SENATE

Tuesday, February 05, 1991

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Robert Amar from today's sitting of the Senate.

SENATOR'S APPOINTMENT

Mr. President: I have been advised that His Excellency, the President, has appointed Mr. Trevor Belmosa to be a temporary Senator during the absence from the Senate of Sen. Robert Amar with effect from February 5, 1991.

Finally, I wish to announce that Mr. Horace Wilson has tendered his resignation from the Senate with effect from February 1, 1991.

OATH OF ALLEGIANCE

Sen. Trevor Belmosa took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. The Fifth Special Report of the Ombudsman of the Republic of Trinidad and Tobago, 1990. *[Sen. Alloy Lequay]*
2. The Tenth Special Report of the Ombudsman of the Republic of Trinidad and Tobago, 1990. [*Sen. A. Lequay]*
3. Report of the Auditor General on the accounts of the Government Employees' Provident Fund for the year ended December 31, 1987. *[Sen. A. Lequay]*
4. Report of the Auditor General on the accounts of the Trinidad and Tobago Export Development Corporation for the year ended December 31, 1989. *[Sen. A. Lequay]*
5. Report of the Auditor General on the accounts of the Agricultural Development Bank for the year ended December 31, 1989. *[Sen. A. Lequay]*

ORAL ANSWERS TO QUESTIONS

Severance Payments

4. Sen. Wade Mark asked the Minister of Labour, Employment and Manpower Resources:

Would the hon. Minister kindly state:

1. (a) The quantum of outstanding severance payments owed to workers by public and private sector employers;

   (b) The names of the companies and/or employers involved;

   (c) The number of employees affected;

2. Whether the Government is satisfied that companies have been meeting their moral and legal obligations to their employees under the Retrenchment and Severance Benefits Act, and if not, what measures are being instituted to ensure same?

The Minister of Labour, Employment and Manpower Resources (Dr. The Hon. Albert Richards): Mr. President, the Retrenchment and Severance Benefits Act 1985 was passed on November 27, 1985. The year 1986 was therefore the first time that the Ministry began collecting statistics pursuant to the Act.

According to the Act, employers are required to provide to the Ministry, information on the names and classification of the workers involved, the length of service, the reasons for redundancy and the proposed dates of termination. However, employers are not required by law to report on the quantum of benefits due or paid or not paid to any worker, and in practice this information is not provided.

Our records indicate the following:

Private Sector

Year	No. of Persons Retrenched	No. of Firms
1986	2,439	143
1987	3,116	131
1988	1,241	74
1989	966	55
1990 (Jan. to Sept.)	168	18

Public Sector

Year	No. of Persons Retrenched	No. of Firms
1986	578	12
1987	238	9
1988	908	8
1989	870	13
1990 (Jan. to Sept.)	935	4

With respect to the second part of the question, as far as eliciting my opinion regarding the Government's subjective state, my opinion is that if there is any legal or unjustified infringement of the right of any citizen, that will certainly be a matter of concern.

Indeed, this matter was broached by a committee appointed by Cabinet to consider measures for facilitating, organizing and restructuring of companies in difficulties and to make recommendations.

In this connection, the committee recommended *inter alia* that:

> "In the event of a winding up or the appointment of a receiver, all severance benefits, including terminal benefits, referred to in section 18 (6) of the Retrenchment and Severance Benefits Act due or accruing to a worker, whether retrenched by an employer, a receiver, a liquidator or any other person, shall enjoy the same priority as wages or salary in respect of services rendered to a company under sections 78 and 250 of the Companies Ordinance not exceeding 45 days basic wages or salary."

This recommendation was accepted by Cabinet for incorporation in the proposed new companies legislation.

Sen. Mark: Mr. President, would the hon. Minister indicate whether information is available on the names of the companies involved in this retrenchment exercise over the period identified? Also, could the hon. Minister provide us with some conservative estimate of the quantum of moneys that are outstanding to those workers involved as identified by him?

Dr. Richards: Yes, Mr. President, I am able to provide the names of companies that have exercised some sort of retrenchment over the last four years. It is rather lengthy and very comprehensive so I will be happy to submit it to the hon. Senator.

With respect to the quantum of payments—and these are unofficial figures; this is just the Ministry's computation—18 firms have paid all benefits due, totalling $8,565,277.33; six firms have made partial payments totalling $8,835,565, and these six firms still have an outstanding balance of $17,398,285.79; 26 firms have made no payments and have an outstanding balance of $25,549,723.56.

From the data relating to the 50 firms that we have computed under the Ministry's aegis, the total amount outstanding was about $42,946,000.

Manufacturing Sector

5. Sen. Wade Mark asked the Minister of Industry, Enterprise and Tourism:

Could the hon. Minister state the likely short and medium term impact on the manufacturing sector, given the new trade liberalization policy as it relates to:

a. The size of the sector;

b. The employment level;

c. The ratio of imported inputs to total inputs?

The Minister of Industry, Enterprise and Tourism (Dr. The Hon. Bhoendradatt Tewarie) Mr. President, the NAR Government has made it clear from the very start that it is unequivocally committed to Caricom, diversification of the Trinidad and Tobago economy, expanding exports and to encouraging industries to increase their efficiency so as to be able to compete in a dynamic global market environment.

As a consequence, since 1987 the Government of Trinidad and Tobago has been proceeding on a path in recognition of its commitment to Caricom and in consultation with the World Bank to survive, evolve and to compete in the world.

Part of this strategy involves a process of rationalizing and liberalizing our trading system which includes the following:

The implementation of a unified Common External Tariff adopted by the Caricom common market;

The implementation of the revised Rules of Origin which will apply to goods produced in the Caricom region;

The dismantling of the regime of non-tariff protection;

The establishment of a regime to allow export manufacturers access to imported inputs at world prices;

The removal of export licensing requirements except where warranted by special considerations;

The liberalizing of the foreign exchange regime as it pertains to the importation of visible goods.

Before addressing the particular concerns which have been raised, I believe that it is necessary to grasp a better understanding of the nature of the manufacturing sector in Trinidad and Tobago.

This sector is not a homogeneous group. Therefore, the likely effect of reform in trade will differ for each sub-group within the sector.

In fact, in designing appropriate support measures to alleviate any adverse effects on the sector, it has been generally agreed that the likely impact is more usefully analyzed at the industry level. However, even at this level, the firms themselves also do not represent a homogeneous group. Variance in the size of the operating units and the range and mix of products manufactured make the precise impact on each and every manufacturer different as well as difficult to discern.

In summary, however, the current value of plant and equipment in this sector is estimated at $2,500 million. Employment in the sector is approximately 35,000 persons representing 14 per cent of the labour force, and the contribution to gross domestic product in 1989 was approximately nine per cent.

We do not anticipate any significant adverse impact on the manufacturing sector as a whole or at the subsector level in terms of the reduction in the size of the sector or the levels of employment as a result of our reform exercise.

Concern has also been raised in respect of the level of imported inputs to total inputs. This ratio, as we know, is largely determined by two factors: the level of technology being utilized by the manufacturers and the availability of a competitively priced locally produced alternative of comparable quality.

For those items where a comparable alternative is not produced in Trinidad and Tobago, the issue does not arise, for Caricom has set low tariff levels for non-competing inputs. In addition, approved manufacturers have recourse to inputs at world prices.

For items which are locally produced, support measures are being taken to provide the domestic manufacturer with some protection, while his level of efficiency is being upgraded so that the likelihood of competing inputs being imported will be reduced.

With respect to the items which have been removed from the negative list in 1988 and 1989, import surcharges have been levied at a reasonable level, and in the case of 1989 on only two groups of items. These are cosmetics and ball point pens.

For these products, which have been removed from the negative list in 1989, there have been no complaints from the various manufacturers about loss of domestic market share with the consequent result of cut backs in production or employment levels. It is, however, too early to guage the precise impact for those items removed from the list with effect from January 1, 1991.

In terms of the precise impact on individual firms, even the Trinidad and Tobago Manufacturers' Association has agreed that this will be difficult to ascertain because of the reasons I have outlined before. However, indications are that in the short to medium term there is likely to be minimal adverse impact at the subsector level based on the various reasons I have given.

In this period of transition and liberalization, this Government has been ever mindful of the need to keep both the price of raw material to the manufacturer as well as the price of products to the consumer at a reasonable level.

I should point out, however, that the severest pressure on the manufacturing sector within recent times was experienced from 1983 to 1986, a period when 3,000 jobs were lost in the sector and some industries collapsed.

Under this administration, since 1987, we have seen a significant strengthening and growth and expansion of the sector which created 1,500 jobs in 1989 with an investment of $150 million, and further created 1,200 jobs in 1990 with an investment of just under $100 million.

In addition, the Government has put into place a number of measures to support the growth, expansion and efficiency of this critical sector.

I would say that on the basis of this comprehensive and collaborative approach towards trade reform which we have taken in this matter and on the basis of the performance of the sector so far, I feel it is reasonable to anticipate growth,

expansion, greater competitiveness and increased investment and employment in the manufacturing sector over the next few years.

Sen. Mark: In light of his response, would the hon. Minister indicate whether the Government of Trinidad and Tobago has done a detailed study on the impact that the trade liberalization policy will have on the various subsectors as he has identified? If that has been done, what conclusions have been drawn in relation to the impact that this development would have on the manufacturing sector?

Secondly, with the development of trading blocs and with the collapse of GATT, what impact will that whole process will have on the local manufacturing sector given the whole trade liberalization exercise that is on the way here?

Finally, is he aware—

1.50 p.m.

Mr. President: Question time is to solicit information, ask simple questions and get answers. We cannot have arguments and use question time for debate. If there is some information which you think the Minister can supply, then you can ask for it, simply. I think you appear to be making a statement.

Sen. Mark: I was just trying to find out if the Minister could tell us whether any detailed work has been done in the area of the manufacturing sector to determine what likely impact the trade liberalization policy would have on the various subsectors of the manufacturing sector.

Dr. Tewarie: The original question itself which I sought to answer by providing information is in a way, speculative, and I used the opportunity to provide information such as we had. In this particular exercise, we did a good deal of detailed research on the manufacturing sector and the subsectors within it and identified about nine or ten major subsectors with additional subsectors within the manufacturing sector as a whole.

We worked with elements, including members of the Trinidad and Tobago Manufacturers' Association, as well as the leaders of subsectors within that organization, as well as individual manufacturers, to look at individual problems or general problems of a subsector as they emerged, in order to make the right decisions in the trade reform exercise—both having to do with the negative list and also having to do with the CET. That work is ongoing and as you are aware, the whole reform exercise in itself is dynamic. Most of the things are supposed to

come on stream as late as 1994, while some of them are supposed to be very much in train and well on the road, let us say, by January, 1991 or July, 1991. So it is a dynamic situation; the consultation continues; the research continues and while taking a global or general view, we also take a very detailed look at the subsectors to see how they might be affected.

Sen. Spence: Could the hon. Minister say if motorcars are to be taken off the negative list? If so, when? Or if not, why not?

Hon. Tewarie: The answer is, yes. The second answer is not in 1991. I think that answers all the questions.

Domestic Servants

6. Sen. Wade Mark asked the Minister of Labour, Employment and Manpower Resources:

> Could the Minister state precisely what measures are being instituted by the Trinidad and Tobago Government to recognize domestic servants as workers within the meaning of the Industrial Relations Act?

The Minister of Labour, Employment and Manpower Resources: (Dr. The Hon. Albert Richards): Mr. President, the Industrial Relations Act, Chap. 88:01 specifically excludes from its definition of the term "worker", persons employed in any capacity of a domestic nature including domestic servants where such persons are employed in or about a private dwelling house and paid by the householder. No decision has been taken to change this situation.

Sen. Mark: Could the hon. Minister indicate whether the Government has any intentions in the foreseeable future, to address this question of domestic servants being recognized as workers within the meaning of the Industrial Relations Act?

Dr. Richards: Mr. President, in industrial relations matters, one is naturally reluctant to embark on any course of action without some modicum of consensus from its social partners. So therefore, we will have to embark on a process of consultation before we come to any decision on that.

CARICOM COMMON EXTERNAL TARIFF

The Minister of External Affairs and International Trade: (Sen. Dr. The Hon. Sahadeo Basdeo): Mr. President, in recent sessions of the Senate, certain matters with respect to the Caricom common external tariff have been raised by hon. Members. It is important therefore, to provide information to hon. Members

so that they can have a clearer understanding of the history, the purpose and the structure of the CET. In addition, it is important to explain the difficulties encountered by Trinidad and Tobago in implementing the CET and the efforts which are currently being made to resolve them. In order to conform with the Standing Orders of the Senate, I have requested, through you, that a comprehensive statement on the CET be circulated to hon. Members this afternoon. I therefore propose simply to give to hon. Members a synopsis of that statement.

As hon. Members are aware, on January 1, 1991, Trinidad and Tobago became the first member of the Caribbean community to introduce the revised Caricom common external tariff or the CET. The Caricom Secretariat has advised that most Member States are expected to have introduced the CET and further developed origin rules by the end of next month. The CET and rules are complementary, mutually supportive instruments designed to work together to promote regional, industrial and agricultural development, self-sufficiency and export competitiveness. The CET is the product of more than 10 years of negotiation within the common market and gives effect to the treaty obligation of establishing and maintaining a common protective policy within the common market, so as to further integrate regional economies and create a larger, more assured market.

As a result of the impact of oil prices in 1973, work on the CET was delayed. The Nassau understanding of July, 1984, adopted by the fifth meeting of the Conference of Heads of Government as a comprehensive action plan, to promote structural adjustment and the accelerated development of Caribbean economies and to deepen regional integration, emphasized that the tariff, rather than quantitative restrictions, should be the common market principal instrument of protection.

The Caricom Council of Ministers was thus mandated to accelerate work on the preparation of a single revised tariff to replace the four tariffs: the MDC, the OECS, Montserrat and Belize Tariffs, then operating in the region. The primary objective of the CET is to protect regional, agricultural and industrial production of finished goods, raw and intermediate materials and capital goods and support development of internationally competitive regional production. The CET is a dynamic instrument and will be adjusted as necessary to keep pace with regional developments and initiatives. Tariff rates will be revised from time to time in response to the protective needs of regional industry or to increase the exposure of enterprises to imports from third countries as a means of promoting their competitiveness.

The Tariff structure is based on the concept of the economic use of goods and comprises four groupings: Group A, which are non-competing inputs and non-competing basic finished goods, carrying rates of five per cent to ten per cent; group B, which are competing inputs and basic competing finished goods with rates of 20 per cent to 30 per cent; group C, which are non-basic finished goods with a rate of 45 per cent and group D, which are non-competing, non-basic finished goods carrying a rate of 30 per cent.

2.00 p.m.

The tariff contains:

1. The schedule of rates.

2. A list of conditional duty exemptions. This provides that Third World country imports for use in specific areas are eligible for duty exemption.

3. A list of commodities ineligible for conditional duty exemptions. This is an innovative feature of the duty exemption arrangement drawn up on the basis of the recognition that inputs imported from Third World countries which compete with inputs produced within the common market should not be eligible for tariff exemption because this would negate or redo, so to speak, the protection afforded regional products by the CET.

