted. In fact, not only was he a sitting Prime Minister, he came back in this honourable House as the Opposition Leader, until recently, and a Member of Parliament, and I never heard—perhaps the Member for Siparia has had a change of heart; no pun intended—perhaps she has had a change of heart, but I would say that until very recently, January the 24th to be precise or just before that—I should correct

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myself—the Member would have stoutly defended the Member for Couva North, because the Member for Siparia understands that he has a right to be heard. And you cannot go further. [*Desk thumping*] You cannot go further.

This is not a company you are talking about, you know; this is the Prime Minister of this country. This is not to be found in company law, you know; it is to be found in the Constitution of Trinidad and Tobago. And we know that they know—[*Interruption*] And the Member for Siparia well understands that the Constitution is the highest law of your land.

So my point is that the Member for Siparia understands that a person is entitled to a fair hearing; a person is entitled to have the facts put before us. There is not a fact; there is not a charge; there is nothing before the court, but calling upon their dismissal. [*Interruption*] But the Member for Couva North did not have to be dismissed, even as he sat as the Opposition Leader.

8.45 p.m.

Madam Deputy Speaker: Hon. Members, please, I am having great difficulty in hearing the contribution of the hon. Minister of Finance and I am sure too—and the *Hansard* reporters are actually shaking their heads. Could we please allow her to complete her contribution?

Hon. K. Nunez-Testeira: The Member for Diego Martin North/East is giving me another example. The example is the RHA. The Member here was accused. Did the rest to the board resign? No.

Hon. Members: Which Member?

Hon. K. Nunez-Testeira: The Member for Caroni East. Let me go very quickly to the concept of collective responsibility, because we talked about a collective role, is very interesting.

“With the concept of collective responsibility, this is perhaps the most fundamental point of the doctrine of ultimately voting strength in the House of Commons is not only a measure of confidence in and a strength of a government but the test of its rights to exist.” Very interesting, “Rigorous observation of the convention is believed to be necessary to maintain stable government and has been followed by the shadow Cabinet wishing to offer a stable alternative government for the next election.”

Why do I say that? As the Member for Siparia said, when they moved a Motion that the leader of that party of—I have to call it a coalition party—8/7, was unable to get all of her shadow ministers to join with her on a basic concept of collective

responsibility. There is a difference between that and ministerial responsibility. It is very clear, where there is a ministerial responsibility, the accountable Minister is expected to take the blame and ultimately resign. There is a distinction with that.

My point in conclusion is that I am not defending anyone. I started by saying the rule of law. The rule of law must be—we cannot have one rule for the other side and one for us. There is total hypocrisy on the other side, to come to this honourable House and give the impression in high-sounding words that they subscribe to it, but when they have to apply it to theirs, they are incapable of doing so.

I think I have used up the time allotted to me. I think it is very clear to me that I am very happy that the Member for Siparia gave me the opportunity to once more let the national community understand that they who sit on that side are unsuitable for this side of the House.

Thank you, Madam Deputy Speaker.

Easter Greetings

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, I had earlier moved that the House adjourn to a date to be fixed. It is possible that the House may not return before the Easter weekend; it is possible. In the event that we do not return before the Easter weekend, I think it is incumbent on me to say some words to the Christian community and for the edification of those hon. Members opposite. [*Interruption*] I have my source here. I always have my source. They did not remind me, I spoke to her before.

Madam Deputy Speaker, we Christians—[*Interruption*]

Mrs. Persad-Bissessar: Are you allowed to use those devices?

Hon. C. Imbert: Yes, you are allowed to use handheld. There is a ruling from the Speaker.

Mr. Manning: Do not get sidetracked, please. Just go on.

Hon. C. Imbert: Leader for the Opposition, this is a serious matter. I would not do that to you during a Divali message.

We Christians believe that Easter is the representation of Jesus Christ's victory over death. His resurrection symbolizes the eternal life that is granted to all who believe in him. The meaning of Easter also symbolizes the complete verification of all that Jesus preached and taught during his ministry. If he had not risen from the dead—

Dr. Moonilal: "He have tuh read dat?"

