

*Leave of Absence**Tuesday, September 29, 1992***SENATE***Tuesday, September 29, 1992*

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 to Sen. Carol Merritt to be absent from sittings of the Senate for 21 days, with effect from September 14, 1992, because of illness.

ORAL ANSWERS TO QUESTIONS**Refinery Expansion**

1. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

Could the hon. Minister state whether the Government of Trinidad and Tobago is still committed to an expansion of the Trintoc Refinery from its present throughput of 75,000 barrels per day to 160,000 barrels per day based on imported crude oil?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, with your permission, as the first Senator to rise on this side, may I extend my congratulations to my friends on the opposite side on the successes they had in yesterday's local government elections.

Now to the question. The present rated capacity of the Trintoc Pointe-a-Pierre refinery is 200,000 barrels per day and the refinery's programmed throughput is 115,000 barrels per day, made up of some 75,000 barrels per day of local crude and 40,000 barrels per day of crude imported under a processing arrangement. The refinery modernization and upgrading project, which is currently under way, is intended to enhance the refinery's conversion capacity and will result in a refinery of 160,000 barrels per day, rated capacity, and a significantly improved product yield. The project is scheduled to be completed in 1995 and will require continued importation of crude for processing, to maintain the refinery throughput level above the theoretical minimum break-even level of 110,000 barrels per day.

Sen. W. Mark: Could the hon. Minister indicate whether the 90,000 barrels difference mentioned will be imported solely by Trintoc and Trintopec or whether,

there will be an agreement for crude to be processed through some partner with whom Trintoc or Trintopec might link up?

Sen. Barnes: Certainly, there is a requirement for continued importation of crude, and Government has stated that it will seek a possible joint venture with some partner who can guarantee the supply of imported crude and offer secured markets for the additional off-take. That is not necessarily the only way to do it, it may also be done on a processing arrangement. Clearly, one of the concerns on this project is to ensure that we have a guaranteed refinery of sufficient crude to keep the upgraded supply at least above its theoretical minimum break-even level.

Sen. W. Mark: Could the hon. Minister indicate what it will cost Trinidad and Tobago to import 90,000 barrels of crude oil?

Sen. Barnes: The numbers are fairly simple: 90,000 barrel per day of imported crude, I think, as of this morning the world market price of crude was US \$20.32 per barrel of Brent.

Sen. W. Mark: Could the hon. Minister indicate, given the falling oil production that Trinidad and Tobago is experiencing at this time, where the country would get the foreign exchange to finance such a huge importation of crude oil to sustain the Trintoc refinery?

Sen. Barnes: Mr. President, the capacity of the upgraded refinery will be 160,000 barrels per day. The theoretical break-even, on the basis of the upgraded yield, is about 115,000 barrels per day. Obviously, one would wish to maximize the throughput to the refinery. It is for this very reason that Government has already indicated that there would be a preference for finding some partner who would be prepared to bring that additional crude as part of a joint venture arrangement with the refinery.

Energy Policy (Green and White Papers)

2. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

Could the Minister state precisely when does the Government intend to issue for public discussion and comment, the much and long promised Green and White Papers on energy policy in Trinidad and Tobago?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, Government intends to lay the draft energy policy

as a Green Paper in Parliament by the end of October, 1992. This will give ample opportunity for public comment and consideration before the paper is formally debated in Parliament.

Sen. W. Mark: Could the Minister indicate whether the proposed Green Paper will take into consideration that infamous 20-year natural gas contract which was signed between Amoco and Trinidad and Tobago? Will the Green Paper address that question as part of Government's energy policy?

Mr. President: Have you asked that question before?

Sen. W. Mark: No, I have not asked that question, Sir. This is a supplemental question.

Sen. Barnes: It is Government's intention to produce an energy policy document that will guide the development of the energy sector in Trinidad and Tobago over the next several years. It is a forward and future-looking document.

Sen. W. Mark: Could the Minister indicate to what extent the IADB and the World Bank are influencing Government's Green Paper at this time?

Mr. President: I think you asked when the paper will be laid and the Minister has stated when it will be laid. These things can flow after the paper has been laid and you see its contents

1.40 p.m.

Petroleum Bulletins

3. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

- (a) Could the Minister confirm that the last monthly bulletin on the petroleum industry was issued for April 1991?
- (b) If the answer is in the affirmative, could the hon. Minister state the reasons for this unusual and unhappy situation?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, the last published monthly bulletin on the petroleum industry is the issue of January 1992, and not April, 1991. Bulletins for the months February, March and April, 1992, are with the Government Printery awaiting publication.

Sen. W. Mark Mr. President, could the Minister explain the reason for the gap in the publication of this important bulletin and whether it has to do with a shortage of paper and money at his ministry?

Sen. Barnes: Mr. President, I can assure the Senator that the bulletins are being prepared at the Ministry of Energy. The July bulletin is available at the Ministry of Energy. The bulletins are printed at the Government Printery and published therefrom.

Sen. W. Mark: Mr. President, could the hon. Minister indicate whether there is a lack of professional personnel at the level of the Ministry of Energy that is contributing to the irregular publication of the bulletin to the public at large in Trinidad Tobago, or is the Minister indicating to us that these publications are being prepared, but the problem really lies with the Government Printery in trying to get them out in time to publish them?

Sen. Barnes: Mr. President, I can speak of a situation in the ministry. The ministry has the documents prepared at the same time that they have virtually always been prepared.

Sen. W. Mark: So finally, Mr. President, if I am to obtain a copy of these monthly bulletins, and having regard to the fact that it takes so long to be delivered by the printery, can I go directly to him and he will make those copies available to me? We are interested in the progress of our economy.

Sen. Barnes: Mr. President, I would be delighted to make the information available to Sen. Wade Mark as and when it becomes available. But, obviously, from the ministry we cannot make copies available to the general public.

Sen. Spence: I just wanted to ask a supplementary question, Mr. President. Could the hon. Minister make a copy available to the Parliament Library and then we could all look at it.

Mr. President: They always do, I can assure you.

Sen. Spence: A draft copy.

Sen. Barnes: We can, Mr. President. If there is that kind of need, there is no reason why we should not make a copy of the draft available to the Parliament Library. I do not see any problem.

PERSONAL EXPLANATION

Newspaper Report

Sen. Wade Mark: Mr. President, at the last sitting of the Senate on Tuesday, September 22, 1992, during the debate on the private motion calling on the Senate to:

Personal Explanation

Tuesday, September 29, 1992

"...take note of the Government's current approach to the implementation of public service reform, and to recognize its swerving commitment to the successful reform of the public service."

moved by Sen. Pundit Ramcharan Gosine, reference was made by my person to an article in the *Trinidad Express* of Thursday, September 17, 1992. The statement attributed to have been made by the hon. Prime Minister at a political meeting at Sangre Grande reads as follows:

"The current public service salary levels were much in excess of the market rates for particular skills, adding that a new programme next year will pay salaries at the level of the market or close to it. It cannot otherwise."

This statement was vehemently denied by the Minister of Information, who accused this Senator of misquoting the Prime Minister.

In fact, the hon. Minister rose to correct the "misquoted" statement. The Minister stated:

"What the statement said was that the current LIDP salaries—not public service salaries. There was no reference to the public service in the statement that was actually made."

The Minister's attempted intervention was challenged by this Senator. The hon. Minister, again, sought to cover up for the Prime Minister by seeking to blame the newspaper for the "misinformation" or the misquotation.

The Minister further stated:

"What normally happens in situations like this, you call the newspapers and ask for correction. Not in every instance are corrections made, but now that it is being read into the records of the *Hansard* I cannot allow it to stand as one of the records of *Hansard*. It is incumbent upon us to make the correction if it is being misquoted in Parliament."

Mr. President, in view of the Minister's critical portfolio of information—that is communicating accurate and correct information to the population—I sought to allow the matter to rest at that point. Notwithstanding that, subsequent events and information have alerted me to a new reality.