4. List 'A' This enables the provision of protection at the national level for specific items in order to promote domestic production in instances where current production cannot meet 75 per cent of regional demands and thus cannot qualify for the protection of a competing rate of duty levied on the extra-regional imports.

5. List 'B' which is in two parts. Part I contains some 92 products for which suspensions of the CET have been granted to the OECS and Belize. The agreed period and the minimum rates to apply. The products were identified by these states as being sensitive in cost of living terms.

   Part II is a list of 23 products on which the OECS will maintain the existing OECS tariff rates until January 1, 1994 on the introduction of a commodity base tariff.

6. List 'C'. This contains a list of products traditionally taxed as important sources of revenue on which minimum duty rates have been set and on which higher rates may be applied.

7. List 'D' which contains the suspensions granted to particular states for particular reasons on items, the rates to be applied and the period of suspension.

Mr. President, with respect to the difficulties encountered by Trinidad and Tobago in implementing the CET and efforts made to resolve them, I wish to state the following.

There have been some teething problems in implementing the CET. It would have been unrealistic to expect otherwise. One of the main problems is the short term impact on the cost of living which would have resulted from the removal of customs duty exemption on basic food items formerly provided under the national tariff. To offset this, Government has removed the 20 per cent stamp duty which used to be applied on four products and obtained from the Caricom Secretary General a suspension of the CET under Article 32 of the Annex to the Treaty to enable the duty free importation of certain basic food items not available in the region. The suspension lasts until December 31, 1991.

Suspensions under Article 32 of the CET have also been requested for four antibiotics and for a range of raw material inputs which the manufacturing sector has indicated that it is unable to source from within the region.

The revised CET is essentially a bridge between the situation which obtained when four tariffs operated within the Caribbean community and the situation which is to obtain from the establishment of a single Caricom market and the introduction of a commodity based tariff scheduled for January 1994.

Given the far-reaching objectives of the CET and Rules of Origin, one cannot expect the implementation to be entirely smooth or for there not to be some difficulties in the short term. In addition, a certain amount of fine tuning will be necessary during the first few months of the CET's operation.

In any event, the CET and the Rules are dynamic instruments and regular reviews will ensure their ability to respond and adjust to the changing regional circumstances.

I am confident that in the long run the two complementary instruments will prove extremely beneficial to regional producers in general and in regional terms to the relatively advanced agricultural and manufacturing sectors of Trinidad and Tobago, in particular.

LAND ACQUISITION

The Minister of Planning and Mobilization (Hon. Winston Dookeran): Mr. President, I beg to move, that this Senate approve the decision of the President to acquire the lands described in the Appendix for the public purposes specified.

You would recollect that two weeks ago a similar motion was brought to this honourable Senate in which 25 pieces of land were acquired for various public purposes and at which time I took the opportunity to apprise hon. Senators of developments in this particular regard. Today I will merely identify the public purposes for which a further eight pieces of land are being acquired as part of the process of accelerating the programme in this regard.

The first piece of land pertains to a recreation ground in Boodram Trace; the second pertains to the improvement of Grafton Road in Tobago, with respect to a road that has already been constructed; the third is with respect to land at Northside Connector Road, Scarborough, Tobago; the fourth pertains to the acquisition of land along the Uriah Butler Highway for the improvement of the dual carriageway; the fifth and sixth are with respect to Claude Noel Highway in Tobago for similar purposes; the seventh is with respect to lands at Uriah Butler Highway. The eight is with respect to Golden Grove Road in St. Patrick, Tobago.

You will note, Mr. President, that all these acquisitions pertain to matters which have commenced some years ago and are related primarily to construction which has already been undertaken, and in which, to all cases pertaining to highways, the roads have already been constructed. There is no question therefore as to the public purposes being that which will serve the public good. The only issue here pertains to the speed with which these matters are being dealt, and I did indicate, on a previous occasion, the enormity of the problem and I am pleased to bring further motions in this regard.

I therefore move that the Senate approve the decision of the President to acquire the lands described in the Appendix for the public purposes specified.

Question proposed.

Sen. Dr. Prakash Persad: Mr. President, when the hon. Minister was last here about two weeks ago there were many matters raised on the matter of payment for land acquisition. At this point I would not go into that at all but rather to state that unlike Sen. Furness-Smith—who thinks that this present Government—has no

moral responsibility for the debts incurred by the previous Government, we, in the UNC, do not subscribe to that view. A government, when it assumes office, is responsible for whatever its predecessor has done. It is the duty of any responsible government, unless the present Government admits that it is an irresponsible Government. The Minister is seeking parliamentary approval—

Sen. Furness-Smith: Mr. President, I think the hon. Senator did not state my view correctly. What I said was that it had no moral responsibility. Certainly, it has a financial responsibility to meet these debts.

Dr. Persad: Mr. President, I find it strange that Governments disclaim moral responsibility. I thought that the Government was morally responsible to people, but nevertheless, if there are divergent views, so be it.

The last time the Minister was here I asked the question whether it was not more reasonable and more structural to have the Property Management Unit so transact these land matters. He said:

> "By doing so you will be delegating part of the responsibility of this Parliament if you were to try and utilize that method more frequently. Government takes the position to subject itself to public scrutiny at the maximum and I would assume that the Opposition may wish to support that position."

Definitely, we do support that position. But then, I see an inconsistency in the Government's attitude towards Parliament. On one hand, the hon. Minister is stating that parliamentary authority should not be abrogated; yet, on the other hand, to my amazement, the Attorney General brings a bill in which he seeks to remove some of the authority of the Parliament. Maybe to their mind that is consistency—I do not know—but it does not seem so to me.

Dr. Basdeo: Mr. President, on a point of order. I should like the hon. Senator to indicate specifically to which particular piece of legislation he is referring which the Government brought here to deny the authority of Parliament in the running of the affairs of the country. If he cannot, he must withdraw that statement. That is irresponsible behaviour on the part of the Leader of the Opposition.

Dr. Persad: Mr. President, the word I used was "abrogate". I did not say deny.

Dr. Basdeo: Mr. President, if he can justify the contention, I would be prepared to sit here and withdraw my point of order. Until he specifically is able to identify the statement, then he must withdraw the statement.

Mr. President: Hon. Senator, you are being asked to identify the piece of legislation to which you are referring.

Dr. Persad: Mr. President, I will do so. It is the Supreme Court of Judicature (Amdt.) Bill. It states clearly on page 4, subclause (b) that:

> "The President may by order increase the number of puisne judges."

Mr. President: That piece of legislation is now in the process of being considered by both Houses of Parliament. It is not law. As you are aware, there is actually an amendment before the Senate to delete that particular clause. I think you will find yourself in less difficulty if you keep away from other bits of legislation and stick to the subject before the Senate at this stage—land acquisition. You should avoid other matters that are still under consideration and would be the reason for a separate debate later today.

Dr. Persad: Thank you, Mr. President. I was merely indicating the intent of the Government, and certainly the intent was to do so otherwise it would not appear there.

Mr. President, the Minister, when he was last here, stated:

> "I want to assure him that this Government operates in a far more structural way and that the process by which we arrive at which lands are to be acquired is motivated solely by what are our perceptions of the public's interest."

I should like the Minister to answer: why is it that the last time he was here, out of 24 pieces of land that he wanted to acquire, 10 were for road improvement and construction, and eight were in the ward of Tobago? Now, mind you, let me state clearly that I am not against development in Tobago. I am merely stating that out of 10 projects for road construction or improvement, eight were in Tobago. In this present set of land that the Government wants to acquire, seven are for improvement, and five are in Tobago. I wish to reiterate that I have nothing against development in Tobago but the Minister should indicate to this Senate that there is no need for roads in Trinidad. I think it was last year September, the Director of Highways indicated that to build the roads in Trinidad to an acceptable

level, the maintenance cost would be something like TT $2 billion. Is he stating—I think the Minister should answer this—that there is no need for roads in any other wards in Trinidad? Maybe he is at variance.

Mr. President, I quote from the *Sunday Guardian* of January 20, 1991, "Facing the Facts" with Clevon Raphael, in which the present Secretary of the NAR and the Leader of Government Business in the Senate, in answer to a question, and the question was:

> "So if you have your way, as a matter of political expediency, would you indulge in sharing the spoils as it were?"

The title of the article was "NAR hurt by lack of 'political patronage"'. The hon. Senator replied:

> "Not necessarily sharing the spoils but recognizing the need to put key activists into positions that will assist you in the implementation of your policies."

In other words, there is a clear intent there. I am putting this question to the hon. Minister: Why all of a sudden, out of 17 projects for road improvements, development and construction, 13 are in Tobago? He should indicate that to this House because he has stated clearly that this Government is opened to public scrutiny. Therefore, I would expect that he would oblige this House by answering us.

2.20 p.m.

The Minister comes again for us to approve the acquisition of lands but he has not told us exactly what were the lands being used for, the present uses, how is it going to affect the surrounding lands. Mr. President, our most precious natural resource is our land. In Trinidad and Tobago, our land area is less than 2,000 square miles. They have to be careful of the land we have.

I draw the Minister's attention to an article *"Wasting Assets*" written by a Director of the Economic Research Programme of the World Resource Institute in Washington DC. Being an economist himself, I am sure he would appreciate this—and I certainly would send a copy to him—in that it has become a growing trend that in looking at the GDP, how much of your land resources is being used up, and for what purpose, should be reflected in your GDP. To quote the author:

> "It confuses the depletion of valuable assets with the generation of income."

We, in Trinidad and Tobago, have a problem with land, especially agricultural land. Mr. President, Trinidad is very, very mountainous; a large percentage of our land area are swamp lands, and we have to be very, very careful as to how we use our lands. It is a natural asset that we have to use in a most efficient manner.

The Minister must state clearly—he owes it to this House and country—that where lands are being acquired, we want to make sure that viable national assets are not being wasted and are put to uses that are most productive.

Dr. Rambachan: Like a recreation ground.

Dr. Persad: He should do so. Mr. President, I would think that if the Minister is serious about what he is doing, if he is serious about the maximization of the resources that we have in this country, he should give the answers to this House as to whether these factors were taken into consideration and if he comes in the future, he should come with a bit more data indicating the present uses of the land and how it fits into land use programme, as they proudly proclaim in their *Medium Term Macro Planing Framework* in which they talk glibly of land use and land utilization. I think that he owes it to this House and citizens of Trinidad and Tobago to ensure that our most valuable resource, our land, is not put to uses to further the purposes of political expediency and otherwise. I thank you, Mr. President.

Sen. Dr. Krishna Bahadoorsingh: Mr. President, it would seem that in our democracy, you appear to be damned if you do and damned if you do not. For some time now, at least for the last four years, we had been urging the Government to get away from the quagmire that the land acquisition matters had been involved in and make some progress.

The Minister mentioned that two weeks ago, he reminded us, he had brought about 24 of 25 acquisition matters to this honourable House and I am pleasantly surprised, frankly, that two weeks afterwards he could bring approximately eight more. My humble interpretation of this is that it is a sign of progress, a sign of something being done in a particular department that we have all been critical of and no one has been particularly happy about. Mind you, if he did not bring these matters to this House and progress had not been made, one would have continued to criticize him and his Government. Having brought all these matters, he and his Government are being criticized nonetheless. Hence I say, you are damned if you do and you are damned if you do not.

Mr. President, I think we all appreciate the fact that the Westminster type democracy under which we operate is a very difficult one to operate and criticism of course, is part and parcel of the Government that we operate. I know it must be very difficult for Ministers who apparently are performing their functions and doing their jobs to come here and be barraged, instead of being praised once in a while for a job well done. Personally—this is a personal view—I do not think I will ever relish the prospect of being in the Minister's seat and be confronted with untold criticisms.

On the last occasion with respect to the 24 or 25 acquisition matters which came before us, a great deal of debate had been elicited and I do not plan to be very long today. However, I would like to ask the Minister one or two questions emanating from his last visit, but relevant to what we are speaking about today. The honourable Minister did allude to a final draft of an acquisition bill which one would expect soon and I would appreciate it if he could indicate to us whether he has any further update as to when we should expect this final draft.

The next question, Mr. President, I had mentioned to the Minister to give serious consideration to alternate forms of payment as opposed to ready cash to pay for some of the matters he has brought to the House today. I am also wondering whether he had time to give this concept some consideration and if so what form of alternate payments short of cash, that he may have in mind.

Lastly, the Minister did mention on the last occasion that there is an estimate for approximately $14 million allocated for acquisition matters in the course of 1991 as opposed to $23.4 million in 1990 and a lesser amount going back to 1989, 1988, 1987 and 1986.

The question I have is with respect to the 24 or 25 matters which he brought to us two weeks ago and the eight or so matters which are before us today. Will these matters, cumulatively, fall within the ambit of the $14 million estimated? Thank you Mr. President.

Sen. Wade Mark: Mr. President, my voice is a little husky today. I do not know whether I have the "Saddam" or the "Bush" or a combination of both but you will forgive me, as I proceed.

The purpose of the motion before us today as identified by the Minister is to acquire eight parcels of land located in both Tobago and Trinidad for recreational, road improvement and construction, as well as realignment. I do not believe, for

instance, that this Senate will have any real objection to the motion that is before it. As we understand it, there is something like about 300—400 outstanding acquisition claims which may involve hundreds of citizens—1,200, as my good colleague has said—and the last time when the hon. Minister was here, he did indicate to us that there was something like about $70 million outstanding in payments—$72 million, to be precise.

I am about seeking to improve the efficiency so that, for instance, the bureaucracy that we have been subjected to, could be somewhat reduced so that payments and claims could be handled more speedily.

2.30 p.m.

In this context I believe that the Minister ought to pay some attention to the Lands and Surveys Department because from my information, that department is ill-equipped to perform the tremendous tasks that have been assigned to it. We have to also compliment the Minister, because he had indicated to this House that a comprehensive piece of legislation is being prepared on land acquisition, which is going to be out for public comment very shortly.

If we would like to improve the whole efficiency of this process and reduce the bureaucracy, it is essential for us to look at what is taking place in one of the departments that is responsible for the process itself. I am referring to the Lands and Surveys Department. I think the Minister would agree that there is need for more up-to-date equipment in that particular department, and the provision of more appropriate technology, given the period that we are in, and where we are to go. I believe, for instance, if such provision of equipment and up-to-date technology are, in fact, provided to that department, it would considerably reduce the long delays, apart from the financial question which could be addressed as well, but it could in fact, contribute towards the speeding up of the process.

There is another area to which the Minister needs to pay attention and that has to do with training. My information is that from 1986, training has become more generalized in that area. Instead of focusing on upgrading the staff within that department, the staff now has to compete with the general public for scholarships in particular areas relevant to lands and surveys. I believe that the question of training has to be addressed in that particular department—Lands and Surveys.

Of course, the Minister would also agree that working conditions, in fact, in many public offices, and I believe in this particular instance, are deplorable. I

understand also that efforts are being made to relocate the Lands and Surveys Department, but at the present time—and in the past—those workers have been subjected to very poor and deplorable working conditions. These conditions certainly would impact on people's ability to perform. As you know, if you give people proper tools to work, they are going to do the job. The environment has to be conducive to that particular function.