Hon. C. Imbert: Yes. If he had not risen from the dead, if he had merely died and had not resurrected, he would have been considered just an ordinary man, a teacher and a rabbi. But, his resurrection changed all of that and gave final and irrefutable proof that, the resurrection of the Lord Jesus Christ, he was the son of God and that he had conquered once and for all the situation of death.

On a previous occasion, I had indicated that Christmas was one of the most important Christian observances. I was corrected by my two clergymen down to the right, who pointed out to me that no, the celebration of Easter is the most important Christian festival and I bow to their superior knowledge, because without the resurrection, we would not have the religion that is Christianity. Therefore, as we go forward to this most auspicious occasion in the Christian calendar, on my behalf, on behalf of the PNM and on behalf of the PNM Members in this Parliament, I wish the Christian community a most holy observance of the sacred feast of Easter.

I thank you.

Mr. Harry Partap (*Cumuto/Manzanilla*): On behalf of the Members on this side, the Opposition, we too would want to join with the Government in wishing the Christian community best wishes for the Easter holiday.

The Leader of Government Business had gone into great length explaining the Easter miracle and there is hardly anything more I would want to add to that, except to say that really Easter time is really the beginning of the birth of the Christian church. Jesus himself was in this period of wilderness where so many agents of darkness had tempted him. We have seen the kind of temptations in the society this morning. UDeCott, of course, is the major one—[*Interruption*]

Hon. Member: That is sacrilege!

Mr. H. Partap:—where people have been tempted. We hope that this period when Jesus went into the wilderness and was able to wrestle with the evil forces—we have come where next week we enter into holy week and we watch the trials of our Lord and Saviour Jesus Christ.

As we enter into the Easter season, we too would want to join with the Government in wishing the Christian community all the best.

The Prime Minister (Hon. Patrick Manning): Madam Deputy Speaker, it will be remiss of me if I too did not add my quota of congratulations to the Christian community, on the celebration of Easter. Easter, as you know is fundamental to Christianity, because it recognizes that Jesus Christ overcame death and was reborn. He came back to life. Life after death is fundamental to Christian beliefs.

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On Palm Sunday, the *Bible* tells us, Jesus Christ rode into Jerusalem on a donkey and was the source of much adulation by those who greeted him, but five days later the very same people at his trial were the ones who called for his crucifixion. It is a lesson for politicians. All politicians know that Good Friday came five days after Palm Sunday. But Christians also know and good politicians also know that for those who persevere there is Easter Sunday and the resurrection.

And so, Madam Deputy Speaker, it is against this background that I too would like to express my quota of congratulations and to express the wish that not only Christians in our society, but all citizens of Trinidad and Tobago enjoy a happy and holy Easter.

Thank you very much.

Spiritual Shouter Baptist Greetings

The Minister of Works and Transport (Hon. Colm Imbert): And, Madam Deputy Speaker, March 30 is—[*Interruption*]

Mrs. Persad-Bissessar: Oh my God.

Mr. Manning: "Yuh doh even know dat."

Hon. C. Imbert: "Yuh did not know dat"—I thought you were a Baptist—Spiritual Baptist Shouter Liberation Day. I always refer to my source documents. "I not vupping." Shouter Liberation Day is an annual public holiday, celebrated in the Republic of Trinidad and Tobago on March 30. The holiday commemorates the repeal of March 30, 1951, of the 1917 Shouter Prohibition Ordinance, that prohibited the activities of the Shouter Spiritual Baptist faith.

One of the things that we on this side are aware of is that Trinidad and Tobago is a very spiritual country. We have many religious observances. Among all countries in the world, we celebrate Muslim holidays, Christian holidays, Hindu holidays and other observances. The observance of Spiritual Baptist Shouter Liberation Day is one of those. It will be celebrated on March 30 this year, which is before the Easter holiday. Therefore, in the event that this House does not resume its sittings before Spiritual Baptist Shouter Liberation Day, on behalf of the PNM Government and on behalf of the Members of this side, we wish all the best to the Spiritual Baptist Shouter community. We wish them everything that is good and proper in the celebration of their day and we hope that the Spiritual Baptist Shouter faith will continue to grow from strength to strength.