Mr. President, the true version of the Prime Minister's statement was carried live on Trinidad Tobago Television, a state-owned company, on Wednesday, September 23, 1992. The very statement which was quoted by me during the last

Personal Explanation
[SEN. W. MARK]

Tuesday, September 29, 1992

sitting of the Senate and which was strenuously denied by the hon. Minister of Information was revealed in its full glory to the entire population by TTT in its Panorama newscast. Every word that was quoted during my contribution from the *Trinidad Express* of Thursday, September 17, 1992, turned out to be the gospel truth.

It is, therefore, unfortunate and indeed disturbing that the Minister of Information could be so misinformed on such a critical matter as the one referred to. Efforts were made to discredit and make the Opposition appear irresponsible and reckless. Nothing could be further from the truth.

In light of this development, Mr. President, in which a Prime Minister was quoted correctly and accurately by me and the *Trinidad Express* newspapers, I wish, to have the record of the *Hansard* altered to properly reflect the truth and sincerely hope that such a *faux pas* does not repeat itself.

It is my hope that the hon. Minister would have her facts properly analysed and researched before making any attempt in the future to belittle or score cheap political points on matters which could cost her that crucial ministry of which she is now in charge.

In another civilized nation the Minister would have either ambiguously apologized or promptly resigned. Mr. President, as a nation, we have not yet reached that state of maturity and responsibility. At this period, however, I simply seek to have the record of *Hansard* corrected to accurately and efficiently reflect the truth of that particular deliberation. Thank you very much.

FIREARMS (AMDT.) BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to move,

That a bill to amend the Firearms Chap. 16:01 be now read a second time.

As you would recall, Sir, this bill was passed at the last session of this Parliament but, as a result of the prorogation of Parliament, the bill lapsed. Consequently it is now before us for a second time.

I can see the despondency of my friends sitting on the Opposition Benches and, in keeping with the PNM slogan of "We care", I should not like to take this House through a marathon sitting, going through every aspect of this bill, because

I know Members opposite need some time to go and lick their wounds, not having cleansed their wounds from 1991. So I will try to be brief on this matter.

What I am prepared to say is that when this bill was last debated, I gave two undertakings. So that I do not find myself the subject of personal explanations some time next week, I advise the Senate—I think it was in response to the contribution made by Sen. Daly; he wanted to be assured there were suitable and adequate guidelines in place for prison officers who may carry arms on their person while on duty. I have dutifully submitted that document to Sen. Daly some time ago. I have had no response from him, so I shall assume, subject, of course, to correction, that he finds the document adequate and that he will no longer harbour any misgivings of concerns about flame-throwers, *et cetera*.

The second undertaking I gave was to Sen. Diana Mahabir-Wyatt. I offered to take her on a guided tour of prison facilities. Unfortunately, she was not able to take up my offer, but I have, once again, extended it and I will ensure that any time she wishes to have a view of the rehabilitation programmes and exercises that are ongoing in our prison system, she is free to communicate with me and I would gladly accord her that facility. I also extend that to my less fortunate friends on the front benches on the Opposition side, just in case they need some diversion.

Mr. President, we, on this side, firmly believe that it is necessary to amend this legislation in order to make provision for the carrying of certain weapons by prison officers.

As I said at the beginning, I would not rehash everything that we have done here. I would simply beg to move that the bill be now read a second time.

Question proposed.

Sen. Surendranath Capildeo: Mr. President, the two bills before this Senate remind me of Shakespeare; in the case of the Firearms (Amdt.) Bill, Henry V:

"Now entertain conjecture a time when creeping murmur and the pouring dark fills the wide vessel of the universe."

There is a creeping murmur filling our little portion of this universe that we occupy and that is, a serious questioning of the relevance of this Parliament as an effective institution of government.

The point being made, is that this bill to amend the Firearms Act has been with us for some months now. We in the Senate have had the good fortune of an

Firearms (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, September 29, 1992

having extensive debate on it. We have heard from the Government, the Opposition and the Independent Senators. So that there was a glorious opportunity to come back to this honourable Senate with a bill which reflected the opinions of the Senate. But what has happened is the beginning of the season of arrogance: the bill comes back to us as it left.

I can understand hesitancy of a PNM mind to ignore the suggestions of a UNC intellect, but I really cannot understand the rejection of the President men and women. When the President of the Republic puts Independent Senators in this Chamber and they make valid contributions and the Government has an opportunity to reflect on those contributions, the least one could expect is that some attention would be paid to the contributions made and the appropriate amendments put into the bill, and the bill returned to the Senate for debate.

What has happened is that the same piece of legislation, with all the mistakes, is thrust back on this Senate, which entails a re-reading of a contribution which I made in July. It is an unfair burden on the people of this country to have a Government which continuously ignores facts of life. This is a tinkering with systems which have major defects in them and the prison system has major defects. So they tinker with it and come along and amend the Firearms Act to take care of just one little section, and even in that amendment the mischief is not corrected.

I will not bore this Senate by going through all the points I made in July. I will merely ask the hon. Minister to read them again and see whether they are valid. To my mind, those points are still valid. What is extremely objectionable is the total complete rejection, and almost contemptuous attitude by the Government of anything coming forward from this side of the Senate, and that includes the Independent Senators.

Sen. Dr. Kuarsingh: Are you speaking for them?

Sen. Capildeo: I am merely repeating a fact of life. That is to say that the Government had an opportunity to look at this bill all over again, to bring it here in a proper form. All they have done is to regurgitate the original, with all its defects, and bring it here to seek our support. Mr. President I must take objection to that.

In fact, the situation since I last spoke has got worse. In my contribution in July I had asked, amongst other things, that the Minister should look at the state of life that we live in this country, and I want to quote myself:

“Mr. President, this country is in the hands of criminals and, I hasten to add before Senators on the other side plead guilty, I mean criminals, not political criminals, true criminals. We all know that law-abiding citizens live behind bars. They drive with their windows in their cars up. Some people are scared to stop at major roads, at traffic lights. People are scared. Homeowners open their garage gates in fear. People sleep in fear. Businessmen become almost immune to hold-ups, and bank clerks, employees behind registers live in daily fear.”

Life in this country is perpetually at stake. The quality of life has been reduced to that of self-preservation and every day you read in the newspapers we take one more step backwards to barbarity. The criminal knows that, Mr. President, so that the attacks become more brazen; the crimes become more prevalent, until it has assumed epidemic proportions.

For Trinidad and Tobago, a small country, Sir, of 1.2 million souls, we just have too much crime. You have to ask yourself, what has happened to the Trinidadian of the 1950s and 1960s? Where has he gone? The sociologist could have a field day of research. Have you noticed the kind of horrendous crimes that take place on a daily basis in this country? There is not a day that the press does not report some terrible, vicious, animalistic death ritual. Are we breeding monsters in this society, Mr. President?”

I went on to quote the horrifying crime statistics for 1991.

Mr. President: Do you think it is necessary to repeat your own speech?

Sen. Capildeo: The point is that since then, murders taken place.

I had asked, Sir, the powers that be who are looking at this piece of legislation, to examine closely section 16(1) of the Bill, which relates to the granting of firearms licence. I repeat: It is a terrible burden for a single man such as the Commissioner of Police to have so much responsibility that he alone is responsible for the issuing of a firearms user's licence. I repeat my suggestion that a tribunal of, say, three men be set up with a right of review. I am not saying at all for a moment that we arm the citizens, but it is an admitted fact that the police cannot cope; the state cannot provide adequate protection to its citizens.

It seems to me that where the Minister and his advisers have a chance to reflect on this bill before regurgitating it in its original form; if they really cared about the citizens of this country; if as they say, they are a caring Government,

Firearms (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, September 29, 1992

they would have looked closely at the right of the citizens to protect themselves in a society where police no longer are able to protect and serve the citizens adequately.

I know the hon. Minister has been talking about bringing back—I am quoting from the *Trinidad Guardian*, Tuesday, September 29, 1992 page 11:

"We may have to bring back bicycles for policemen."