Land information in Trinidad and Tobago remains largely scattered and loose. There is a need for a proper land information system in Trinidad and Tobago which would contribute to speedier decisions, and which would provide up-to-date information as well as contribute to decentralization, because if people need to get something in the area of Lands and Surveys from South, they have to come to the North. My view is that we need to look at establishing a proper information system, that is based on up-to-date technology. You can have terminals established in different parts of the country, where someone can press a button and get detailed information. I do not know if that is on the drawing card, but that is all part of the process of speeding up, and reducing the bureaucracy that we have been subjected to.

For us to have a very successful information system, we need to look at, what I would like to describe as, the development of a proper land policy in Trinidad and Tobago. This is vital for this nation. I know for a fact, that one, Mr. Ridgewan Ali did a study on behalf of the previous Government on land capabilities survey. That comprised of about six volumes detailing soil composition, land utilization, distribution. A network was established. I also understand that—and maybe the Minister can correct me if I am wrong—via some IADB arrangement, we might be soliciting some foreign consultant to come here to do the very same work that was done in the 1960s. You have to correct me if I am wrong. The information is there.

We are a small country, a growing population. If we do not have a proper land policy, then what took place in the past under the last regime, and what seems to be taking place under this present regime as well, is not to fully appreciate that fact.

Now if you take places like La Horquetta, Maloney, River Estate, Bon Air, the whole East/West corridor, from the Kirpalani Roundabout straight to Arima, even where you have industrial sites today, are prime agricultural lands and housing development and industrial activity went on there. You build houses in La Horquetta and Maloney on prime agricultural lands, on arable lands that farmers

utilized before those houses were built. The question we have to pose is whether if we had, in Trinidad and Tobago, a proper land policy, whether we could not build high rise buildings or apartments as opposed to building many two-room homes, whether it is in Maloney, River Estate, or La Horquetta.

It is not a question of whether people like to live in that. It is a question of understanding that you have limited land space here and you have to make maximum use of your limited capacity with a growing population. I want to indicate that there appears to be an indiscriminate and irrational approach to land utilization in Trinidad and Tobago. A concrete example of this development has to do with the struggle that exists between the farmers on one hand and the NHA on the other. You have agricultural and housing development and also industrial activity, all competing for land, but in many instances—

Sen. Furness-Smith: On a point of order. With respect, I cannot see what this general thesis on land use has to do with the acquisition of lands for highways and a recreation centre. In my submission, it is irrelevant.

Sen. Mark: With all due respect to the hon. Member, we are talking about land acquisition in Trinidad and Tobago. Do you see the struggle that the farmers are now engaged in at Bon Air Gardens? It was land owned by Orange Grove that was acquired by the state. For what? Home construction. So there has to be a relationship between land acquisition and the use made of those lands.

2:40 p.m.

So, Mr. President, I have seen a relationship between both. I am sorry if my good colleague is lost.

Dr. Bahadoorsingh: Thank you for giving way to a question. Mr. President, I am wondering whether the hon. Senator has ever been through the process of applying for permission for the use of a piece of land so as to really ascertain whether, according to the rules of this country, Town and Country Planning in particular where you have excellent well trained officers, whether they would be subjected to any indiscriminate use of land in Trinidad and Tobago. If he has been through that process, I would be very surprised, but I would appreciate it if he could answer that question.

Sen. Mark: Mr. President, I am not speaking on the issue of whether I have been through or whether I have the experience.That is not my concern here at this

time. I am dealing with a principle, and I think all Members here understand what I am driving at.

There is in fact a situation developing in Trinidad and Tobago where lands are acquired, both under the past and present regimes, prime, arable, agricultural lands, and houses are constructed on those lands. That is acquisition that is taking place, but for purposes of housing development and construction. I am saying that the hon. Minister would need to pay some attention to this question because the farmers in Bon Air Gardens have been given until about February 23 to vacate lands that they have occupied for 70 years. Do you know for what? To make way for housing. Investigate that.

Sen. Rampersad: Thank you very much. Could the hon. Senator tell us to whom those lands at Bon Air Gardens to which he is making reference belong?

Sen. Mark: From my information, Mr. President, the land at this time belongs to the National Housing Authority. It was purchased by the previous Government from Home Construction, and it is for housing development.

Mr. President, I believe that close attention has to be paid, and I am asking the hon. Minister to look at this issue very carefully and very closely, because it can have serious impact and effects on the country as we proceed.

I would like very much for the hon. Minister to indicate to this House the number of claims that remain outstanding, whether it is from 1963 to the present time. You are not responsible, but I think it would be useful for us to know firstly, how many outstanding claims remain; and secondly, how many citizens are involved in this exercise, and whether we can get an appreciation of the size of those lands.

One gets the impression—and I am not casting aspersions here—that it is a case of the small man versus the big man in this whole drama of land acquisition. To what extent is there inequity or discrimination in the area of compensation? I have some information on this matter which I will release at the appropriate moment, but I just wanted the Minister to indicate to this House whether in his opinion there is some discrimination between the small man and the big man, as far as land acquisition claims are concerned.

I would like also to suggest to the hon. Minister—because it is really a pity that he has to come here every two weeks or three weeks or four weeks—that, for instance, there ought to be some forward planning in this exercise.

Therefore, the Minister could probably provide us with some information as to whether, whenever Lands and Surveys passes something and sends it to the Ministry of Planning and Mobilization, the department has to respond immediately by bringing a motion to get approval, or whether the programme could be organized in such a way that the Minister could bring these claims on a quarterly, or half-yearly basis.

Mr. President: Are you complaining that the Senate is overworked?

Sen. Mark: No, I am not saying so, Mr. President. I know the Minister is a very busy man. The simple point I am making is that there is need for co-ordination and proper organization in the area of land acquisition and land use.

Now, as you would know, Mr. President, there are a number of agencies in Trinidad and Tobago responsible for lands. The Minister is aware of this as well. There is need for co-ordination in this area. You have Caroni responsible for land. You have the NHA responsible for land. You have the Chaguaramas Development Authority responsible for land. You have, for instance, the Ministry of Planning and Mobilization responsible for land. What is happening is that there is not sufficient co-ordination between these various authorities and agencies in that particular area. I feel that in an effort to really contribute overall to a proper land development policy in Trinidad and Tobago, there is need for proper co-ordination in that exercise.

I would like the hon. Minister to understand and to recognize that Trinidad and Tobago belongs to every one of us, and every effort that is made in this Chamber is to improve the quality of life and to reduce the hazards and the discomforts that the citizenry have to experience, either because of bureaucracy or other matters. Sometimes you make a contribution in this House and people's blood seem to be so close to their skin that they do not take time to listen to what is being said.

I would like to indicate in closing that the Minister ought to pay attention to some of the points I have made, and maybe he can take the opportunity in the process of winding up to indicate what is being done—maybe some things that I have mentioned are on stream—and to see to what extent we can contribute as a House.

The Minister could also contribute in speeding up compensation claims to citizens whose lands have been acquired under the Acquisition Act of Trinidad and Tobago. Thank you very much, Mr. President.

Sen. Ralph Khan: Mr. President, I would like to preface my remarks by stating at the very outset that I have absolutely no objection or hesitation in supporting this motion. When we examine the purposes for which these parcels of lands are to be acquired—for example, recreation ground, road improvement, highway construction, road construction, etc.—we realize that the reasons as outlined are very plausible indeed. But whenever the question of land acquisition is raised, whether in this Parliament or outside of this Parliament, it seems to raise a hornet's nest. Indeed, it is a very problematic area.

I wish to state further that even during my own life-time and not withstanding the long tenure of one particular Government in the history of this country, governments have come and gone in this country and they will always come and go. That is an invariable fact of life, as we are aware. We are also aware that every government in power at one stage or another would engage in the exercise of land acquisition. So it is a matter that must be addressed as best as we can.

This possibly may be classified as inescapably a casualty of history, let me put it this way, irrespective of the government in power. I would like to recommend to this Government—because delving into the past too much will not really take us any place. We can build today and build for our future by looking and examining our past while not really living in the past. Therefore, Mr. President, I would like to recommend or to suggest to this Government that some mechanism be set up just like others at the time when the budget preparation is being done for allocating funds for different contingencies. This suggestion or recommendation may sound crazy, however, as I said, we must look into the future.

What I am saying in truth and in fact, Mr. President, like we address all other monetary and financial matters in the budget, and knowing and recognizing for a fact that land acquisition will be an ongoing process, and that it has been a perennial problem, I recommend that this Government look at that area and examine the possibility, irrespective of the fact that we will hear and we do hear often enough about the paucity of funds. Just as we make provisions for other areas, I think that this is a matter or an area in fact that ought to be looked into so that, if the exercise at least is addressed, as a starting point, in future there will be a mechanism established to make such provisions whereby we will not have the problems being exacerbated day after day, year after year, and on such a regular basis that has created a problem of serious magnitude.

2.55 p.m.

With these few words, I hope and pray that this Government would accept this recommendation and make a serious effort in setting up the required mechanisms and machinery to look into such an idea and exercise bearing in mind the fact that this is something that does not end here. Thank you very much. That is the idea I would like to put before the House.

Sen. Motilal Moonan: First of all, I would like to say that the Government has the right to acquire land wherever it is required for public purposes. I made that statement in the last meeting and again I endorse same. I would like to see Government make the necessary arrangements to pay immediately citizens and companies whose land have been acquired. If it cannot, it must pay a 10 per cent penalty per month as citizens have to pay when we submit our income tax returns late. The Government would then be on its toes to pay poor people for their land when it is taken away from them, and it in turn would understand how we are on our toes when we have to prepare our income tax. This is one of the suggestions I am recommending to the Minister. Each and everyone would understand this and make every effort.

It is said and noted that in this House, the UNC Senators always oppose. We are not opposing. Some of us might not be able to present the matter as we would like to because we are new in the political arena but our intentions are of the best—to support where our support is needed, to oppose when we are to oppose and to advise where advice is needed so as to get the country moving. That is the position we hold on this side of the House. I want this thought to be eliminated from the Government side that we on this side are here to oppose. We know very well that one day, some Members on this side might be on the Government side and some from the Government side might be on the Opposition—nobody knows. This is politics. If we understand this, we would support bills when they should be supported.

In this case, I want to re–emphasize and say that this matter was properly presented by the honourable Minister, therefore, we on this side are going to support that bill, but we are asking again that the money should be paid and paid within six months after the acquisition of the land. We should set a system and the country should know and since the honourable Attorney General is here, he should put it in draft form that a maximum of six months should elapse and then the people be paid for their lands when they are acquired or a penalty of 10 per cent

per month paid on the value of the land. In other words, if the land is valued at $1 million, the Government would have to pay 10 per cent so the Government would raise funds quickly, raise bonds, do something, or it will take money from some other source to pay the people for their lands.

Some people have had those lands for 150 years. I am sure Sen. Horne will tell you that some people have had property which was left by a relative for as long as 150 years. Then the Government comes and takes it away and says: "Hey, we will pay you when we like." Mr. President, I feel that this should stop. We have honourable Members here. We have learned people, honest people in this country and we must start to work. We must not sit and take things for granted. This is what has happened. This is why certain things are not being done. It is not that they do not want to pay, it is because nobody works and at the last minute it is brought to the Attorney General. They do not know what to do. They are lost. For example, I am saying they would know later on what is happening presently in the Attorney General's office.

You and I know what is happening right now in the Middle East, all because someone interfered with someone else's land. I also know that my good friend, the Senator on the other side, likes to make comments.

Again, I want to re-emphasize that the Minister of Planning and Mobilization must ensure that the Government pays all the people it owes for their land. If we succeed in that, I believe we would achieve a lot because the payment for land has been outstanding for the last 20 years. I think that the Minister should be congratulated if he can get all these long outstanding payments due to the people paid in a hurry. We on this side support the motion totally.

The Minister in the Ministry of Industry, Enterprise and Tourism (Sen. Dr. The Hon. Surujrattan Rambachan): Mr. President, I join this debate because several accusations have been made against this Government this afternoon. In winding up his contribution, the Leader of the Opposition, Sen. Persad spoke about political expediency in terms of the development of roads and recreational grounds. He said he hopes that this is not a matter of political expediency.

It is very easy when you have the benefit of a swimming pool, a tennis court, and the vast resources of the Aranguez Estate for your recreational purposes, but perhaps, you do not begin to understand what Boodram Trace in Cedros really means to the people of Cedros. A recreation ground in a place like Boodram

Trace, means the nerve centre, the life centre for the youths and the people of that district.

3.05 p.m.

I can tell you that Boodram Trace is only one of several areas in the rural communities requiring such facilities. So that on that occasion when the hon. Minister brought the matter of recreation grounds for acquisition here, it was insinuated: Why are we so concerned about recreation grounds? Why should we spend money on acquiring recreation grounds when there are so many other things to be paid for?

Mr. President, it is the very group of Opposition, who in this Parliament would get up and talk about neglect of youth and what is the Government doing for the youths of the nation. It is the very group of Opposition people who would get up and talk about the need to fight drug addiction by providing total facilities for the youths, but it is the very group of people who get up today and talk about political expediency. It is the very group of people who from day to day, and in this Parliament, talk about discrimination and rural negligence, yet when something is being done in a positive way for the development of the rural communities, they talk about political expediency. Where is the morality that they attempt to speak with? On that question of morality, the hon. Leader of the Opposition talked about moral responsibility and Sen. Furness-Smith rightly pointed out the difference with respect to moral and financial responsibility.

This Government has never denied its financial responsibility. It is this Government which brought into this Parliament a bill in order to pay contractors in bonds, a debt left outstanding by the previous Government and there was only one prior Government—a Government for 30 years. This Government moved expeditiously to at least attempt to settle those financial obligations. That is acting with morality, acting in the interest of the contractors and the interest of people who are owed. We did not go on to talk about whether that Government had properly supervised those works to determine whether the amount of the quantum on work bore a real relationship to the financial obligation that had to be met. We did not talk about that. An obligation was created, the Government took over office, and it met and has tried to meet those financial obligations. We acted very morally and very responsibly in terms of the payment to contractors. Maybe, what we need to do, is to examine whether bonds should not be used in order to pay for lands.

I would have thought that what Sen. Mark would have talked about in this Parliament, was ways and means of alleviating some of the hardships faced by people from different parts of the country having to come to Port of Spain all the time to deal with matters of land and appeals and so on, and whether the panel should not go to different parts of the country to meet people. I thought he would be talking about human issues. But when Sen. Mark talked about denying people the right to live in single family units and wanting to put them into closeted high-rise apartments to constrain the natural freedom and creative ability and the love for expression of the Trinidadian, then something bothers me about his approach to development and to the concern for human rights.

As a trade unionist he will have to answer whether, in fact—because this Government was not in disagreement with it; this Government encouraged the trade union movement into housing development—he is in disagreement with the trade unions who have, in fact, used agricultural lands also to create housing development, like in Arouca and in Valsayn, and whether he is against the people who have benefited from those houses, the people whom he claims to represent the working class, as he calls them, in Trinidad.