I thank you.

Mrs. Kamla Persad-Bissessar (*Siparia*): Thank you very much, Madam Deputy Speaker. I am very happy my colleague has acknowledged the Spiritual Baptist Day, because we on this side are very happy to be associated with the giving of that day as a public holiday.

Secondly, I am very proud, I have said it before, to say that I was baptized as a Baptist and like a Trinidadian, I am both of the Hindu faith and the Baptist faith. That is why I was happy to hear the statement when the hon. Prime Minister said that these matters are in our country and that it is not just one faith we celebrate when it is a particular time, but both the Christian community will celebrate when it is from the Christian faith and—[*Continuous interruption and crosstalk*]

Madam Deputy Speaker: Hon. Members, please.

Mrs. K. Persad-Bissessar: Thank you. That is how we have grown up in this country. We have gone to the Christian schools or we have gone to Baptist schools or we have gone to Hindu or Muslim schools. That is what gives us our peculiar nature in this country; our cosmopolitan, very tolerant society, where everyone has an equal space and an equal opportunity in the country. That is what our Anthem says.

At this time, I join with our colleagues to wish the Spiritual Shouter Baptists a very happy and holy Spiritual Shouter Baptist Day and Easter, which has already been done by my colleague and the whole country on these very holy occasions.

9.00 p.m.

At this time, I join with our colleagues to wish the Spiritual Shouter Baptist a very happy and holy Spiritual Shouter Baptist Day, as for Easter which has already been done by my colleague, but for the whole country on these very holy occasions.

Madam Deputy Speaker, there is yet another holy occasion that we celebrate as Hindus at this time, it is Navratri, [*Desk thumping*] and also for the Hindu community and the rest of the community—so it is a very holy time. There is Spiritual Shouter Baptist Day, you have Easter and Navratri you would also have that.

So, Madam Deputy Speaker, thank you. To your good self, Members of the House, have a holy and blessed season. Thank you.

The Prime Minister (Hon. Patrick Manning): Thank you once again, Madam Deputy Speaker. The Spiritual Shouter Baptist faith in this country is not recognized by accident, but because of the struggles through which that faith has had to go, different from the history of so many others.

I think that it is well known to all of us that following the events in St. Vincent, and I think the year was 1921, there was a prohibition of the Baptist faith [*Interruption*] in that country which spread to the rest of the Caribbean and in Trinidad and Tobago shortly thereafter, I think it was 1923.

Until prohibition was removed in 1951, the Shouter Baptists had to hide to carry out their faith. Therefore, it was a period of struggle for them and it is in recognition of that struggle that they are given special recognition in Trinidad and Tobago at this time.

For those who have followed the history, Archbishop Griffith was the man who slaved tirelessly to bring this about—[*Interruption*] He was the leader of it all. So, today, as we recognize the contribution of the Baptist faith to the spiritual development of our country, we do so against the historical antecedents that were associated with the conduct of that faith, and the fact that our democracy is one that has brought them to the place that they are today, where today, like other religions in our country, they can practise their creed and their faith without let or hindrance or without persecution from any source.

The freedom of worship, the freedom to pursue the religious persuasion of your choice is fundamental to the foundation of the society in which we live today in Trinidad and Tobago. [*Interruption*] Yes, it is fundamental. So, I too, would like to join in congratulating the Baptist community and to the Hindu community at this time as they too celebrate a religious festival.

It is a country that is very diverse in many respects and as one faith celebrates, the hallmark of the greatness of Trinidad and Tobago is that we all celebrate with each other, and we will do so in the Easter weekend.

Thank you very much.

Madam Deputy Speaker: Hon. Members, I do not think there is much more that I can add.

Mr. Partap: Private Members' Day.

Mr. Imbert: No, I have had discussions with your leader. If you would like to know what is going on, speak to your leader. [*Laughter*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.04 p.m.