I want to know, Sir, whether, since we have the pitch-oil stoves, kerosine stoves and coal pots coming from the World Bank, whether we are going to have tricycles for the prison officers. Here was a unique opportunity to come forward with a wholesale revision which would have satisfied at least the public of this country that the Government is not merely tinkering with legislation, but it is going to the root cause of the problems in this country. That is the serious objection I have to the attitude of the Government in presenting a bill back in its original nature after it has exhaustively been debated in this Senate with serious amendments proposed to it.

That is all I have to say in this matter. I hope the Minister will be guided in future and will look carefully at the suggestions made on this side of the Senate. Thank Mr. President.

Sen. Roi Kwabene: Mr. President, the bill before the Senate, the Firearms (Amdt.) Bill, has once again been brought before us for consideration.

In direct response of this side of the bench, is that before we pass this bill, we take into consideration the situation as it exists in the society today.

I have received several requests for assistance to acquire firearms and these requests have not been coming from gangsters, but from people who own businesses. These people are unable to break through the bureaucracy of seeing the Minister or the Attorney General, and they decided to come to the Opposition Senator for assistance in that field. *[Interruption]*

I know of a particular instance where a businessman—although it may be a laughing matter for people on the other side of the Senate—but I have just left two businessmen in Barataria who have indicated to me that on five occasions they came face-to-face with a life and death situation. We are speaking about instances where people have business places and many of them have resorted to arming themselves illegally. I am not in support of that. I am not in support of people holding illegal firearms.

What we are saying, is that people need to protect themselves and if the PNM Government is going to come again with a bill like this and overlook a situation that exists out there, it truly shows how much they care for the people.

There are instances where people own businesses. They need to protect themselves. I am not suggesting that people should illegally acquire arms to protect themselves. If the Government wants to pass this bill, we suggest that some sort of accommodation take place in respect of the situation confronting businessmen in the community who need some form of protection.

We are not saying that the police service does not have an important role to play in protecting and serving the people of Trinidad Tobago, but there are instances where people come face to face with a life and death situation and they want some sort of help. Some of them are willing to arm themselves. We do not want that kind of situation out there. I am quite sure the Attorney General, as well as the hon. Minister of National Security, would not like to have a situation where all are arming themselves illegally and then it just bursts out in a sad sore.

The situation in the prisons remains an explosive one. I would not mind going to visit the prisons. In fact, right now I have in my possession about three letters from different prisoners who are awaiting execution.

Sen. Huggins: Mr. President, my friend just alluded to the fact that he is aware of people who have firearms illegally. In addition, he said he would not mind visiting the prisons. I just wanted to ask whether he has made a report to the police about these people who he knows have firearms illegally, because it is, in fact, an offence.

Sen. Kwabene: Mr. President, in response to the hon. Minister, I am not afraid of jail at all. Mandela went to jail, I am not afraid of jail, brother. The point of the matter is, when I made reference to the fact that I am aware that people in the business community are in possession of illegal arms, that we know very well that there are people who are owners of big businesses in Port-of-Spain who are not in possession of a firearms licence who possess arms. This is a fact and I believe if you are serious, deal with them first before you come to me to speak about what knowledge I have. I sincerely hope that answers the Minister's question.

2.10 p.m.

The point of the matter is, whether or not it is an offence for me to have knowledge about the fact that people have illegal firearms. You and I know, Mr. President, as well as the hon. Senators on that side of the Senate, that young people are in possession of guns and are making guns. This is a situation in Trinidad and Tobago that needs to be addressed. There are metal workshops in many of the junior secondary and comprehensive schools. I have met young people, 16 and 17 years of age, with documents showing how to make guns. Are we going to bury our heads in the sand?

The fact of the matter is, you again brought this bill to the Senate, you want us to give it some consideration, and we are expected to vote on it. But, please, give some consideration to the business community. The business community need to protect themselves. There are private home owners who need to protect themselves and their valuables at home. How can people place any trust in the people who are elected as a Government when the very arm of the law that is supposed to protect them cannot fully do so?

I do not want to be long and boring, but it is an explosive situation. It needs to be dealt with. I may be the youngest on this side of the Senate; it may be a laughing matter but, in this Senate I have noticed something in my past contributions—and this is not an idle boast—most of the times when I speak, what I say comes to pass three weeks later. Ask Sen. Dr. Saith, he knows what I am speaking about: The flooding that took place in San Fernando. Three weeks before, I spoke about the dredging of the Ciperio River, and it came to pass shortly after.

Sen. Wade Mark: What about the bandit?

Sen. Kwabene: Right! The bandit as well. This is what I am trying to understand, Mr. President. These are matters we need to take into our hands. We cannot have an explosive situation out there. Senators are laughing! Listen, I am entitled to a firearm as well to protect myself. I am aware of the law of Trinidad and Tobago and I am a Member of Parliament. I am quite sure I would not be given equal consideration. I am quite sure of that.

I know all types of guns. I have lived in Africa and I have seen young people as well as elderly people with guns. This is no idle boast, but I am not about those destructive weapons of warfare. We need to sit together in this Senate in a

democratic fashion and deal with this whole issue of crime in Trinidad and Tobago and put to rest this problem as it exists, because things are not getting any better, and the time is now.

Thank you, Mr. President.

Sen. Martin Daly: Mr. President, I should just like to acknowledge for the record the fact that the hon. Minister of National Security did provide me with a copy of the “Prison Policy on the Use of Firearms” and to say that on this occasion my silence was rightly interpreted as consent. I found much comfort in the way that this policy is drafted and I am happy to see that nothing in it would apply to flame-throwers. So it is a very good sign that when we are allowed to speak for ourselves on these benches, we can say some consideration has been given to a matter that was raised in the course of a debate. I believe I was the person who expressed the most misgivings about this amendment and I just want to record the fact that I was very pleased to receive promptly this “Prison Policy on the Use of Firearms”.

Thank you, Mr. President.

Sen. Hydar Ali: Thank you, Mr. President. I am not going to repeat my contribution made when this bill first came to the Senate. I simply want to ask the Minister of National Security to respond to an article that appeared in the newspapers and which may or may not be relevant—he will determine that. There was an article in the *Express* and I think in the *Guardian* that talked about the passing out parade at the Trinidad and Tobago Police Training College on September 12. Specific reference was made to two categories, City and Borough Police Service. The writer was wondering whether they should not be allowed in this category to carry arms. He did not distinguish between prohibited arms and ordinary arms.

Perhaps, the Minister of National Security would like to tell us, when he winds up, what are the training mechanisms for city and borough police, what sort of arms they are allowed to take, etc. The writer, apparently, is very peeved that these people who belong to the City and Borough Police were not allowed to take part in the parade and, to use his words, "they had to stand aside". When he inquired, he was told that they were not trained in the use of SLRs and SMGs. Perhaps, the Minister, as usual, would take this opportunity to clarify the situation with respect to the City and Borough Police Service.

Thank you very much, Mr. President.

Sen. Muntaz Hosein: Mr. President, the background of our bill is a bit puzzling, in that this matter came before the Senate, was debated and several suggestions were made to the Government, but the bill has been brought back in its original form. I must echo the feeling of Sen. Capildeo, my illustrious colleague, on this particular matter. Because, very often, Sir, we find that the Government—I am not too sure whether it is its haste to get bills before the Senate—brings bills here that seem shoddily prepared, or bills are re-introduced in their entirety. I remember we had a bill that we debated here, the Maxi-Taxi Bill, a bill that was being brought back for assent; it would have lapsed, and so forth. That, too, was brought back in its entirety, no change. Today, we see the same thing happening again—that the bill was passed and it lapsed because the Government prorogued Parliament. One would have thought having done that, it would have considered the suggestions made by honourable Senators and, perhaps, made changes to the bill, but instead it brings it again hastily without any changes.

I do not think that is a good thing for the Government to do and I would advise that in future it would be much better if the Government spent some more time and considered the suggestions made by hon. Senators, and perhaps change the bills to reflect those suggestions. One must look at what has happened between when we debated this bill and now that it is back with us again. Sir, I should have thought that having debated the bill some time ago—I think it was in April or thereabouts—there might have been changes made, perhaps, in the all important area of law and order in the country.

2.20 p.m.