Rural development in Tobago. Every week in this House we hear the Opposition and particularly the Leader of the Opposition, who seems not to know anything of what is going on in Tobago, who seems to go only to Boodram Trace in Cedros when there is some religious function in the middle of the night, so he does not know the kind of difficulties the people go through in Boodram Trace. Why the animosity to Tobago by the Members of the United National Congress? Are they sending a message, that if they were to hold offices of power in this country, that Tobago would be discriminated against them? Is that the message they are sending? Do the people of Tobago have equal rights, or are their rights not protected equally under the Constitution of this country? It is very sad to me that there continues to be such intended signs of possible discrimination and action by the UNC—God forbid that they get into power in this country.

Mr. President, the point is, when you look at it very carefully nobody wants to talk about the number of Trinidadian contractors and workers who are benefiting from the expansion in Tobago. It is in Tobago that we intend to make our tourism thrust a reality and more and more, you are beginning to see the extent to which tourism is going to be an important asset in the economic transformation of Trinidad. You cannot develop tourism if you do not put in the infrastructure, and part of the infrastructure are roads. I treat with contempt, and the country

should treat with contempt, the attitude of the Leader of the Opposition and what he represents here, in terms of an attitude to Tobago and, particularly, the people of Tobago. I wonder whether that attitude extends to Tobagonians who also live in Trinidad. Thank you.

Dr. Persad: I never stated that we are against Tobago. I posed a question as to why 13 out of 17 road development projects were being done in Tobago. I never implied anything. I asked a definite question. Furthermore, maybe the hon. Minister in the Ministry of Industry, Enterprise and Tourism should answer this House as to whether tourism is not going to be developed in Trinidad also.

The Minister of Planning and Mobilization (Hon. Winston Dookeran): Mr. President, I do not think many of us expected to spend so much time on these very important, but in a way, matters that require parliamentary approval, especially in light of the fact that on the last occasion I took the opportunity to outline in some detail, all the plans and programmes that are being put into place to deal with this very important issue. I would not prolong the debate very much but I will attempt to respond to one or two of the issues which have been raised and handle the two political points which have been raised by our inexperienced Leader of the Opposition.

Mr. President, I did indicate on the last occasion that a new bill was in final form on the issue of land acquisition. I am pleased to indicate that the final draft is being printed at this time. Hopefully, within a short period of time the printery will have it available for public comment. I must indicate that this is a final draft for public comment before it is reconsidered by the Government for submission to Parliament. We hope to have the benefit of the views of all those who have been engaged in this particular debate on that issue. It is no mean achievement to have arrived at that position for as you are well aware, this issue of the land acquisition bill has been on the national agenda for well over 20 years. It is this Government that decided, shortly after assuming office, that it shall bring it to the fore and today I am very pleased that we will have the outcome of that deliberation brought for national debate which is another indication of our resolve to fundamentally solve our problems. It is very clear, that the Leader of the Opposition was not quite aware of the procedures which are now enshrined in the law on this particular matter, hence one of his many unfounded statements which he made here today.

A point was also raised by Sen. Bahadoorsingh as to whether or not the funds are being made available for the lands which are being acquired. On the last occasion when I spoke on this matter, I indicated that the 25-odd pieces of land which we were acquiring, would have costed approximately $3.8 million. I am advised that the eight pieces which we have before us costs in the vicinity of $2.5 million which amounts to a total for 1991 of $6.3 million and these are within the provisions for the 1991 estimate. I can assure him that this matter will be dealt with during the course of the 1991 financial year.

3.15 p.m.

I thought it was important to merely identify the dates of initiation of proceedings for the acquisition of lands which we are now considering, just to indicate and inform the hon. Members of the difficulties of this problem over the years. On previous occasions I had identified the size of the problem and the response of the Government to that problem which it inherited.

The first piece of land in which we are involved—proceedings for the acquisition of this piece of land pertaining to Boodram Trace, as was pointed out by the hon. Minister, commenced on October 10, 1985. With respect to the improvement of Grafton Road, Tobago, which the hon. Leader of the Opposition, by insinuation, did not agree was correct in terms of what he perceives to be equity. Proceedings for the acquisition of that particular piece of land commenced on January 27, 1972. I just want to give an indication.

With respect to the Uriah Butler Highway, about which the Leader of the Opposition did not speak—in fact he ignored everything else except Tobago, and concentrated only on that, to give the wrong impression to this country, which, in my view is an abuse of our position for truth in this Parliament. Acquisition of land on the Uriah Butler Highway—he never mentioned that—started July 5, 1979. The Claude Noel Highway which we have dealt with today, acquisition proceedings commenced on August 15, 1974. The other piece dealing with the Uriah Butler Highway, again, commenced on July 31, 1979. The final piece dealing with Golden Grove Road in Tobago, commenced in October, 1983.

I identified these dates, if only to indicate to the hon. Member, that what he is seeing happening is a problem that has been with us for many, many years and which has been left totally unattended, the problem of acquisition of land for the Claude Noel Highway and the problem of acquisition of land for the Uriah Butler Highway, and it is this Government that took these problems head-on and has

brought them to Parliament for a solution. We all know the problems of the past and the Leader of the Opposition should do his research on these matters before he comes here and makes these unfounded statements and bring discredit to himself and to his profession in this Parliament.

A view was raised as to whether or not we are simply catering to what is considered to be the big land owners. During 1990 I indicated on the last occasion that we had 155 matters settled and payments made, which was a record over the last 10 years in this country—a total expenditure of $23.4 million in 1990 when in previous years we were only able to handle between $2 and $5 million since 1986 to now. Let me just give you an idea of the kinds of sums which were settled so that the other charge laid by Sen. Mark could be dispelled once and for all.

The size—I will not call the names because these are matters of a relationship between the client and the state—and the areas too, so that you can get an idea of the wide dispersion of land that has been acquired over 1990. The first one I have on the list here pertains to a land that costs $65,000. Other acquisitions cost $17,000; $14,000.

Acquisition of land for natural gas pipelines—another problem which we had inherited when the gas line was already built and we were able to finalize most of those problems—$71 million. One pertaining to the Diego Martin Highway, $1,500; Oropouche Lagoon drainage scheme, a number on those particular areas, $70,000; Union, Claxton Bay, $816,000; Claude Noel Highway, $65,000 and so we can go on. Balandra fishing facilities, $20,000. As we look around we see, in 1990—I am referring only to 1990—Uriah Butler Highway, a number of lands have been acquired because from time to time I bring these matters to Parliament. It is just elementary, if the Leader of the Opposition wishes to make a point of discrimination, he should get the facts and be able to analyze the facts before he makes these kinds of assertions in this highest court of the land.

We go on to Valencia housing project, a number of lands here, $33,000; Extension of the Crown Point runway in Tobago, $150,000. Again, drainage scheme in Oropouche Lagoon; acquisition of land for the improvement of Lady Hailes Avenue in San Fernando; the establishment of a secondary school in Claxton Bay, $39,000; North Oropouche, Northern Range water supply, $9,000. Is this only dealing with the matters of the large land-owners or those whose land had been acquired from the large people? You will see. In fact, if there is a bias, it is to deal with many of the smaller, long outstanding issues of the small people in

this country whose lands have been acquired many, many years ago and the previous administration still took a blind eye to these matters, never dealt with them. It is this administration, showing sensitivity to those problems, which has been able to bring so many matters before this House and has generated so much debate as a result of our action in this particular regard.

This is public information in the sense that we can have it made available to all Members. There is a wide disparity in terms of the land that we acquired in 1990 alone—we can look at the others—throughout Trinidad and Tobago, dealing with all sorts of matters from north, south, east, west and Tobago. Also with respect to the kinds of claims, we are satisfying all the people of this country, including those small land owners who have had to wait for so long in order to get their matters settled because in previous years there was total chaos in this particular regard.

Those are the two political points made. One, is the bias which I have no doubt we can disprove if one goes and relies on the information, and secondly, that we are giving preference to one class over another. Those are the perennial problems that we have faced in this country: charges of equity based on regions, on ethnicity and class considerations. I think perhaps the evidence must always be put forward so that those views that have been perpetuated on innocent minds in this country could once and for all be dismissed. We can only talk on our action with respect to this particular matter and we should do so on every other matter. I see the Leader of the Opposition shaking his head as if he hopes that the information I have given was not correct.

Mr. President, we must do our homework before we come here. I attempt to do it at all times before I come here and I want to tell the Leader of the Opposition that he must be very careful when he attempts to deal with me on matters that I have brought here, unless he has done his homework properly.

I do not intend to take more time in this honourable House except to assure the hon. Sen. Mark that a number of the points he has raised, I have already addressed. In terms of the bureaucracy, that is being dealt with. He spoke a lot about land use that there is no procedure and lack of co-ordination. I also draw his attention to a publication that was produced by the Ministry of Planning and Mobilization, *A Guide To Developers and Application For Planning Permission* which, for the first time, outlines the exact procedures and criteria that must be followed as you proceed to make decisions on land use. Prior to this publication, there was no publication in this country to guide people as to how they can proceed to apply

and the criteria which will be used. Therefore we are now having public accountability to the people beyond the Parliament, so that we can stand by this type of information.

On all fronts, what we have seen here, is a rational approach to dealing with an enormous problem which we have inherited—which we will not talk about because we are dealing with it and I have no doubt that we have begun to see the progress and we will continue to see it. My only advice to hon. Members who are inexperienced is that they must use our research officers in the Leader of the Opposition's office more effectively before they make contributions in this House.

The political points that have been made really have no foundation whatsoever as we proceed to discharge our public responsibility in this particular area of public administration. I, therefore, have the honour to move that this House approve the decision of the President to acquire the lands as outlined in the appendix to the Order Paper.

Resolved:

That this House approve the decision of the President to acquire the lands described in the Appendix for the public purposes specified.

Questioned put and agreed to.

APPENDIX

Description of Land	Public purposes for which to be acquired
1. The following parcel of land containing 2.2 hectares, more or less, situate at Boodram Trace, Cedros, in the ward of Cedros, in the county of St. Patrick, described in the Schedule hereto and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated January 1, 1988, executed under Survey Order No. 51/87 and filed in his office. **THE SCHEDULE** A parcel of land containing 2.2 hectares, more or less, situate on the eastern side of Boodram Trace	A recreation ground

APPENDIX (cont'd)

Description of Land	Public purposes for which to be acquired
approximately seven hundred (7) metres north of Pasea Crown Trace in the ward of Cedros in the county of St. Patrick, and said to belong now or formerly to the heirs of Francis Chimmings. This parcel is more particularly shown coloured raw sienna on a survey plan filed in Book 1140 Folio 49 in the vault of the Lands and Surveys Department, Red House, Port-of-Spain.	
2. The following parcel of land containing 2,373.7 square metres, more or less, situate at Grafton/Black Rock, in the parish of St. Patrick, in the ward of Tobago, described in the Schedule hereto and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated January 18, 1989, executed under Survey Order No. 35/87 and filed in his office. **THE SCHEDULE** A parcel of land comprising 2,373.7 square metres situate at Grafton/Black Rock overlooking the village of Black Rock opposite Black Rock Trace in the parish of St. Patrick in the ward of Tobago and said to belong now or formerly to Clanford Boyce and others. This parcel is more particularly shown coloured raw sienna on a survey plan filed in Book 1140 as Folio 66 in the vault of the Lands and Surveys Department, Red House, Port-of-Spain.	Road improvement

APPENDIX (cont'd)

Description of Land	Public purposes for which to be acqired
3. The following parcel of land containing 1526.1 square metres, more or less, situate east of the Northside Connector Road, Scarborough, in the parish of St. Andrew, in the ward of Tobago, described in the Schedule hereto and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated August 30, 1989 executed under Survey Order No. 84/87 and filed in his office. **THE SCHEDULE** A parcel of land comprising 1526.1 square metres, more or less, situate on the southern side of the Claude Noel Highway and east of the Northside Connector Road, Scarborough, in the parish of St. Andrew, in the ward of Tobago and said to belong now or formerly to Wolsey Dalrymple. This parcel is more particularly shown coloured raw sienna on a survey plan filed in Book 1140 as Folio 75 in the vault of the Lands and Surveys Department, Red House, Port of Spain.	Road construction
4. The following parcel of land containing 23508.2 square metres, more or less, situate at the intersection of Endeavour Road and Uriah Butler Highway, in the ward of Chaguanas, in the county of Caroni, described in the Schedule hereto and coloured raw sienna on a plan of survey filed in the office of the Director of Surveys.	Road construction (improvement to Dual Carriageway along the Uriah Butler Highway)

APPENDIX (cont'd)

Description of Land	Public purposes for which to be acquired
THE SCHEDULE A parcel of land containing 23508.2 square metres, situate on the eastern side of the Uriah Butler Highway at its intersection with Endeavour Road approximately 1 kilometre north of the central business district of Chaguanas, in the ward of Chaguanas, in the county of Caroni and said to belong now or formerly to Group of Ten Limited. This parcel is more particularly shown coloured raw sienna on a survey plan filed in Book 1140, Folio 16 in the vault of the Lands and Surveys Department, Red House, Port-of-Spain.	
5. The following parcels of land containing together 3.5962 hectares, more or less, situate at Lambeau Signal Hill Road, in the parish of St. Andrew, in the ward of Tobago described in the Schedule hereto and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated July 14, 1987, executed under Survey Order No. 132/82 and filed in his office. **THE SCHEDULE** Several parcels of land containing together 3.5962 hectares situate on both sides of the Lambeau/Signal Hill Road approximately 0.55 km. north of Milford Road and approximately 0.9 km. south of Signal Hill Road, in the parish of St. Andrew, in the ward of Tobago and described as follows:	Highway construction

APPENDIX (cont'd)

Description of Land	Public purposes for which to be acquired
1. 7243.8 square metres, more or less, said to belong now or formerly to N.A. Bishop; 2. 4173.9 square metres, more or less, said to belong now or formerly to N.A. Bishop; 3. 293.0 square metres, more or less, said to belong now or formerly to Cuthbert Knights & others; 4. 219.3 square metres, more or less, said to belong now or formerly to Cuthbert Knights & others; 5. 6355.5 square metres, more or less, said to belong now or formerly to N.A. Bishop; 6. 3097.1 square metres, more or less, said to belong now or formerly to N.A. Bishop; 7. 14080.7 square metres, more or less, said to belong now or formerly to N.A. Bishop; 8. 435.9 square metres, more or less, said to belong now or formerly to N.A. Bishop; 9. 63.0 square metres, more or less, said to belong now or formerly to N.A. Bishop; These parcels are more particularly shown coloured raw sienna on a Survey Plan filed as R.H. 119 in the vault of the Lands and Surveys Department, Red House, Port-of-Spain. 6. The following parcels of land containing 3.8968 hectares, more or less, situate in Scarborough, in the parish of St. Andrew, in the ward of Tobago, described in the Schedule hereto and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated April 3, 1987, executed under Survey Order No. 132/82 and filed in his office.	

APPENDIX (cont'd)

Description of Land	Public purposes for which to be acquired
THE SCHEDULE Several parcels of land containing together 3.8968 hectares situate at the northern end of Mt. Marie Village Street on the northern extremity of the town of Scarborough in the parish of St. Andrew in the ward of Tobago and described as follows:- 1. 0.33831 hectares said to belong now or formerly to Julia Ward; 2. 1.25301 hectares said to belong now or formerly to N.A. Bishop; 3. 0.62966 hectare said to belong now or formerly to the Incorporated Trustees of Church of England; 4. 0.08956 hectare said to belong now or formerly to the St. Nicholas School; 5. 1.58626 hectares said to belong now or formerly to Esther Arnold. These parcels are more particularly shown coloured raw sienna on a Survey Plan filed as R.H. 96 in the vault of the Lands and Surveys Department, Red House, Port-of-Spain.	
7. The following parcels of land containing together 1393.5 square metres, more or less, situate at John Peter Road in the ward of Chaguanas, in the county off Caroni, described in the schedule hereto and coloured raw sienna on a plan of survey executed under Survey Order No. 110/79 and filed in the office of the Director of Surveys.	Road construction

APPENDIX (cont'd)

Description of Land	Public purposes for which to be acquired
THE SCHEDULE Two (2) parcels of land containing together 1393.5 square metres situate on the eastern side of the Uriah Butler Highway, at the south-eastern corner of John Peter Road and Jackson Trace, in the ward of Chaguanas, in the county of Caroni and said to belong now or formerly to Feroz Jahan Begum, Shamsun Nisa Bano Khan and Riaz Khan. These parcels are more particularly shown coloured raw sienna on a survey plan filed in the Lands and Surveys Department, Red House, Port-of-Spain.	
8. The following parcel of land containing 2651.8 square metres, more or less, situate on the Golden Grove Road, in the ward of Tobago, in the parish of St. Patrick, described in the schedule hereto and coloured raw sienna on a plan of survey by the Director of Surveys and dated July 18, 1986, executed under Survey Order No. 140/84 and filed in his office. **THE SCHEDULE** A parcel of land comprising 2651.8 square metres situate on the northern side of the Golden Grove Road approximately 40 metres west of the Shirvan Road in the parish of St. Patrick, in the ward of Tobago and said to belong now or formerly to L.M. Robinson.	Re-alignment and road construction

APPENDIX (cont'd)

Description of Land	Puplic purposes for which to be acquired.
This parcel is more particularly shown coloured raw sienna on a survey plan filed as coloured raw sienna on a survey plan filed as A.N. 28 in the vault of the Lands and Surveys Department, Red House, Port-of-Spain	

3.25 p.m.

SUPREME COURT OF JUDICATURE (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [January 29, 1991]:

That the bill be now read a second time.

Question again proposed.

Sen. Dr. Prakash Persad: Mr. President, in the hon. Attorney General's presentation of this bill, he indicated, that the purpose of the bill is to improve the administration of justice in the country. Prior to this bill, he had piloted another one, ostensibly for the same purpose.

What I thought the Attorney General would have done, to use a phrase of the hon. Minister of Planning and Mobilization, if he had done his homework, was to come to this honourable House and state clearly what are the problems facing the judiciary. Exactly what are the problems? Is there a need for more judges, why matters are not heard fast enough? If so, at the rate and with the data he has, how many more judges are needed? This is a point that was well debated previously and I would not go into it. He should ask: Are the 15 judges performing as they ought to? Is that the cause for the delays, the backlog of cases that we have presently? If that is the case, then he should state clearly how this bill is going to alleviate that situation. There was no indication of that in his presentation.

Is there a problem with the word processing or the sort of procedures involved in these matters? Are there not enough typists? Do we have problems when judges make notes to have them typed properly? Is that the problem? Then, if that is so,

he should state clearly that is the problem, and maybe the recording bill, or the hiring of new typists and new typing equipment, whatever be it word processing or computer processing would solve the situation. Is there a staffing problem? He should indicate these things clearly and having identified what the problem is exactly, then he should come and say, well, this is the problem properly defined and this is the answer to the problem. He has not done so at all.

How do we know that the hiring of one more judge is going to improve the situation? As I understand, the judges have many outstanding judgements: two years, three years. Is it that the judges are not performing? Is it that they have problems with getting their judgements typed? Is that the problem? Then maybe you need more proper facilities for the judges, probably more libraries, maybe you need to assign some typists on some sort of staggered basis to a judge, or maybe you need to have a research assistant for the judge to go and check whatever legal precedents he may need in the preparation of his judgements.

These are the sort of things I would have thought the Attorney General would have come with confidence to this House and state—well, we know what the problem is, these are the measures. I can give you my word or I am confident, he should say, that if we implement this bill, in a year's time or six months' time, the problem is going to be resolved.

The reason I say this is that too often solutions are presented for perceived problems and the situation is not alleviated because the problem was not defined properly. I think that in his reply the Attorney General should give some answers to these sort of questions. With this I conclude. Thank you.

Sen. Allan Alexander: Mr. President, the bill before the House is a very short bill with two clauses. Clause 2 of that clause seeks to extend the maximum number of puisne judges from 15 to 16, and paragraph (b) seeks to take away from Parliament the power to increase the number of puisne judges.

Despite its length, I do not think that the bill is either simple or unimportant. It is not simple, in respect of its seeking to take away from Parliament, the power which it has had since independence, and which has been exercised to increase the number of judges from six to 15. I have never heard any complaints that Parliament has ever refused to increase the number of judges when that was necessary. Indeed I have not even heard it said that Parliament was dilatory in that regard. Therefore, it is necessary for me to understand the need for this piece of legislation, because whenever something is not clear on the face of it, I become

very wary and want to be satisfied that there is no ulterior motive by seeking to shunt power from the legislature to the executive. The importance of that is the age old principle of the separation of powers between the executive and the judiciary.

3.35 p.m.

Now, it may very well be said that all this bill is seeking to do is to give the President power to increase the number of puisne judges but the President will not appoint, it will be the Judicial and Legal Services Commission which will appoint any judge by reason of any increase. But, Mr. President, that excuse or reason is not sufficient for me in light of the fact that no criticism has been made with respect to Parliament increasing the number of judges when the necessity arose.

If that is the case, the rhetorical question is: Why seek the change? It cannot be on the ground that this power is required in cases of emergency, because the law as it is makes provision for the appointment of acting judges when incumbent judges, for one reason or another, are incapable of performing the function. So any emergency situation is already provided for under the Supreme Court of Judicature Act. So if that is the case, why? What is the need for seeking to give the President that power?

It is not inconceivable that this power which this bill seeks to give the Executive—because in fact it is the Executive in whom this power will reside—could be used to effect disadvantageously, the separation of powers between the Executive and the Judiciary and the independence of the Judiciary. Mr. President, no matter how small the chance is that this power may be used in that direction, we must not give the Executive the power so to do.

So insofar as that paragraph is concerned, I agree entirely with the amendment submitted by Sen. Furness-Smith, that the paragraph be deleted. There is absolutely no need for it. I am not aware of any reason which has been given by the Attorney General for this power. I cannot support something that I do not know about and, definitely will not support anything which will tend to interfere with the independence of the Judiciary.

Mr. Smart: Mr. President, I wonder if the hon. Senator would like to give way to a question. Could the hon. Senator give one example of how this provision in the bill would affect disadvantageously the independence of the Judiciary?

Sen. Alexander: I did not say "affects"; I said it "may affect". If you wish an example, there may be coming before the court a certain matter in which the Government is involved, and the incumbent judges may all be against the Government's position, and this could be used to get a judge on the government side to be appointed. But that is not the point. The point is that you must satisfy Parliament as to the need for this provision. Why is this provision required? And if you do not have a reason, or if the reason is not disclosed, then I am entitled to be suspicious of it.

Moving on from paragraph (b) to paragraph (a) of clause 2, again I am not aware that any reason has been given for the increase in the number of puisne judges from 15 to 16. No reason has been given, and I would like to know what the reason is.

For example, it does not necessarily follow that an increase in the number of judges will in any way result in a qualitative increment in the administration of justice. It may very well mean that you will have one more judge idle in Trinidad and Tobago, as we have had several judges idling over the last six weeks where work in the Assizes is not being done because of the position taken by the legal officers of the state. If the increase will result in such a situation, it certainly will not redound to the benefit of the administration of justice.

You see, the Constitution and the Supreme Court of Judicature Act were passed on the basis of certain assumptions. For example, one of the main assumptions was that persons appointed to the Supreme Court would be persons of a certain calibre. It was not only the qualification insofar as the period of practice was concerned on which these provisions were based. At the present moment, questions are being murmured in the corridors of the court as to the criteria which are being used for appointment to the Supreme Court, which includes both the High Court and the Court of Appeal. There are murmurings on that question among the profession and in the public.

Perhaps the time has come for us to reconsider the whole question of the appointment of judges to the High Court and the Court of Appeal. Perhaps the assumptions on which these provisions are based, while they may be correct in certain jurisdictions, may not be applicable to our position. And we perhaps need

to take another look and perhaps have judges appointed along the suggestions made by Sen. Deosaran when he spoke about the accountability of judges. I am sure that he had in mind the system which obtains in the United States of America, or some such system.

The fact is that there is concern in the country about the appointment of judges, the qualifications for those appointments, or the question whether a judge should not be a judge; and moving from the High Court to the Court of Appeal should not be regarded as a promotion. A judge is a judge, and a judge, as in the High Court, will sit either in the criminal court because of his knowledge of the criminal law, or in the civil court or in equity or in the matrimonial court. So in the Court of Appeal, if he has a greater penchant for appeal work, let him sit there and not so as on promotion, Mr. President, because all this leads to all sorts of problems.

This brings me to the question about the intended increase from 15 to 16. What is the reason for that at this time? About two sessions ago in this Parliament, the legislation was amended to allow retired judges to work in the High Court of Justice for periods of two years. Now, has the Government moved away from that situation, or is that situation still being followed? If that is the case, what is the reason for this problem? As I understand it, recently one of the retired judges came to the end of his two-year period and he did not seek re-appointment. He was in the High Court, so the work which he was doing is not being done at the moment.

Now, is it the intention of this bill to meet that situation? If that is so, is it because the Government is of the view that the appointment of these retired judges is not working satisfactorily? Because if that is so, the judge who went away at the end of the year is not the only retired judge who is acting in the High Court. If that is not so; if the system with the retired judges is operating satisfactorily, why is it that we want to amend the Supreme Court of Judicature Act to have one more puisne judge, when you have judges with great experience and competence who have just retired, or who are about to retire, and who can perform the functions of the High Court, or in particular, of that judge who has just been removed? These are all questions which keep cropping up in my mind. If the retired judges are not acting satisfactorily, what one should do here is not increase the number of puisne judges by one but probably by three or four.

3.50 p.m.

I am asking, what is the reason for this? Given the provisions in the law which we have, and and given the actual situation which exists—and this is another question—is it that the judges who are going to retire or who have just retired are incompetent to fill the position of the outgoing judge, or is it that they do not want to remain in the system because they are tired with judging? Let us call it that. We would like to know. I do not want to give my support to legislation about which I do not know the real reason.

Insofar as paragraph (b) of the bill is concerned, I cannot support that at all. I spoke about the assumptions on which the Constitution was based and I am sure that the Attorney General would say: Oh, the appointment to the Judiciary is usually made by the members of the Judicial and Legal Service Commission, men of the highest calibre, independent people. All those words and all those terms have been used, but we do know that members of that commission over time, have resigned from the commission because of the manner in which the commission was doing its work, and because of principled disagreement between the chairman—and I am not referring to any particular chairman; I am talking about the history of the commission—who is appointed by the executive and members of the commission. It has happened historically.

Mr. Smart: If the Senator does not mind, he did say that the chairman of the Judicial and Legal Service Commission is appointed by the executive. I want to point out that the chairman of the Judicial and Legal Service Commission is appointed by His Excellency, the President, after consultation with the Prime Minister and the Leader of the Opposition, and not by the Cabinet.

Sen. Alexander: I think the provision is somewhat different. It is on the advice of the Prime Minister.

Mr. Smart: Not this commission.

Sen. Alexander: The Chief Justice? The Chief Justice is the Chairman of the Judicial and Legal Service Commission and he is appointed on the advice of the Prime Minister. I am quite sure about that.

Mr. Smart: Not by the Prime Minister. May, I read from the Constitution? Section 102 of the Constitution says:

> "The Chief Justice shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition."

Sen. Alexander: I stand corrected. But, nevertheless, it is an appointment within the executive.

Mr. Smart: That is not being completely honest.

Sen. Alexander: It is an executive appointment. Is it not an executive appointment? If it is not an appointment by the executive, then by whom? Is not the President part of the executive?

It is my contention and my view that paragraph (b) is capable of being used by the Executive to affect adversely the independence of the Judiciary and, as such, I will not support the bill with that subparagraph.

In respect of paragraph (a), if the questions I have asked are answered, then I will reconsider my position on that part of the bill. Thank you very much.

The Attorney General (Hon. Anthony Smart): Mr. President, you will recall that last week, debate on this bill was adjourned because I indicated to this House that I had a commitment at 5 o'clock. I am grateful to this Senate for agreeing to the adjournment of the bill so that I could meet my appointment with His Excellency, the President, last Tuesday at 5 o'clock. I am also grateful for the very kind words expressed by Sen. Krishna Bahadoorsingh and for the aid that I received in this debate from Sen. Fyard Hosein. As far as I am concerned, he certainly dealt comprehensively with the largely inaccurate generalizations made by Sen. Mark in his presentation.

4.00 p.m.

The crux of this debate has to do with the presentations and the arguments of Senators Furness-Smith and Alexander. I am afraid, one more time—it is beginning to get rather often now—I have to disagree with them, particularly Sen. Alexander. It is my submission that they are seeing shadows, ghosts and all kinds of devious intentions where there is absolutely none. This is a very extremely simple bill that ought not, in my respect.

Sen. Furness-Smith: I do not think that Sen. Alexander and certainly myself, stated that we were seeing devious intentions. I made it clear that I was perfectly happy to know that this Government would not try and interfere with the judiciary. That was not the point at all. There was no question of innuendo of that kind.

What we were worried about, was the possibility of it happening in the future which is a very, very different thing.

Mr. Smart: I submit that paragraph (b) included in the bill as it is, will not allow, in any manner whatever, for the executive to, in any way, interfere with the independence of the judiciary. That is my point. I will tell you why. Section 5(1), of the Supreme Court of Judicature Act states in part: "There shall be no less than six judges of the Court of Appeal and no more than 15 puisne judges" That is what the section states. It also states: "There shall be no less than six justices of the Court of Appeal including the Chief Justice." So that if one wanted to increase the number of judges in the Court of Appeal, one would not have to come to Parliament to do that. If one wanted to increase the number of Masters in the system, one would not have to come to Parliament to get that approval because the section is so worded, it states there shall be no less than—I think it is two or three Masters. So that this section is peculiarly worded. If one wanted to increase the establishment of puisne judges, one would have to come to Parliament to do that because it states that there shall be no more, in this case, than 15 judges.