If we are talking about giving prohibited weapons to prison officers, with which I have no problem, we must examine why we have reached the stage where we must do this, and we must examine the causes. The Government will be well advised to, perhaps, look at the root cause and determine what action should be taken to avoid this from deteriorating further. For example, the question of rape and murders in the country is even worse than when we debated the bill.

The murders are getting closer and closer to the Government side—uncomfortably close. As a matter of fact, one of the Minister's campaign manager lost his son, who was brutally murdered at Valsayn recently. I believe Senators would remember, because it made headline news, where this young man—I think he was only about 24—was shot in cold blood at the back of his head, lying on the ground—or so the report says. This all happened at an early hour in the Valsayn area.

Long ago Valsayn was an area where people felt very comfortable and the upper class lived, and very rarely would you get any kind of crime there. However, when you pick up the newspaper these days, or you listen to the news on television or radio, you are finding that those areas are not sacrosanct any more. These people live in fear—I am not speaking now only about Valsayn, but overall. In districts like Valsayn people have to hire their own security, notwithstanding public security. It has got to the point now where, my understanding is, the Government is hiring private security for their own purposes, and so forth.

I think we are sending the wrong message to the population when we look to hire private security. What are we saying to them, that we do not trust the police force, or that the police force is inadequate? Therefore, I feel we ought to look at this. Very little has been said about crime in this country, except recently. During an election campaign announcements were made about who have \$10 million in bank accounts and so forth; about Scotland Yard and what is to happen and what is expected to happen. One got a bit concerned that the announcements came from our Government during an election campaign. If you check, the announcements which were made during the election campaign were about 10 times what you would normally get for the rest of the year. Therefore, most people outside there do not believe any action would flow from these announcements.

One must see outside the prison walls, where the real problems are which must be addressed. We also have to look at it from inside the prison walls. Only recently I received a letter—and I should like to quote from this letter, it is written by Wayne Riley, PP914691. This gentleman is a journalist—

Mr. President: Senator, I find there is a growing tendency on your part to read your personal correspondence into the record. I do not want that trend to develop. It is all right if a person reads a letter that probably is written to the newspapers, published publicly, and so on, but I do not want Senators—there are 31 of us here—coming and saying, "We have received this letter from so and so". Nobody knows whom the letter is really from, what it is about, and that sort of thing. I do not think it is right. I have to treat that as personal mail and I want to discourage reading of personal correspondence into the record of *Hansard*. You can speak about the things that may be contained in the letter.

Sen. Hosein: Mr. President, thank you for your guidance, but I am simply following what was allowed to other Senators before. If you tell me that what was allowed to other Senators is not allowed to me, then I cannot read it.

Mr. President: Senator, I do not want to get into a dispute. I do not recall allowing any other Senator to read any personal correspondence. This is about the second or third time that you are attempting to do this. All I am saying is, I want that practice to stop. You are free to speak about the matters you wanted to talk about, but let it come from you, as a contribution from the Senator. I do not think it is right for Senators to bring personal correspondence and read it into the record of *Hansard*. We are not attributing any improper motives to anybody, but anyone can get a letter and say, "This is what somebody wrote me and said, so and so", and proceed to say that this is what he received. I want to stop that practice. I allowed you the other day to read a letter, concerning St. Joseph's Convent, St. Joseph, but I want that practice to stop.

Sen. Hosein: Mr. President, I would not go any further on the letter, Sir, but for the benefit of the Senator who spoke about the platform, I would rather feel that today is not the proper day nor time for us to talk about that.

Mr. President: I could not agree with you more.

Sen. Hosein: You see, Jesus of Nazareth started a movement with 12 men, and that did not mean that he was wrong. I hope hon. Senators will not take the results of the election to assume that this side of the Senate is wrong.

I simply want to ask the Minister to examine inside the prisons and see that, perhaps, his reports, if he is getting them, need to be updated. I would make available to the Minister, if he so wishes, a copy of the letter I have in my possession for his perusal, and having read that letter he might wish to take action.

2.30 p.m.

I also want to caution the Government—I have done it before and I want to do it again today—that there is a growing arrogance coming from that side; I must admit, not from all of them, but from some key players. I caution that that should stop. It is not a good practice. It is not a good thing to see Ministers of this Government displaying that kind of arrogance. What starts as a threat to have people removed from one ministry, may very well end up having Ministers removed, and it may very well be, because of the arrogance of some Ministers, that the employees of that ministry may want to have them removed.

Crime in this country is not something that we must play with. It is not an issue where the Government will find that the Opposition will not be forthcoming

in any good measures to bring it under control. We are citizens of Trinidad and Tobago and are all interested in having the crime situation brought to, at least, manageable proportions. At the rate we are going, crime in this country is completely out of hand. When we read of the kind of weapons that are in the hands of criminals, they seem to be superior to those that our protective services are armed with.

Mr. President, the call for firearms for businessmen and so on, is a subject that, I believe, the Government would want to put in the hands of a committee. I am not calling for firearms for a particular group of people. I believe that all deserving citizens who apply for arms—that include business people—should be given a good hearing, by a committee.

There are many complaints from upright citizens, that there are no written criteria that can be referred to when a citizen wants to own a firearm. The Minister ought to address that. There should be clear and concise written criteria, so that citizens would know whether they qualify, and whether they should apply. The Government should put it in the hands of a committee, not simply the Commissioner of Police—however good he might be. I think it is necessary that we put that in the hands of a committee so that we would know there is fairness in dealing with this issue of firearms.

People must know clearly, because, there is a perception that you can get a firearm if you know somebody, or if you have a friend in Government. That is the perception out there, and that is not a good thing—not for our country. The issuance of firearms is too important to be clouded in that kind of secrecy and discriminative procedure that is seen by the population. So, I think the Minister might want to address that.

I am very happy to hear that he has opened the doors to the prison. Is it a guided tour? I am not too sure; I may have missed something, but I think that he invited Senators—I believe he included Senators of the Opposition, as well—to visit the prison. *[Interruption]* He is telling me that he hopes that he will behave when we get there. I certainly hope that he does behave when we get there, because there are instances when Ministers of National Security were arrested and so forth, and we would not want that to happen to our Minister. We do hope that he would behave.

I want to assure him that we will take him up on his offer. We are interested in seeing what is happening there so that we can inform ourselves and, perhaps,

make suggestions to the Minister further to what we are already making. The information we have, I am sure, is not personal information. I doubt any one of the Senators—I stand corrected—has had personal information from the prison service. I do know many prison officers and I know that the arms for which they are asking—and the Minister is asking on their behalf—are required, so I have no problem in supporting that.

I have no problem understanding that the Commissioner of Prisons will do the right thing, and issue the right type of weapons, because I think he is a very responsible individual. We have to trust somebody, and if he has reached the position of Commissioner of Prisons, fine. If we have information otherwise, we would bring it to the Senate, and I am sure that the Minister would use his good office to curb any problems, etc. I have no problem with that.

I should like to hear the Minister in his reply give assurances to the Senate that the Government intends to deal with the root cause of crime in the country; and also to hear some concrete proposals from the Government on how it intends to deal with the crime situation. I think it would be good for Senators opposite to hear this, but also the nation which wants to know what is being done about the crime situation in the country.

There are many people, now, who are seriously considering whether it is worth working and living in this country, and that is mainly because of the crime situation. One hears people say what is the point of their making \$100,000 per year, when they cannot enjoy it; when they are in their homes and are virtually behind bars? Some of these houses are death traps. In many homes, if a fire should break out, and they cannot get to the front or back door in time, they could die. It is a serious matter.

People are also talking about their wives being robbed and raped in their homes. From experience, the number of rape cases and reports is far lower than what actually takes place. Rape, being what it is, people are ashamed; there is a stigma attached to reporting that type of case. Therefore, we must not simply accept the statistics on rape. We must go beyond that. Husbands are very uncomfortable and terrified when their wives and daughters go to the malls and where have you; they are very anxious to see them return.

I know of instances where husbands have their wives call them before they leave their places of work to get home, and husbands then count the number of minutes it takes, normally for their wives to get from work to home. Sometimes

there are unexpected traffic jams and the husbands are concerned and worried. These are the situations that the people of our country face everyday.

Mr. President, I am sure that you probably face the same thing; I know that you are married and, therefore, you would have that kind of problem as well. Perhaps, your wife is afraid for you, given your previous experience, and I cannot blame her. If the Government does not address the crime situation and bring it within manageable proportions, all the work that is being done would be of no value. It would go down the drain pretty soon. The brains of our country will leave. Anybody who is worth anything will leave this country. I want the Minister to be aware of this and if it is possible in his reply to give the nation some assurance of what action this Government is taking to stem the tide of drugs in this country.

Thank you very much.

2.40 p.m.

Sen. Carol Mahadeo: Mr. President. I certainly shall not be repeating my contribution of July, 1992. I just want to point out two things. This is something which was reflected in the newspapers about two weeks ago and it brought to mind the Firearms Act and the bill which seeks to extend the category of persons to hold firearms. This is the last category, that of prison officer.

It did frighten me when I read the newspaper report and saw pictures as well accompanying it, where a maxi-taxi driver was relating to the newspaper reporter that he was held up. He was coming along a major road and he had stopped to drop off a passenger. There was a nice new car driven by someone in plain clothes. The person was coming from a minor road and without stopping at the minor road, ran straight into the major road and hit his maxi-taxi at the back and side.

He said that he came out with his conductress—because these large maxi-taxis carry conductors—to investigate what damage he had suffered on his vehicle. The man also came out from his car and bluntly accosted him saying: "What the hell are you going to do about what you have done to my car? You have mashed up my grill and everything". The maxi-taxi driver turned around and said: "To the contrary, you are the one who ran out from the minor road and did this here. What are you going to do for me?"

He said the man just pulled out a gun from his side pocket and let him know in no uncertain terms—this is a reported incident I am talking about—I am a prison

Firearms (Amdt.) Bill
[SEN. MAHADEO]

Tuesday, September 29, 1992

officer and I am already in a hurry to get to my job. You give me some money immediately. Being faced with this situation the maxi-taxi driver handed him \$100.00 and further promised that he was going to write out a liability note to pay him the rest of the damages that he was assessing right there on spot. He then went to the police station where he reported the matter. I did not get the follow up to it.

This is a frightening situation. All I repeat at this point in time, is that if we are going to extend—one swallow does not make a summer, so that this isolated case which I read about two weeks ago could be taken in perspective, when the hon. Minister is seeing that this bill is being passed.

When he is recruiting prison officers, he has to make sure that suitable persons with the right temperament and disposition are selected, so that firearms extended into another category of prison officer now, might not be used in the way that was reported in the newspaper two weeks ago.

Sen. Daniel Teelucksingh: Mr. President, I just wish to enquire from the hon. Minister if there are plans to review the penalties for the possession of unlicensed firearms in Trinidad and Tobago.

The proliferation of unlicensed firearms is a scourge in our society and many of us are of the view that the present penalties do not seem to be adequate deterrent.

Thank you.

Sen. John Rooks: Mr. President, I wish to support these comments on the escalation of crime. I am switching to areas now which have not been accustomed to it. Tobago is one. I spent the first couple weeks of this month in Tobago and they were complaining about the crime escalation.

The whole system of robbery is changing. They no longer worry to look for cars on the streets. They wait for you in your garage and demand the keys. If you do not hand them over, the man just starts shooting at you. The public are unsafe wherever they go. Even responsible people are not being allowed to get firearms.

I remember a similar situation back in the early 1950s when the Government was aware that there were many unlicensed firearms around the country. They quietly put out the word to those who had unlicensed firearms to come in and they

would be given a licence for it. I know in the particular area where I was at the time, 147 guns were licensed in one week.

The police concept of this was that it was better to know where the guns were, so if they were stolen, the robbery could be reported; whereas if it was not reported, then they had no idea where the guns were. There is a tremendous number of guns and people are not even safe in their homes these days.

This morning I was in Maracas Valley. Three separate persons spoke to me about incidents which have occurred and they said they all have happened since the Muslimeen were released. There were armed burglars in their yards, even this morning. They have reported it to the police in that area. There is no doubt about it that crime is escalating. I think some drastic action must be taken soon.

There are many persons who are qualified to own guns. They have been in the Cadets; they belong to the firing range; they are responsible people and they should be allowed to have arms. Nobody could find out what are the criteria as previous Senators said, to get a gun, because they just do not answer your letters.

Thank you.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, the tone coming through from the contributions I have heard seems to suggest that there is a concern on the part of everyone—and I take the consequences for saying this—except the Government on the question of crime in this country. I just want to make it quite clear, and I would go so far as to say that there is nobody in this Senate more concerned about the crime situation in this country than I am. I want to make it quite clear that I am working assiduously to address this situation.

As fate would have it, whenever I take certain steps to do something the newspapers jump on my back and other so-called concerned citizens criticize. I want to make it clear also that I do not intend to be deterred by criticism. I do not intend to listen to anybody who is prepared to be an obstructionist. I am going to do what has to be done to address crime in this country.

It is high time that the Opposition realized that we are working towards this end. It is not going to bear fruit tomorrow morning or next month. When I took up office the crime situation was bad. I am not superman. I am no magician. I cannot—and I will make no bones about this—solve the crime situation in four months, but I am going to work hard at it even if it means putting the police on bicycles.

2.50 p.m.

While I am on that, I want to clear the mischief that is being made about this bicycle issue. When I did that interview I simply made the point that, in the whole context of community policing, one must not rule out bringing back the bicycle. If one looks at an example, say in Diamond Vale, the proximity of West End Police Station to that large residential area, and one considers the number of rounds a policeman can make on a bicycle, as opposed to walking—he may be riding through and see a lady cutting her hedge, stop and say, “Good morning, madam. How are things going?” It is not my intention to replace motor cars with bicycles, but that seems to be the suggestion being put across by the reports. I do not expect a man on a bicycle to run down somebody driving a BMW—that just does not make sense—but I think one has seriously to consider that there are various forms of mobility. I refuse to accept the position that the use of a bicycle is a retrograde step. It will keep people fit also. I want to make it clear that I refer to the use of the bicycle in the context of community policing, not to run down bank robbers on Frederick Street.

It is used now in California; it is coming back in quite a few areas in England. In fact, cars are being taken away from certain areas in England and bicycles are being given to the police, so I do not know why we feel that to go back to bicycles is a retrograde step. I shall say no more on that, but if it is that bicycles will be it, bicycles will be it. And when all these things are addressed, I am certain you will have nothing to say.

Sen. Mahadeo made a point, and I seem to have gotten the impression that she thought that this amendment had as one of its purposes, allowing prison officers to carry firearms while they were not on duty. That is not the case. Prison officers cannot carry firearms unless they are on actual duty and this amendment is not intended to change that situation. I want to make this quite clear.

There was not much really coming out of the debate that should force me to stand here for 45 minutes. What I heard today are things that I heard in July when this bill was debated. Everyone was concerned about the crime situation. I too am concerned about it. I, however, have a little difficulty when certain Senators on the Opposition bench say that the Government does not give consideration to things that it says, and that the Government is not addressing situations. I seem to recall that in the other House when a certain piece of legislation was mentioned in May, which we felt certain would have assisted us in addressing the unemployment

situation—and I refer to the bill that was intended to change the financial year—they were the ones who thumped their desks, but when we brought the legislation they turned their backs on it.

Mr. President: That bill is not now before the Senate.

Sen. Huggins: It is not before the Senate, but I thought I would just get it in, Mr. President. I think I have succeeded in so doing. Do you notice how quickly they have jumped to the defence of “irrelevance”, but it is recorded.

Just to touch very briefly on a point that Sen. Rooks raised on the question of an amnesty in 1950. Let me assure him that these are not the 1950s and I can go anywhere and open my arms and offer amnesty but it is not going to be accepted. Let us not fool ourselves about that—in the 1950s, yes, but not now.

Mr. President, I think that I have addressed in as short a period of time some of the broad concerns raised by my friends in the lower benches and upper benches—just to make a clear distinction.