What we are seeking to do is to increase the establishment of judges from 15 to 16 and the question has been asked during the course of this debate: why an increase by one and why not three, why not 300? The answer is a simple one. In 1988, the registrar of the court made representation to the executive for the increase in the number of judges. I can give you the figures. There was a proposal in 1988 that there should be an additional master; two additional judges in the Court of Appeal and three additional puisne judges. As you know, Mr. President, with the addition of one judge in the establishment, there has to be support staff for that judge: clerk, stenographer, messenger and so on, and one has to find accommodation. There were discussions with the Ministry of Finance and the Chief Justice and it was agreed that for the time being there would be an increase of one master and one puisne judge. Government is all about the allocation of extremely scarce resources, particularly at this time. While one would want to have, maybe three, four or five more judges on the establishment, one has, as I said, to deal with the fact that resources are scarce and there will be competing claims for the limited resources and Government in its wisdom has to allocate priorities. That is what government is all about as you very well know. One has to determine priorities in the interest of the largest number of people in the country. That is what democracy is about and the practice of democracy as we know it.

While the ideal may be to increase the number of judges maybe tenfold, one is limited by the fact that the resources are not available to do all one wants. I have seen in the newspaper, criticisms over the renovation and the establishment of a magistrate's court in Chaguaramas and the cost of establishing that court. The time when that decision was taken, all of us in this country were scared because we were not sure about the situation; whether we would have had carnival in a few days time. At that time the Government, in its wisdom, felt that it was necessary—having regard to all the circumstances—to establish a court away from the city of Port-of-Spain in the interest of the people of this country and it proceeded with that decision. So I use that as an example to indicate that in the course of governing, one has to make choices, set priorities and one has to take decisions. I hope that I have answered the questions as to why one and why not three.

As to one of the more contentious questions, whether this provision will, in some way, interfere with the independence of the judiciary, I specifically asked Sen. Alexander to give an example of how this provision could, in any way, adversely affect the independence of the judiciary. He stated that on a particular issue, all the judges in the country may be against the Government and the Government may then decide to increase the establishment. My respectful view is that this argument is a non-starter. Sen. Alexander knows well, and he has said it, that judges are appointed—well he did say that judges are appointed by the Judicial and Legal Service Commission. In fact judges are appointed by the President, not after consultation, but on the advice of the Judicial and Legal Service Commission. The President does not have any discretion insofar as the appointment of the judges is concerned. The appointment of the Chief Justice, the President has a discretion. He appoints after he has consulted with the Prime Minister or the Leader of the Opposition.

4.10 p.m.

So, Mr. President, we come back to the issue of the question of the increase. How would that adversely affect, the independence of the judiciary? The Government decides to increase the number of judges from let us say, 20 to 22. That puts absolutely no onus on the Judicial and Legal Service Commission to appoint. The Judicial and Legal Service Commission need not appoint. That is the simple argument.

We are not saying that the executive will have the right to reduce the number of judges. If that were the case, then I could see where there might be some suggestion that there may be an interference in the independence of the judiciary, if the executive—and by the executive I mean the Cabinet. When one speaks of the

executive, one does not normally include the President in that definition. So, if one sought to reduce the number of judges, then I would say the possibility could arise, or the likelihood would be, because then one would be able to, in some way, affect the administration of justice if one reduces the number of judges from 20 to 10. I can then see a slowing down on the process because there may not be enough judges to do the work, there might be a case that the Government does not want heard, or whatever, and you cut the number down. You may reduce from 20 to one and make the situation impossible.

Even so, the Constitution guards against that. If one looks at section 106 of the Constitution it says that the position of a judge cannot be abolished while there is a substantive holder of the office. That is what the Constitution says. Section 136 of the Constitution also says that the terms and conditions of judges cannot be altered to their disadvantage.

So, there is the protection built into the Constitution to avoid what Senators Furness-Smith and Alexander feel could possibly happen. In my respectful submission, there is no possibility at all of the judiciary being interfered with by the provision that is contained in section (b) of this Bill.

Sen. Furness-Smith: I am grateful to the hon. Attorney General for giving way. Everything he says, of course, is perfectly correct in the way our Constitution works now. Could he indicate to me whether it might not be possible in the tangled web of human affairs—particularly political affairs—that at some stage a government might have some hold over the members, or maybe a majority of the Judicial and Legal Service Commission, or might even have some hold over the President and the Leader of the Opposition? After all, the Leader of the Opposition, not so many years ago, was a particular member of the governing party who translated himself onto the Opposition in order to become the Leader of the Opposition and get the salary involved. Can the hon. Attorney General give guarantee that in no circumstances these sort of things can happen by some strange and wicked mischance? Can he be so sure? Could he please also tell us, in answer to Sen. Alexander's point, why does the power have to be taken away from the Parliament? Even accepting all he says, why take the power away from Parliament? What has Parliament done wrong?

Mr. Smart: To answer the second question, Government's view is, why bring it to Parliament? Because in fact, the appointments—you know, the provision in the bill—suggest that there is absolutely no reason to bring a matter as simple as that, where no rights are being affected, where in any event the Judicial and Legal

Service Commission would have the right and the power to appoint. Why waste Parliament's time? That was the thinking. That was the argument.

Mr. President, as I said, in the case of the judges of the Appeal Court, one does not have to come to Parliament to increase the number. In the case of the Masters, one does not have to come to Parliament to increase the number. In the case of the Magistrates, one does not have to come to Parliament to increase the number. So, it seems to us, reasonable, to adjust—one is amending the legislation. Why should we have to come back here? Let us say next year or next month Government finds the resources to increase the establishment from 16 to 18, do we come back to Parliament, have the matter go to the the House of Representatives, have the matter come to the Senate to do that, when we have the assurance that the Judicial and Legal Service Commission is the one that is going to make the appointment and need not necessarily make that appointment?

All we are saying is that there will be no more than 16 judges but it does not mean that there cannot be less than 16 judges.

Sen. Alexander: With respect to the provisions dealing with the number of puisne judges as distinct from the number of members of the Court of Appeal, does the Attorney General perceive that the difference arose because of the constitutional jurisdiction of the High Court under section 16—the original jurisdiction in respect of constitutional matters? Does he conceive that as the reason for the difference in provisions in respect of the Court of Appeal and the High Court?

Mr. Smart: I have not gotten his point, maybe if he wants to elaborate—

Sen. Alexander: The Constitution gives the High Court original jurisdiction in respect of the fundamental rights and freedoms enshrined in the Constitution. It is a jurisdiction which it did not have before. So I am wondering whether you conceive that the difference made in the law with respect to the number of judges in the High Court and the number of judges in the Court of Appeal, is that of the constitutional provision of the High Court—the constitutional position given by the Constitution.

Mr. Smart: I really do not see a connection. Maybe at some later stage, if I understand in what direction the Senator's mind is going, I might be able to answer. I really do not see a connection between that original jurisdiction of the High Court on constitutional motions and the way section 5 of the Supreme Court of Judicature Act is worded. I really am at a loss. I do not understand where Sen. Alexander is coming from.

Before Sen. Alexander made the point, I was coming to the actual numbers of judges in the system at this stage. Sen. Alexander pointed out that the Constitution was altered to allow for retiring judges to return to the bench on contract for a period of two years. At the present time we have three retired judges on contract and there are 14 judges who have been permanently appointed. With the passage of this bill, it will be possible to appoint a maximum of two more permanent judges into the system. On the Court of Appeal, the establishment is six, plus the Chief Justice and all those posts are filled in the Court of Appeal. I thought that information might be of interest to the House.

I think that I have dealt with the concerns of Senators Furness-Smith and Alexander. The question of the increase in the number of judges, that is an issue that will always have to be initiated by the executive. The executive decides that there should be an increase in the establishment. It is the executive that will have to make that decision and if the law is not amended, it is the executive that will have to bring a bill to the Parliament.

I can hardly see a Parliament saying: "Well, we have too many judges in this country already and therefore, we are not going to increase the number." So that, the rightful place for such an arrangement to be executed is not in the Parliament, but through subsidiary legislation, through an order bearing in mind quite clearly, that there will be no possible fetter on the independence of the judiciary by this provision.

4.20 p.m.

I think I have also answered Sen. Deosaran who was concerned about the role of Parliament being diminished. He was concerned. The argument that he was making was that if we are not able to bring the question of the increase in the establishment of judges to the Parliament, somehow one would lose an opportunity to discuss matters pertaining to the judiciary. I suggest to him and to the Parliament that is not the case, because any Senator can bring a motion to this Parliament, to discuss any issue, so that one can use the method of the motion to have matters discussed relating to the judiciary. One can also use questions to Parliament to get answers relating to the judiciary. So I am confident that the Members of the Senate in the committee stage—

Sen. Mansoor: Mr. President, if I may ask the Attorney General, is it then that the only reason he is seeking to maintain this power of the President to increase the

number of judges by an order, is the question of the time of Parliament? Is that the basic reason for this?

Mr. Smart: That is the basic reason. There does not seem to be any need to bring such a simple matter to the Parliament. There seems to be absolutely no need, and particularly, as I said, with increasing the establishment of the Court of Appeal, one does not have to come to Parliament. Increasing the establishment of Masters one does not have to come to Parliament. There is absolutely no need for it in my respectful view.

Sen. Mark expressed some concern in his presentation about the conditions of service of members of the Industrial Court. I assure him once more that the Salaries Review Commission is at this time, in the process of doing a full review of the terms and conditions of all the officers that fall under its perview. My information is that the Salaries Review Commission is now actively involved in that exercise, and will no doubt present a report which will be tabled in the Parliament. My unofficial information is that the work on that report is proceeding expeditiously and that it will be available to Parliament within a reasonably short space of time. So that I want Sen. Mark to know the matter of the terms and conditions of the members of the Industrial Court is being actively addressed at this time.

Sen. Deosaran also raised the question of institutionalizing a joint working group between the judiciary and the executive to deal with matters pertaining to the judiciary. I do not believe that there is need at this stage for such an instituitionalized arrangement. In fact there is a working arrangement which obtains at this time between the judiciary and the executive through the Attorney General.

I indicated earlier on that the Registrar of the Supreme Court made certain representations. There were discussions and dialogue; there was agreement that there should be an increase in the establishment of judges by one, for the time being, and that is the reason we are doing this bill. So that, there is in fact an ongoing relationship, but that relationship has to be very carefully nurtured so that at no time will there be any accusations that the executive is interfering with the independence of the judiciary. It has to be a very mature relationship, one of give and take to ensure that the system works.

Sen. Furness-Smith again conceptualized a situation where the Government would have the Leader of the Opposition, the Judicial and Legal Service

Commission, the President and everybody on its side on the matter of the appointment of judges. I would say if a Government is able to achieve that kind of popularity, success and persuasion, then it ought to do exactly what it wants to.

There is never going to be a situation where a government is going to have under its control and doing its bidding men of integrity and independence who are appointed by the President, without the interference or the advice of the executive. These persons fill the posts of the commissions under the Constitution, the Judicial and Legal Service Commission, the Salaries Review Commission, the Public Service Commission, the Teaching Service Commission.

All these commission members are appointed by the President in his discretion, after he consults with the Prime Minister and the Leader of the Opposition. He may consult with them and decide not to accept the advice and make his appointments. He is not bound by their views at all in those appointments. So that, the persons who man those commissions are truly independent of the executive.

4.30 p.m.

If the executive is so persuasive that it is able to get these independent persons to come over to its point of view, then I say more power to that executive.

Dr. Deosaran: I am sorry to interrupt the Attorney General, but he has provided me with an opportunity, Mr. President, to ask a simple question which has been on my mind for sometime. Having regard to what he has said with respect to the working relationship between the Attorney General and the judiciary, a delicate one albeit, could he use the opportunity to tell us what then, if any, is the relationship between the Minister of Justice and the judiciary in such matters that we are discussing, if at all, in addition there is still somebody called a Minister of Justice?

Mr. Smart: The Minister of Justice as a member of the Cabinet consults with the Attorney General on these matters, and it is in fact the Attorney General who has the responsibility for liaising.

Dr. Deosaran: But with due respect, what does the title connote in terms of his function? Is he then an advisor to the Attorney General in matters of justice, or does he have a direct link to the judiciary considering matters pertinent to the judiciary? I think that is the question.

Mr. Smart: I was hoping you would not ask me that question. You see, in the Jamaican government, the Minister of Justice is responsible for the penal system in Jamaica. You have a Minister of Justice and Attorney General. He is Attorney General, but he is also responsible for the penal system, for the prisons. So in that sense, you see, the term "justice" is used in Jamaica, and one applies that definition and that use to the Trinidad situation where the Minister of Justice is responsible as Minister of National Security for the administration of justice after persons have been found guilty and brought into the care of the state. So I hope I have answered the question.

Mr. President, Sen. Mahabir-Wyatt had asked a question about the Family Court. This is a matter that the Government in its manifesto had indicated it would take steps to introduce. I can assure the Senator that it is not a matter that the executive has forgotten, but it will be taken up in due course. I am glad for the reminder and for the concern expressed, but we are looking at it and it will be taken up in due course.

I think that I have touched on the major issues that have been raised on what I now insist has been a very simple bill.

Sen. Khan: Mr. President, I would like to make an observation. In the hon. Attorney General's reply, so far he has left one of the questions that have been posed by several Senators unanswered, Mr. President. The question is whether the appointment of one puisne judge would favourably impact upon the work load of the judiciary? That question has not been answered up to now, Mr. President.

Mr. Smart: It is self-evident that the appointment of one puisne judge, Mr. President, would favourably impact on the administration of justice. The appointment of five would impact even better, but as I indicated, there are constraints of financial resources that make it impossible for more than one judge to be appointed at this time. One hopes that pretty soon there will be a possibility for more judges to be appointed to impact even more favourably on the administration of justice.

I think that I have now dealt with all the important issues that have been raised. I now beg to move that this bill be read a second time.

Question put and agreed to.

Mr. President: We are about five minutes past the time we normally suspend, and I intend to take the suspension at this stage before we move into committee. There is an important amendment which will come up before the committee. I think it would be a good thing for the Attorney General, and the two legal luminaries on the back bench on the other side and the Leader of the Opposition to sit close to each other during the intermission and discuss it. This may save us some time when we resume.

Before taking the suspension, I refer to the debate on the land acquisition motion that took place earlier this afternoon. During that debate, I had cause to interrupt while Sen. Moonan was on his feet. He was replying to a question posed by Sen. Rampersad. Now, I do not like to interfere with freedom of speech of Members. Also, I do not like to interfere with the freedom of the press. But I am appealing to the representatives of the media for their co-operation, for their own protection, not to refer to the reply given by Sen. Moonan and, therefore, also not to refer to the question asked by Sen. Rampersad.

My reason is, as I said, it is for your own protection. What is reported is protected by privilege once it is reported at the proper time, but a query or a matter has already been raised in connection with this. It is just possible that the resolution of the matter may then expose someone, who innocently reported the matter, to a charge of breach of privilege.

Therefore, I do not want to elaborate on it anymore. I know the press and the representatives of the media have been very co-operative in the past, and I appeal to them in all good faith to steer clear of referring to the reply given by Sen. Moonan to Sen. Felix Rampersad's query during that debate.

Thank you.

4:40 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clause 1 ordered to stand part of the bill.

Clause 2.