Sen. Hosein: I recall asking, Sir, for some kind of concrete plan or proposal that the Government might have to assure the citizens of this country that crime is being dealt with. Would the Minister mind responding?

Sen. Huggins: I just want to assure the Senator that the Government has in fact certain plans in place to address the whole crime situation. I do not however think that the debate on this bill is really the opportunity for raising that. Let me assure him that I have things within my grasp and I will deal with them. I do not think that I need say any more on this and I beg to move that the bill be now 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.

Clauses 1 and 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.

3.00 p.m.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I announced last week that his Excellency the President, had appointed Mr. Dave Nigel Cowie to be a temporary Senator during the absence of Sen. Carol Merritt, who is ill. Unfortunately, Mr. Cowie was not present last week. I now crave your indulgence at this stage to allow us a little flexibility in the proceedings to permit Sen. Cowie, who is in the gallery, to take the Oath of Allegiance.

OATH OF ALLEGIANCE

Sen. Dave Nigel Cowie took and subscribed the Oath of Allegiance as required by law.

JUDICIAL AND LEGAL SERVICE (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Mr. President, the bill before this Senate is the Judicial and Legal Service (Amdt.) Bill. The principal Act, is found in Chap. 6:01 of the laws of Trinidad and Tobago and its long title is: "An Act to make provision for the establishment, classification, remuneration and entitlement of officers of a Judicial and Legal Service; and for other matters concerning the relationship between the Government and the Judicial and Legal Service."

In effect, what this Act does is to create a core of persons who fall under a Judicial and Legal Service Commission. By and large they are legal officers and include the magistracy and other officers within the court system.

For purposes of this amendment, I shall refer to the relevant portions of the principal Act on which this amendment impacts. Essentially, they are sections 13, 14, and 15 of the mother legislation.

What section 13 does, is to put the control and supervision of certain legal officers under the Permanent Secretary of the Ministry of Legal Affairs.

Section 14, likewise, in relation to the Law Commission, gives the Chairman of the Law Commission the supervisory rights over those officers.

Section 15 puts control over a range of officers under the supervision and control of the Chief Justice and certain rights in the Chief Justice to delegate to the Chief Magistrate.

In 1979 there was an amendment to this Act and the amendment, which is by Government Notice, No. 108 of 1979, added the Registrar of the Industrial Court to the list of the judicial officers included in the Schedule to the Act. Unfortunately, perhaps by oversight, no one was given direct supervision and control of the Registrar of the Industrial Court. The Registrar is included at Part V of the Second Schedule.

The sole purpose and intent of this amendment is to bring the Registrar of the Industrial Court under the supervision and control of the President of the Industrial Court. If one refers to the bill before us, that is achieved by amending section 15 of the Act to include a subparagraph (v) adding the words, "in Part V, by the President of the Industrial Court".

Quite simply, Mr. President, there is an existing lacuna in the law which we are seeking to correct by this amendment, as the Registrar is at present, the only officer of the Judicial and Legal Service establishment who does not fall under direct supervision and control of the senior officer within that area of operation.

Mr. President, I want, in moving the second reading of this bill, to commend it to the learned Senators in order to ensure that there is continued proper administration in the officers comprising the Judicial and Legal Service.

I beg to move.

Question proposed.

Sen. Surendranath Capildeo: Mr. President, I sat in disbelief listening to my learned friend for many years who brings this bill at this time when, once again, it is a mere tinkering with the legislation so that the public would get the impression that something is being done.

I sat in disbelief, Sir. My learned friend knows and has been a victim of the problems of the High Court, Industrial Court and the legal system in general. Again, a golden opportunity is thrown away and we have met in this honourable Senate to discuss this tinkering with the Industrial Court when the court, to use the commonly used expression nowadays, is a "total disaster area". Instead of going to the root of the problem, we are filling a lacuna in the legislation, and the people who use the Industrial Court, are left in limbo all over again.

My friend the hon. Attorney General knows about the backlog of cases. He knows the problems of terms and conditions of employment of the judges of

the Industrial Court. He knows about the constraints created by the present location of the Court. He knows about the inadequate staffing. He knows about the method of appointment of judges and their treatment as a superior court of record.

In light of all his accumulated knowledge, instead of coming to this Senate with a piece legislation to solve the problems of the Industrial Court, he comes here instead to delete a full stop, substitute a semi-colon and add the following sub-paragraph: "in Part V, by the President of the Industrial Court".

Again, Shakespeare, Sir, Richard III—"A horse, a horse, my kingdom for a horse". The problems of the Industrial Court, I dare say, could be solved with the cost of two or three BMWs: justice for the price of a couple BMWs.

It is grievous to sit here and indulge in this debate to clear up this bit of legislation and to leave the Industrial Court in the total mess it is in. More than that it is even worse when the Industrial Court is only part of a judicial system which to all intents and purposes has collapsed. One only has to look at the statistics to know that nowhere this side of the century would any of the courts of the land, that is to say, the Appeal Court, the High Court, the Magistracy, both the criminal and the civil side of the court, clear up the backlog that we are involved in now. Yet, of all the pieces of legislation that could come before this Senate, it is this one.

Why has no attempt been made and why is no attempt being made to go to the root of the problem? We have, and I quote the *Sunday Guardian* of October 20, 1991, "Thoughts and Ideas", by one Hector McLean, who was a Member of Parliament, who belonged to the party over there and the headline says: "Scandalous state of Industrial Court".

It is public knowledge that the court is in a scandalous state. I cannot understand how my learned friend could look at this piece of legislation and have the temerity to come to this Senate merely with this and not tell the people of this country, "Look, this is what we are going to do with the Industrial Court. It is going to cost maybe four or five times the price of a BMW or a Honda motor car, but we are going to fix the court. We are going to see about the court, the staffing, the scandal that the Industrial Court is in. We are going to tell this country what we are going to do about improving the administration of justice. We are going to tell this country, Look, there are things we can do without the expenditure of money."

That is why I take issue with my learned friend because he knows all the problems. He has sat on many committees and has made many recommendations

and it is not for my learned friend to say he is going to await the report of any committee. He is the committee; he knows what to do—do it.

There is one small example I shall remind him, about. Take the Registry of the High Court, for example. You have clerks who are trained from youth in that department, who learned the inner workings of the system of administration of justice, but when they reach a certain point in their career, they have to be transferred out, and so you lose a man or a woman who has been trained for 10, 15 or 20 years in a particular specialized field of work. They have to be transferred out into another government department so they get an increase in salary. It does not take money to do something about a situation like that, where you develop a cadre of specialized clerks and trainees in the Registry to have it functioning properly.

They say they are going to computerize the system in the courts. My friend knows; he is on that committee. It is the cost of two BMWs to computerize the system. He knows that.

The point I am making in all seriousness is, if this Senate has a chance to do something about institutions which are collapsing—and here I want to refer to a most frightening article that I have read; the thing scared me. It is an article that I have read in the *Trinidad Guardian*, and it is not by a UNC candidate who lost any county council election; it is not by a Member of the Opposition; this an address by Terrence Farrell, Deputy Governor, Central Bank of Trinidad Tobago. He was not on a public platform with a microphone blasting away on the hustings; he was speaking at the launch ceremony of the Republic Bank Limited Tax Incentives Savings Plan at Trinidad Hilton Ballroom on Friday, September 25, 1992.

I quote the *Trinidad Guardian* of Monday, September 28, 1992, at page 7, and I say I was scared when I read this. I became scared for this country, because this is a Deputy Governor of the Central Bank saying this:

“It may well be that we are merely experiencing a conjuncture of a series of unfortunate events, as happens in our personal lives at times when everything seems to go wrong. Yet, it is difficult not to embrace the thought that the events of the last few weeks...”

Last few weeks, September 28.

“are more than conjunctural, that they, in fact, evince underlying structural disorders in our society which would need to be addressed if we are to pull ourselves back from the brink. It would appear that many of our institutions in

Judicial and Legal Service (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, September 29, 1992

the society are in crisis. The judiciary and the system for the provision of justice...”

This is the Deputy Governor of the Central Bank in a national daily newspaper which is read not only in this country, but all over the world. The international community are reading this and they are reading that it would appear that many of our institutions in the society are in crisis.

“police service and the system for the provision of law and order and all around we are witness to the continuing deterioration of our infrastructure which seems to mirror and measure a deterioration in the society itself.”

This is the Deputy Governor of the Central Bank making this point and it is the same point I made in the debate on the Firearms (Amdt.) Bill: If you have a chance to come to this honourable Senate to do something to ease the fears of the population, then by all means, grasp the opportunity, But do not come when the system has collapsed to tell me that you are going to change a full stop into a semi-colon and put in Part V “by the President of the Industrial Court.”

Come and tell me you are going to the root cause of the problem. More so, when my learned friend, in a very brilliant address—did not know he can speak such English; he surprised me. I want to quote the Minister, *Trinidad Guardian*, Monday, September 28, 1992, page 3. The headline is, “Help Create a New Order”. If when he was making his notes on this speech he was saying to these students:

"The stifling nature of the public service bureaucracy and the legal system which has remained frozen in the 19th century despite all efforts to cause it to march in time with our evolving world."

I cannot believe he is the same man would come here and use this as a march in time with our evolving world. This is slow march; he is riding a bicycle in this thing; borrow the BMW and drive it.

I go on to quote my friend:

“identified as critical issues which young professional and modern-day legal architects must address were problems relating to the separation of power and delays in the administration of justice.”

It is not that the Attorney General, my friend of many years, does not know; he knows. The newspaper article goes on:

“In pointing to recent trends arguing for greater control by the legislature over other arms of Government, Minister Sobion felt that such a dynamic situation requires not rigidity of intellectual thought, but intellectual honesty guided by the wider interests of the society and not self-interests.”

If ever there was an example of rigidity of intellectual thought, this bill qualifies 101 per cent for that.

My friend had an opportunity to come to this country and say, “Look, we know the system has collapsed; the Deputy Governor of the Central Bank has said so. This is what we are going to do and we are going to do these things which do not cost money, because we do not have the money”. There are many things, as my friend knows, which would be done. Instead, we come here, Sir, to change a full stop and a semi-colon and say we are amending the law, making life easier for the citizens of Trinidad and Tobago.

The philosopher/president Baklav Havel of Czechoslovakia, wrote a book called *Summer Meditation*, and there is a passage in that book which is instructive. I do not think he will survive his next election. Philosophers do not win elections. I quote Mr. Havel:

“They say a nation gets the politicians it deserves. In some senses this true. Politicians are indeed a mirror of their society and a kind of embodiment of its potential. At the same time, paradoxically, the opposite is also true: Society is a mirror of its politicians. It is largely up to the politicians which social forces they choose to liberate and which they choose to suppress, whether they rely on the good in each citizen or on the bad. The former regime systematically mobilized the worst human qualities, like selfishness, envy and hatred.”

he is speaking about Czechoslovakia—

“That regime was far more than just something we deserved; it was also responsible for what we became. Those who find themselves in politics, therefore, bear a heightened responsibility for the moral state of society and it is their responsibility to seek out the best in that society and to develop and strengthen it.”

It is my contention, Sir, that if the hon. Minister wanted to strengthen the society, he could have easily used this opportunity to go to the root cause of the problems in the Industrial Court and come to this Senate with some measures, some solutions that would give consolation to the people of this country.

As it is, Sir, once again, we are met with what I consider to be a mere charade, a piece of legislative trivia which we ought not have to waste time on.

I thank you.

Sen. Wade Mark: Mr. President, the bill before us seeks, as I indicated in the Explanatory Note, to amend section 15 of the Judicial and Legal Service Act to lengthen the list of persons having control and supervision over several offices mentioned in the Second Schedule to the Act, specifically to include the President of the Industrial Court as the person having control and supervision over the holder of the post of Registrar of the Industrial Court.

Sir, economic development and industrial growth cannot take place or proceed smoothly without stability and peace in the industrial relations arena. As is well known, trade unionist by vocation, and I can tell you the kind of problems and difficulties that the trade union movement faces at the level of the Industrial Court. We are seeking to regularize a situation involving the Registrar at that institution. Whilst it is a judicial and legal matter—it falls under the Judicial and Legal Service Act—the fact is that the Industrial Court remains a superior court of record in Trinidad and Tobago.

The record would show that whilst the Industrial Court, under its new President, Mr. Ramchan, has been attempting to address the backlog, we still have a situation there where we have cases dating back to 1966, 1970 still outstanding. Workers have died waiting on judgments from the Industrial Court.

One of the difficulties we have with this particular piece of legislation is that while we understand the purpose of the amendment—because that Registrar, from our information, needs to be brought under some control and clearly we have no difficulty with that—it would have been very useful for the hon. Minister to at least attempt to adopt a holistic approach, as my colleague said earlier. We are amending an Act to put the Registrar under the control of the President, at the same time, we have a situation at the level of the court where you have, as an example, inadequate accommodation. There are about four courts at that Industrial Court and there is need for at least two more.

For years and years calls have been made to have an Industrial Court established in the south of our country. That, to date, Sir, has not materialized. It, therefore, means that in the absence of an Industrial Court in south Trinidad or San Fernando, all matters have to be brought into Port of Spain.

A reflection of the priority of this Government is manifested in the kind of allocation that is made to that court. Do you know a judgment coming from a judge of the Industrial Court cannot be run off on the same day that the judgment is delivered to allow trade union and the employer to have a copy? They do not have paper to run off judgments at the Industrial Court. This happened under the NAR and it is still happening under this PNM.

I make these observations, to at least alert the hon. Attorney General to the fact that while we are seeking to bring the Registrar under the control of the President of the Industrial Court, he (the hon. Attorney General) must take cognizance of the fact that the Industrial Court is in a state of crisis. It tells us something because the majority of people who contribute to economic development and progress—the working people of our country—are not given the kind of consideration they deserve, particularly where justice is concerned.

3.30 p.m.

If is a trade dispute develops, and they have to take that matter through different levels or stages of the Industrial Court, which is the final arbiter outside an appeal on a point of law, there should be some degree of speed and efficiency in the delivery of judgments. But, Mr. President, that court has been established since 1965 and we have cases still outstanding since then. I believe that if we are serious about economic development—whilst this might appear to be a very simple and innocent amendment, it touches at the root of industrial peace and stability in our country. So, I think the Minister ought to take note of this particular concern—the backlog.

I think he should also look at the whole question of inadequate staff, the shortages of material and equipment to ensure efficiency and speedy justice at the level of the court; the need for us to have a branch of the Industrial Court established at San Fernando. It is necessary as well for the hon. Attorney General to take note of the fact that as far as the remuneration, the terms and conditions of the judges are concerned at the level of the Industrial Court, it is of great concern to us. The independence of the judiciary is very important if you want to ensure justice.

When the court was established in 1965, the view was expressed then that it was being operated on an experimental basis, and therefore, the tenure of security of the judges would be on an experimental basis, so they started off with a three-year contract. A member of the court is appointed on a three-year contract. In 1992, as we speak, that experimental basis continues.

What we are talking about, is that you have judges at that court who are operating, I would say, under fear. Because what it means is that the independence of that court is being undermined by this contractual arrangement that these judges are subjected to. One could well understand a possible bias—I am not saying that there is. I am simply assuming, but not admitting, that that can take place. When the term of a judge's contract is coming to an end and he has to "sing for his supper", the possibility exists that he may deliver judgments that may not necessarily conform to justice, because he has to have another renewal of his three-year contract.

So, I think it is something that the Attorney General and the Government ought to examine, because whilst you are seeking to bring the Registrar under the control of the President of the Industrial Court, which is fine, there are other limitations that exist at the level of the court that the hon. Attorney General would need to address. One of those things is need for security of tenure for the judges of the Industrial Court. I urge the hon. Attorney General and the Government to look at that seriously, because we are talking about a situation, as I said, in which that court has been classified and categorized as a superior court of record. The salaries, however that these people receive are less than their counterparts at the Appeal Court and High Court of Trinidad and Tobago. I think, Mr. President, I would not want to burden you too much—

Mr. President: I was just wondering whether the point you are making could have been taken in an amendment to the particular bill.