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

Sen. Furness-Smith: Mr. Chairman, I beg to move that paragraph (b) be deleted. This matter has been debated rather fully on the second reading. Notwithstanding the honourable Attorney General's persuasive argument that he can see no risk in making this change, nevertheless, for my part, I do not see the need to tamper with something which has worked quite well. Whatever the present situation is, where we have governments who are anxious to observe the letter of the Constitution, we do not know what kind of governments there may be in the future; and the purpose of our Constitution and its carefully framed provisions is to meet a situation where we have an executive which is trying to subvert the Constitution. We have not had that yet, but one never knows when one would get a different kind of people coming into Parliament.

It may be said that, in any case, if you have a government like that, this would not make much difference. History shows us that when you have a government intent on subverting the Constitution for its own political aims, every little thing counts. We do not know how important this little aspect might be in such a battle in the future. I am submitting that it might be of importance to have such a question brought before Parliament in the open so that it can be, at least, debated and the worries that people might have about it, could be expressed.

Mr. Smart: Mr. President, I think the converse of that argument is more likely in some way to interfere with the judiciary. By that I mean that a government is more likely to interfere with the administration of justice by not increasing the number and leaving it static and unmoved. Of course there is no provision given that one cannot decrease the number. That is why I am saying that the converse to the argument is more the case.

A government can decide, "well look, we need more judges in this country but with the addition of more judges, it means that the administration is going to move more quickly, and so on. We do not want that. We want to subvert the administration of justice. We are therefore not going to increase the number." There is nothing that this Parliament can do about it because that initiative has to come from the executive to amend the law. I feel very strongly that it really is a non-point. I think it would serve this country better if we left that simple matter of increasing the establishment to the executive to decide by subsidiary legislation; by an Order. That is my view.

There is no way that the independence of the judiciary is going to be affected by this provision.

Sen. Lequay: Mr. President, I listened very attentively during the course of the debate and I became very disturbed over the perceived argument that there is no integrity in the country. We seem to have suspicion hanging even over the heads of the people at the Judicial and Legal Service Commission. It is very worrying when those set of arguments are advanced that integrity in this country is at such a low level that we cannot have trust and confidence in any group of people.

If you look at the amendment being made, if the Parliament agrees on increasing the establishment, it is the Judicial and Legal Service Commission that must make appointments. If the President agrees through an order of increasing the establishment, it is the same Judicial and Legal Service Commission that must make appointments. I do not see the argument being advanced by the two learned Members and it seems to me that the focus of their arguments is suspicion that somebody is going to manipulate the system and have an appointment made which will give the President the right to increase the establishment by Order.

Sen. Spence: Mr. Chairman, I am not a legal person so I cannot adjudicate on uncertainties. I have two points to make. I am extremely pleased that the Government now has this confidence in the service commissions because I remember when this party first came into power, it had some rather unpleasant things to say about certain members of the service commissions. I am very pleased about Sen. Lequay's confidence in people—new-found perhaps. With respect to the actual issue, my position would be, the framers of the Constitution must have had some good reason for putting the provision the way it was stated. Otherwise, could they have been so misguided as to make a provision which has no substance whatsoever, which is what is now being persuaded.

Quite frankly, my position would be that we have the framers of the Constitution which is also important, we have Sen. Alexander and Sen. Furness-Smith who think that it could be important. That, to me, is a stronger argument for leaving things as they are than the argument to change things if you do not want to waste Parliament's time. If we are really serious about not wasting Parliament's time there are a number of things that we can do differently.

5.15 p.m.

Mr. Smart: I want to correct Sen. Spence. This provision is not in the Constitution. This provision is in the Supreme Court of Judicature Act. While I have the greatest respect and regard for Senators Furness-Smith and Alexander, this Government feels, and is strongly of the view, that it is in the interest of good

government for us to have to leave the bill as it is. We always look forward to the views of both Senators Alexander and Furness-Smith on matters of law, but as I have said before, they are not infallible. It is the strong view of this Government that for the purposes of the smooth running of the government and firmly convinced and not having had any arguments to the contrary, this provision will not, in any way, interfere with the independence of the judiciary. I want to move that we leave section 2 as is without the amendment.

Sen. Alexander: Contrary to the provision with respect to the composition of the Court of Appeal which is the other branch of the Supreme Court, the Supreme Court of Judicature Act provides for a certain minimum of puisne judges of the High Court and a certain maximum. This is not a question of playing with numbers. The position of the High Court in Trinidad and Tobago is of the highest importance, because it is the High Court and the puisne judges of that court which have original jurisdiction to protect the citizens of the country against infringement of the fundamental rights and freedoms enshrined in the situation. It is not difficult to conceive that with a certain minimum number of judges, that in itself, will be a threat to the fundamental rights and freedoms of the citizens, in the sense that there will not be insufficient judges to deal with the constitutional issues.

On the other hand, you may have the situation—to use a phrase which has been coined by a previous Chief Justice—that by increasing the number of judges you may have so much water in the brandy that the protection which it is intended to give the citizens by the interposition of the High Court between the executive and the citizen, may very well be watered down considerably. It is in that light that one has to consider the difference in the provisions for the Court of Appeal and the High Court of Justice. The reason for the difference, in my submission, is the critical role which the puisne judges have to play insofar as the protection of the constitutional rights of the citizens are concerned. I am saying, in my respectful view, that the composition of the High Court could be increased to such an extent that the strength of the High Court itself might be weakened.

Sen. Hosein: I would like to share a few thoughts on this matter with this honourable House. It appears to me that there are two issues which have to be addressed here. The first issue is the one dealing with the number of judges that may be appointed in the High Court, and the second issue is the person or the institution that is charged with the responsibility of appointing those judges. The situation as it is now, is that the number of judges in the High Court is determined

by Parliament and from time to time since 1962, bills have come to the Parliament in order to increase the number of judges available.

The appointing authority in respect of those judges, has been and continues to be, the Judicial and Legal Service Commission. So the framers of our Constitution drew a distinction between quantum and appointment. I want to emphasize the point that it is not the Government of Trinidad and Tobago who appoints the judges, it is the Judicial and Legal Service Commission. This commission is charged with that responsibility independently of Government and, Government itself, having no right in respect of influencing or determining who should be appointed as judges. If there is any difficulty at all in respect of the persons who may be appointed, or in respect of the qualifications of persons who are eligible to be appointed, that is not a matter for either the Government or the Parliament, that is a matter for the Judicial and Legal Service Commission. If there is need for reform in that area, that matter can perhaps be addressed to the Constitution Commission or be addressed later, but the formula has been clearly prescribed.

The other point I want to raise is that of Sen. Alexander, about the judges of the High Court having original jurisdiction in determining the constitutional motions under section 14 of the Constitution. Of course, they have original jurisdiction and the right to impugn Acts of Parliament or impugn administrative actions that may emanate from governmental authorities from time to time. That is a fact which has been clearly established for many years. However, in order to do that, they may have a constitutional motion and judges appointed by the Judicial and Legal Service Commission may be as strong or may be as week as the person who has appointed them has determined them to be. In other words, the Judicial and Legal Service Commission may appoint judges who are very experienced or judges who are not so experienced. But in any event the point about the Court of Appeal is that eventually, the Supreme Court of Judicature Act prescribes a maximum number of judges in respect of the Court of Appeal. It does not matter how many judges you have at first instance or it does not matter how few they are, the fact is that appeals go to the Court of Appeal and to the Privy Council. In the Court of Appeal there is no bar in terms of the kind that we are seeking to impose here.

I think it is agreed in this Chamber that the Supreme Court of Judicature Act merely imposes a minimum number of persons who may go to the Court of Appeal or who may constitute the Court of Appeal bench. In any event even if—to use Sen. Alexander's words—the brandy has been watered at the level of the High

Court, even if that is the position, the other point which must be borne in mind is that there is redress in the Court of Appeal to which a minimum has been prescribed and the increase of which, is not a matter to be referred to the Parliament from time to time.

5.25 p.m.

Dr. Deosaran: I want to raise a point with respect to the role of Parliament in such a matter. I believe democracy proceeds not only on the basis of the result. There is something very special about a democratic system and that is the process used. Sometimes you find the process symbolizes the very democratic system in which you live. More than that, the process you use becomes, to an observing public, superior to the result you may or may not achieve. If you find that members are quibbling—at least on this bench, including myself—about the process, I believe it is an implicit allegiance to that sacred tradition which is a mechanism you use to arrive at a particular result.

I understand very well what the Attorney General is resisting. I know it makes no real difference; perhaps in a substantive legalistic sense the result may be quite the same through the Judicial and Legal Service Commission. But there are times when I believe the symbolism inherent in the democratic process must also be protected. This is an instance where Parliament is asked to give up something. Speaking for myself, I have not been convinced that there was a burden on parliamentary time; that there were problems from within Parliament on this particular matter. So in such a case I believe the law of parsimony should prevail.

Why make all this effort in the absence of any attendant problems to diminish the role of Parliament, even if it means for administrative convenience? I think in this particular instance, to Sen. Alexander's point—in fact I believe it is either not properly conveyed or not fully understood. The way I understand Sen. Alexander's point is that in the Constitution, there are some basic freedoms which our citizens ought to enjoy and whenever any challenges come surrounding these freedoms, even a challenge to the very Constitution itself, it is usually the High Court judge who sits in judgment.

This is where I believe Sen. Spence's comment comes in, that the framers of the Constitution must have had something in mind—a peculiar circumstance in mind—with respect to High Court judges and the role of Parliament, not in controlling the appointments or in obstructing the legislation, but to enhance the

spirit of the Constitution *vis-a-vis* the role of the High Court judge and these very sacred freedoms that we have here.

All in all, Mr. Chairman, when you put all these things together, I would hope that perhaps as a last recourse and in the spirit of Parliament and in the very spirit of the Constitution, perhaps the Attorney General, since he himself says it is not a really big issue, would accept the mild apprehensions and perhaps allow the amendment to pass. That is, to delete the clause that transfers this power to the President through the role of the executive.

Sen. Khan: I am inclined to agree totally with what Sen. Deosaran has said. Let us presume that this is a rational Government in which we repose all the confidence, but in time to come we get a government which has no room for logic, is totally irrational and might be very erratic and want to implement certain situations or programmes to suit its whims and fancies. For that reason, I think that this will serve as an excellent form of check and balance that is necessary in this type of operation.

Sen. Mark: Mr. Chairman, some points were raised by Sen. Alexander concerning the rationale for this amendment. If it has been a practice since 1962, the year of independence to now, and we are in 1991, and a proposal for an amendment is before this House to extract from its authority a function that it has enjoyed for all these years, I think it is a legitimate concern on the part of all Senators to try to reason out or to determine what—and you see the Attorney General has not really given, to my mind, a sufficiently satisfactory response to the concerns expressed. I mean to say, I could understand maybe the reasoning behind the proposed amendment, but I think that we have to take into consideration the fears that have been expressed and the strong possibility of what can take place down the road. I think that is the major concern. Whereas the present administration might not be inclined to go the road, or the route, there is always the possibility that without that kind of authority vested here and being vested elsewhere, that ruthlessness could rule in some regard and respect. So it is necessary to provide people with some kind of rationale, convincing arguments, as to why, for instance, that particular amendment ought to hold and should be supported.

With all due respect, I think that—in fact, I hinted to the Attorney General that in a matter like this, maybe it could be possible in the near future before such an

amendment is brought, to have some kind of discussion, because when you spring such a surprise on a Parliament or Senate after such a long tradition, it really would generate some fears and suspicions that might not really have been necessary. The way the matter has been introduced and done, I think it has generated some concern. I do not believe that the Attorney General has convinced the Senate sufficiently as to the real rationale for the introduction of this amendment.

I think that maybe he needs to convince the Senators why this amendment has been introduced. I am convinced that the Senators on this side, Independent and, we, to some extent, are not sufficiently satisfied in our minds as to the rationale for the introduction of this amendment at this particular stage. So there is need for more rationalizing and reasoning to convince us why it is necessary.

So, Mr. Attorney General I think that you should come up with some new arguments to really try to convince us if this is to make sense at this point.

Mr. Smart: Mr. Chairman, I do not understand Sen. Mark's suggestion that this matter has been sprung on the Parliament. I really do not understand what he means by that. This bill has been in existence since some time last year, as far as I recall. It was published in November, 1990. There is one point that I want to bring to the attention of the Senate. I misled the Senate on a particular issue, by inadvertence. I had indicated that in respect of Members of the Court of Appeal, the provision is that there shall be a minimum of six. In fact, that is not so. I misread the provision. It does, in fact, say that there should be a President and six members of the Court of Appeal.

5.35 p.m.

With respect to the Court of Appeal and the High Court, the Supreme Court of Judicature Act is an important Act but it is not the Constitution. It provides for, in the case of puisne judges, a maximum of 15 and in the case of the Court of Appeal, a maximum of six. It also provides in the case of puisne judges, a minimum of six judges that is how it is now worded. I just thought I would bring that to the attention of the Senate.

Sen. Alexander: It means that in the case of the Court of Appeal if you want to increase, you will have to come to Parliament.

Mr. Smart: Yes, that is how I understand it.

Sen. Alexander: Why do you wish to keep that provision as it is, for the Court of Appeal, but insofar as the puisne judges are concerned, the protectors of the Constitution, you do not come. What is the rationale?

Mr. Smart: That is a good point. I am persuaded, based on that point, to end the discussion here and accept the amendment. Mr. Chairman, I can take a good point when it is made.

Sen. Furness-Smith: May I just state that the hon. Attorney General's concession in this matter, after such a spirited debate, emphasizes the point which is that at the present time none of us have anything to fear about any of all this and the remarks of the hon. Leader to suggest that we were suggesting otherwise were quite incorrect. That was not the point at all because we have an Attorney General and I am sure a Government which is prepared to listen to our misgivings and worries.

Question put and agreed to.

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

Question put and agreed to, That the bill, as amended, be reported to the Senate.

Senate resumed.

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

RONALD PERRY (RETIREMENT BENEFITS) BILL

*Order for second reading read***.**

The Attorney General (Hon. Anthony Smart): Mr. President, This is a procedural bill to provide for retirement benefits for Mr. Ronald Perry a former magistrate who was transferred from the police service to the magistracy on March 17, 1986. At the time of his transfer Mr. Perry had attained the rank of Senior Superintendent of Police and had achieved approximately 35 years of police service. He was 55 years of age and was therefore entitled, in accordance with section 2 of the Police Service Act, Chap. 15:01, to retire and to receive retirement benefits. His entitlement to these benefits, however was not preserved upon his transfer to the Magistracy since he was not transferred on secondment from the Police Service and there is no provision in the Police Service Act for transfer on secondment of members of the police service to the Magistracy.

Mr. Perry retired as a Magistrate on April 5, 1990. In accordance with the Judicial and Legal Service Act, Chap. 6:01, he is, in respect of his service with the Magistracy, entitled to retirement benefits. These benefits, however, are considerably less in quantum than the benefits to which he would have been entitled had he remained in the police service.

This bill therefore seeks to deem Mr. Perry's service on transfer to the Magistracy as service on secondment in order to preserve to him all the retirement benefits that would have been due to him had he remained in the Police Service until retirement.

I beg to move.

Question proposed.

Sen. Wade Mark: Mr. President, we have absolutely no objection or hesitation in supporting this particular bill that is before us. However, we would like to suggest to the Attorney General, that if there are other policemen in the police service who have legal training, and they would like to serve their country in another capacity, whether for instance, it would not be advisable, or whether it is possible, to establish some kind of guideline, whereby in the future we do not have to keep someone who has served his country for so many years waiting to enjoy his benefits.

Magistrate Ronald Perry retired on April 5, 1990. It means, therefore, that he is without his benefits up to this time and until this bill has been passed. This is purely administrative. It is our view there can be established guidelines so other nationals who have served the country well, would be able to retire in peace and comfort and not have to be the subject of this kind of exercise in which we are engaged.

We have no hesitation in supporting this bill.

5.45 p.m.

Sen. Prof. John Spence: Mr. President, I just would like to be assured that Mr. Perry is not still being disadvantaged, so I would still like to ask a couple of questions. Was his salary as a magistrate higher than that of Senior Superintendent? If the answer to that is "yes", I think he is still being shortchanged, because the secondment, it seems to me, would mean that on retirement, the pension he gets would be based on his salary as Senior Superintendent. If that is the case, it seems to me you

need different provisions from this bill in order for him to get his just desserts. I would just bring that point to the attention of the Attorney General.

Sen. Dr. Krishna Bahadoorsingh: Mr. President, I rise in support of the present bill, but at the risk of sounding extremely picky, I did not hear that the previous bill was in fact read a third time as amended and passed, and my only concern is that the Hansard records would reflect this. Thank you.

The Attorney General (Hon. Anthony Smart): Mr. President, I have taken note of the suggestion of Sen. Mark. With respect to Sen. Spence's concerns, I have the figures here, but these figures I think should be personal to—

Sen. Spence: I just wanted to be assured, Mr. President, that indeed he is not being shortchanged, because it seems to me from the way this reads, he could be, if the salary of Senior Superintendent is less than that of a Magistrate.

Mr. Smart: You see, the benefits under the Trinidad and Tobago Police Service are calculated at the rate of 1/480th of an officer's monthly salary, but for the post of Magistrate, the benefits are calculated at the rate of 1/600th of the officer's salary, and in fact he will benefit by this bill to some considerable sum of money. It is, you know, a not inconsiderable sum of money. So I hope that satisfies Sen. Spence. I beg to move, Mr. President, that the bill be read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clause 1.

Question proposed, That clause 1 stand part of the bill.

Sen. Spence: I am sorry to belabour the point, but it depends not only on the formula but on the salary which is being used to calculate the formula. Has that been taken into account?

Mr. Smart: Yes, that has been taken into account. We have the figures here.

Sen. Spence: If he is on secondment, the salary that you have to use with whatever formula is the salary of Senior Superintendent, because he has never been Magistrate, as far as his pension goes. So you are going to have to multiply his

Senior Superintendent's salary by the formula. If, in fact, what you did in the bill was to allow his service as Senior Superintendent to be counted for a pension, then you would take his final salary as Magistrate and multiply that by the Magistrate's formula. If you have done the two multiplications and it still comes out better, I have no problem.

Mr. Smart: Yes. Well, it does in fact. I can show you the figures afterwards if you want.

Question put and agreed to.

Clause 1 ordered to stand part of the bill.

Clause 2 ordered to stand part of the bill.

Question put and agreed to, That the bill be reported to the Senate.

Senate resumed.

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

DOMESTIC VIOLENCE BILL

[SECOND DAY]

Mr. President: We will now resume debate on the second reading of the Domestic Violence Bill.

Order read for resuming adjourned debate on question [January 29, 1991]:

That the bill be now read a second time.

Question again proposed.

Sen. Trevor Belmosa: Mr. President, I am deeply honoured to be a temporary Member of this Senate at this period in time and to be able to make a contribution on this Bill, the Domestic Violence bill before us.

Mr. President, hon. Members, I would like to introduce my contribution by giving a general overview of domestic violence. Domestic violence has become a major international issue and has taken on great importance, in line with other issues as apartheid and the rights and protection of prisoners of war.

In my opinion, a house divided by violence cannot stand, and a house where spouses, parents and dependants cannot feel safe and protected or secure cannot stand as well. Also a nation where domestic violence is increasing daily must take

measures to prevent and to minimize or to eliminate the causes of such violence or else go the way of social decadence, or as the *Bible* would say, Sodom and Gomorrah.

Mr. President, it is of great comfort to know that our nation has reached the period in time to address this burning issue of domestic violence, and it is for this reason that I support the spirit of the Domestic Violence Bill. I support it because in essence, in my opinion it deals with the protection of women and dependants, or children in particular. In fact, I think the overall push is to address women's rights which to me is a national issue that requires national attention, national support, and a national educational programme.

The spirit of the bill is really to eliminate an historical inequality and discrimination against women and children, inclusively. In my mind, and history bears this out, women have been regulated to a second-class citizenship status, an inferiority status, and laws and social attitudes and religious customs have labelled them as women who are only fit for the house, in the kitchen and child-rearing, and in fact enforced the position that they are the property of their spouses to be treated in any manner. The laws, by not intervening, have sanctioned the inferiority of women in the private arena or in the domestic area.

So therefore, the issue of women's rights is really an issue for their humanity, their dignity and equality. There are many struggles or many cases where in the public arena, women have been advocating equal pay for equal work, for maternity rights, and also a struggle against sexual discrimination, particularly in the work place.

Now, these issues are basically sanctioned because they deal basically with the public area, and the Calypsonian, Singing Sandra, I think it is, about a year ago or so, sang a song concerning the conditions that our women face and what they have to sell when they seek employment in Trinidad and Tobago.

I support the spirit of the bill because, just as we have to eliminate the disease of racism, so too we have to eliminate the disease of sexism. In order for this country to develop and to move forward into the twenty-first century, there must be full integration of women in the productive sector with legislation, appreciating their differences. Consequently, we can have a more improved process of national development.

Now, Mr. President, I want to look at and analyze briefly the general intention of this bill. In my view, I feel that the Government has taken a cheap shot at the female population. I see this document as a political document aimed at influencing women voters during an election year. I am not opposing the bill, but I am seeing an overall view that women outnumber men, and this bill is emotionally laden, and at a glance women will tend to support it. So we must expose this hypocrisy and deception of the governments. It seems as though during this period they would stoop to trick the population by sweet-talking and trying to fool the female population just to cater for votes.

Mr. President, I now turn to, in my view, the causes because the general intention of the bill does not tackle the causes of domestic violence. Unemployment is one major factor, and the statistics are there and I am not going to go into it at this moment. But there are over 3,000 women of working age who are unemployed, as well as about 41 per cent of the male population that are unemployed.

Sen. Hosein: Mr. President, I really do not want to interrupt him, but this 41 per cent in terms of unemployment, I would really like to know the source of that information. You see, Sir, I accept the principle that one ought not to interrupt one's maiden speech, but at the same time, there surely is some responsibility in terms of—

Mr. President: You can deal with him after he is finished.

Sen. Belmosa: Thank you, Mr. President. There is also a major problem of drugs that influence domestic violence. One wonders why a drug bill was not passed to eliminate and minimize the consequential domestic violence some time ago.

Mr. President, alcoholism is another factor involved in the cause of domestic violence; lack of education, as well as a negative male attitude towards the female population. In addition to those general causes, today in our society many families are unable to meet their expenses due to VAT, rent bill, electricity bill, and so on. These are major factors involved in the increase in domestic violence. As the Minister in his report mentioned, in certain counties, domestic violence has increased severely.

So with these problems of families being unable to meet their expenses due to harsh measures, in fact another assumption of this Domestic Violence Bill is that it

is just a token adjustment to the harsh economic realities imposed on our population by the IMF conditionalities and related government policies which have caused an increase in violence, poverty, rape, vagrancy and child abuse.

6.00 p.m.

As the bill stands, in my view, it is just to appease the women population during an election year to gain votes. In fact, if they dealt with the causes, if they dealt with reducing unemployment not from 22 to 20 per cent as they brag about, but from 20 to maybe 15 per cent, they may see a direct decrease in domestic violence. If the illegal drug trade and drugs are dealt with seriously, we would see a consequential reduction in domestic violence. If the causes of alcoholism were rooted out, domestic violence would also decrease and if, more importantly, the inherent negative male attitude towards women is addressed, then domestic violence would decrease. So I ask: Are there any measures in this bill to address any of the causes of domestic violence?

I turn to the specific objectives of this bill and on the first page, second paragraph, it states:-

> "The object of the Bill is to strike a right balance between the need to preserve an existing marital or other spousal or parental relationship on the one hand and the need to protect these persons from exposure to violence on the other. It seeks to achieve this objective by enacting provisions which can both punish and protect."

Mr. President, I question, the penal approach which can both punish and protect. I question the penal approach of the style of law that the Government has chosen to deal with such a very important issue as a family dispute. Instead of presuming a person guilty and punishing that person, I would have preferred if they had chosen a more reconciliatory style of law.

There are some prohibitions that the bill mentions where you prohibit an offender from visiting his house or her home or being in that locality or village and so on. I want to know if jail is the only alternative accommodation that they will have for an offender. If jail is the only alternative accommodation then I do not think the objective of the bill is to preserve an existing marital situation because even though someone may abuse a spouse, it does not mean that the family unit should be destroyed or there is no caring or love. When you use the penal approach and you jail that person, you encourage separation, divorce and

destruction of the family unit. I advise that some mechanism other than jail be considered unless it is a very severe crime committed.

I support the victim's right to protection and we are talking about a family and criminalizing behaviours of spouses. Again, I ask: why is it not conciliatory? Again, I am wondering if this penal approach that eventually leads to destruction of the family is not a long-term strategy of the Government to make certain decision-makers dependent or to remove certain decision-makers and make those spouses and dependants available as cheap labour for the EPZs which they plan to establish in the future. I hope, it is not a sinister plan to control population growth.

Our society needs strong families. Recent events on July 27 would bear that out. If we do not have strong families, children and dependants tend to go in certain directions as the Minister, Mrs. Jennifer Johnson explained when she came out of that situation. We need strong families and in particular we do not want the male population to feel that they are oppressed or alienated in our efforts to uplift the humanity, dignity and equality of women. I know and I feel in my mind that the women's rights issue is not an issue against men or to replace men but rather to change a backward system of social values that degrades women or children in particular.

I now turn to the specific intention of the bill. On the first page, the specific intention is:

> "The Bill is an attempt to provide legal protection for the victims of domestic violence. It does so in two ways. First, by empowering the Magistrates' Court to grant protection orders irrespective of whether other relief is sought and secondly it provides the police with powers to arrest and lay charges where there is a breach of the Court's order or where a domestic violence offence is committed."

There have been discussions here and in the newspapers on several occasions concerning the magistrates' court on the problems of efficiency within the magistrates' court and the backlog of cases and time-frames for resolution of certain cases. Therefore, I recommend as Sen. Mahabir has also recommended, that a family court be set up to assist with the efficiency and smooth functioning of this important issue of family disputes. If this is unable to be provided, then at least the magistrates handling those situations should be trained and sensitized to handle those important issues that are very emotional and psychological. We cannot play games with people's lives and we cannot put these matters into the hands of

untrained people whether they are magistrates or not. There is also a need for a magistrate to be on call at least 24 hours so that a person would not have to go searching and hunting for a magistrate. I am sure that the Senator on our side would go more in depth on that matter in her debate.

The second and most important issue is giving the police powers. This issue is very important especially in our times when the police are having a serious image problem. The common man and woman in the street have a total distrust of the police especially with the behaviour they exhibited during the July 27 events, therefore, empowering the police to arrest and enter into a home, giving them those powers to determine bail is really encouraging excesses. Therefore, I recommend that whenever the police go about their business to enforce this provision, a trained welfare officer accompany them in order that there will be some checks and balances. Because it is a common view that police brutality is not uncommon in our society and we do not want the offender to become a victim of the police.

6.10 p.m.

I am not belittling the police in terms that they cannot carry out their functions, but we are intervening in a private affair and giving the police that power, without any checks and balances, especially with the crisis and confidence that the population has with the police. We must be very careful how we do so, especially when these powers can infringe on, sections 4 and 5 of our constitutional rights; the right to enjoyment of property and the right to be private in one's home.

There are many negative comments about the police force and, therefore, we must be very careful. There are views on the streets that the police themselves participate in rape, murder, lying, blackmail, extortion, drug dealing, perjury and thievery, among others. There are statistics to prove that. I suggest, as we encroach on this fundamental right of the private home, that the police be given some checks and balances.

Some time ago the Drug Bill was scrapped. The Drug Bill that was supposed to eliminate or minimize the drug trade, the drugs that destroy some of our children or youths, that break up families and fill the prisons, if that could not pass, I question why. Is it because the population disagrees with the idea of controlling drugs and, therefore, imprisoning pushers and the overlords who control the trade? Or is it because the population has a mistrust for the police having access to that

type of information and entering into their homes? I think we must be very careful of the powers which we give to the police.

In conclusion, I recommend that a welfare officer accompany the police officers so that checks and balances can prevail and that evidence of abuse, or at least intentions of abuse, can be minimized, as well as the police officers be trained and sensitized to deal with situations such as domestic disputes. I support the spirit of the bill especially after I read this article in the *Express* dated January 31, 1991 by Kathy Ann Waterman:

> **"The horrible truth about wife-beating**
>
> Almost half the men in the region are likely to be wife-beaters and many women feel their partners are right to behave that way."

When we have that type of attitude about domestic violence, I see this bill as trying to bring about a social revolution in the values which are greatly needed in order for our society to advance. I cannot see where a victim says that someone has the right to abuse them. That person needs to be educated. I do not see where we can acknowledge that over half of our male population will be trained and encouraged to brutalize another human being. We need measures other than just punishment and protection. We need to reconcile the family and find alternative accommodation for the offenders as well, because we want to preserve the family and not destroy it. Thank you.

ADJOURNMENT

Sen. Alloy Lequay: Mr. President, traditionally one has to congratulate a new Senator on his maiden speech, but in doing so on this occasion, I want to say very clearly that the Government benches reserve the right to break that tradition if Opposition Senators cannot understand that they, too, have a tradition to uphold by not introducing politics in their maiden speeches. What the young Senator has done, is that he has exposed the intent of the Opposition to politicize every issue that is brought to this Parliament. I advise him as a young man that there are certain parliamentary traditions which must be followed and he must not get involved in all the antics of his Opposition colleagues.

With those words of advice, I congratulate him on having made use of this opportunity to speak and to make his maiden contribution in this august Chamber.

Mr. President, in moving the adjournment, I advise hon. Members that we will not be sitting next Tuesday. Seriously, it is possible that on Tuesday, February 19,

1991 the hon. Minister of Social Development and Family Services might not be in the country. Unfortunately, Sen. Horne, we might have another postponement of this very important debate for which I know you are so well prepared. I suggest that we use the opportunity instead to proceed with the private Member's motion so that we clear Tuesday, February 26, 1991 which is the fourth Tuesday, in order to continue the debate on this very important legislation.

Motion made and question proposed, That the Senate do now adjourn to Tuesday, February 19, 1991 at 1.30 p.m. *[Sen. Alloy Lequay]*

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.19 p.m.