Sen. W. Mark: You see there is a link.

Mr. President: I know there is a link; that is why I allowed you to make your point, but I think that those amendments you are proposing could be taken as an amendment to this particular bill.

Sen. W. Mark: No, I am not making any amendments, Mr. President, with all due respect. I am simply seeking to bring to the attention of the hon. Attorney General some areas of concern to workers as far as the Industrial Court is concerned, and to have him look at them in a very serious way. I was going to say, Sir, that I would not burden you with details as far as the salary levels are concerned at the level of the Industrial Court. However, it is very uncomfortable for the judges of the court to be working for the kind of salaries they are receiving today, when they were promised years ago that they would receive the same

salaries as the judges of the High Court. I think that it is necessary for the hon. Attorney General to examine some of these concerns that we have raised on this matter.

I also want to draw attention to something taking place in Trinidad and Tobago today, what I would refer to as a possible subversion of the judicial process. The judiciary, no doubt, is in a state of chaos and crisis. In fact, the hon. Attorney General some time earlier this year referred to the system of justice and the administration of justice in the country as dismal. Very dismal, Sir. What is happening is that critical officers ought to be scheduled as, for instance, some are scheduled under the Judicial and Legal Service Act. But I do not know if it is part of the Government's plan to introduce by ministerial fiat, or through Cabinet dictates, positions within the legal system that in the final analysis would subvert the authority of the Director of Public Prosecutions.

We have information that there is, in fact, a person—we have the person's name, I shall pass it on to the hon. Minister of National Security—at his ministry a special counsel with the portfolio including prosecution for drug offences and interdiction. That person, who operates at that Ministry has no relationship whatsoever with the Director of Public Prosecutions. She is a lawyer, but she has not been admitted to practice in Trinidad and Tobago. I understand, that what is taking place is that she has been hired specifically to deal with prosecutions for drug offences and interdiction. Now we feel that if that is taking place—

Sen. Huggins: Mr. President, if I may correct my friend. The officer about whom he is speaking was hired for no such purpose; and she is in fact part of my ministry, as there are other legal officers in my ministry, but they have no responsibility whatever for prosecuting anybody.

Mr. President: You were trying to link the relevance of what you are saying with the bill before us.

Sen. W. Mark: It is part of the judicial process.

Mr. President: I know, but you cannot go wandering too far into the judicial process. You are getting into very specific details that are not quite relevant to the bill before us.

Sen. W. Mark: Well, Mr. President, you see, sometimes we need clarification on matters and we are happy that the Minister has responded.

Sen. Huggins: Just call at any time and I will answer you.

Sen. W. Mark: Barry told me the same thing. I am a public figure, you know.

Mr. President: All right. Proceed.

3.40 p.m.

Sen. W. Mark: Mr. President, I want to drift back to the Industrial Court. What is happening is that at this time we have a situation there where for instance—and this is something that the hon. Attorney General would have to pay attention to—the purpose of the court is being undermined. The reason for this, from what we have observed, is that there is a tendency which has developed at the level of the court where a lot of legalism is being introduced.

Whilst we are dealing with the Registrar of the Industrial Court, I think it is necessary for us to focus for a short while on this matter, because the Attorney General is directly responsible now for the Industrial Court. Whereas before, the Minister of Labour used to be responsible for the Industrial Court, we understand that responsibility now resides in the Attorney General. This is why I am taking this opportunity to bring to his attention some of the serious limitations of the court. The Minister of Labour is not here and he is no longer responsible. So when we get an opportunity to talk about the Judicial and Legal Service and he is here, we must address those questions.

In that particular context I was making reference to the fact that what is happening is that too much legalism has been introduced into the court today. Because of the fact that an employer can walk with one of the most illustrious lawyers in the country, you find what happens is that the whole process of justice is undermined. The Industrial Court was established, specifically, to speed up the process of justice whenever there are trade disputes which are referred to that court. What is happening is that many employers today are extending that process and they are frustrating industrial peace in the country.

If you go to the court and a trade unionist argues a case—and we have very efficient, I must say, and technically sound trade unionists who can go to the court without any lawyer—successfully, and wins that case—the point I am making is that in a brief period, a judgment could be handed down, because of the fact that the legalism that would be introduced by the lawyers would be eschewed by the trade unions.

The process of justice is being seriously undermined because of the fact that some employers—I say employers here—seek to deny workers simple, elementary

rights, and they take the process from the stage of bilateral discussions, frustrate it, break it down, go to the ministry, which is now a conduit. Years ago, the ministry had some real technicians who could have brought parties together and brought about some settlement and avoid the matter reaching the court. Today, as the matter leaves bilateral level, employer/trade union, it goes to the ministry, and as it reaches there, it goes straight to the Industrial Court. What is happening is that lawyers are now getting extremely rich and fat and the workers of the country are suffering in the process. That is an area I should like the hon. Attorney General to focus on.

Even the people who have been appointed to the court today, you have more lawyers, for instance, being appointed. That was not the purpose of the Industrial Court. When Eric Williams formulated that idea of an Industrial Court, it was not the purpose to have lawyers occupy the benches of that court. It was not the purpose to have lawyers come there with an employer to simply frustrate and carry through workers for months and delay justice for them. It is a kind of strategy that has been used and is being used in order to deny workers their rights.

I hope that the hon. Attorney General, who I know has been making some kind of effort, but very limited—puny efforts—I want to ask him to take a giant stride and really come down on the side of the workers, the same way they moved in the area of electricity—but I understand there will be a backlash in that; the manufacturers are planning.

The great Arthur Lewis now deceased, in a book called *Economic Planning*, made the point that if you are seeking to move a country forward and you are formulating a development plan for a country, central to that development plan must be the workers' interests. That plan will not succeed unless you address the workers' interests and their problems. One of the reasons that plans have not been succeeding in Trinidad and Tobago over the years, is that the Governments of this country have refused to take into consideration the workers' interests.

I should like to ask the Attorney General to take this opportunity and strike a blow in defence of workers' rights, particularly at the level of the Industrial Court. I will address the Ministry of Labour when the Minister of Labour is here. That is another matter by itself. But we believe that in an effort to speed up justice, some more money should be allocated to the Industrial Court. This \$2 million and \$3 million they are allocating to the Industrial Court—and then last year the NAR took away almost half of what they allocated, to deal with LID projects and so on—at

the end of the day it is the Industrial Court and the workers, in particular, who suffer.

I have gone to that court and after the judgment is read and delivered you cannot get a copy of the judgment. I am saying that we want to ask the hon. Attorney General to look into this matter seriously. Therefore, whilst he has come for us to make, as my colleague said, changes to fullstops and semi-colon, in an Act, we should like him, the next time—because we do not know how long this thing is going to go on for—but we should like to urge, as the person in charge of the Industrial Court, to prepare comprehensive legislation for the re-organization and improvement of that institution and, at the same time, to ensure that proper allocation is made to the court, so that the kind of speed and efficiency that are necessary to ensure justice can, in fact, take place.

Thank you very much, Mr. President.

3.50 p.m.

Sen. Martin Daly: Mr. President, small in print though these amendments are, I too welcome this bill. The Industrial Court, where I practise, has been riding a tiger for a very, very long time, and what this bill will do, is to tranquillize that tiger.

Anyone who has any familiarity with the Industrial Court will know about what I am speaking. This is a most welcome bill because, in the absence of control of the Registrar by the President, a number of things have got out of hand. Since the situation is going to be cured, I will not reopen those wounds. As one example of the mauling done by the tiger—I look forward to the answer to the question that I see will be coming up very shortly about the matter concerning one of the judges, Mrs. Riley-Hayes. That is a perfect example of the mauling by the tiger. I join with Sen. Wade Mark, in making a plea for something to be done about the scandalous conditions at the Industrial Court.

Anyone taking an overview—to use that jargon—of what is taking place in the Senate today, would not have failed to observe that anything involving crime and justice in Trinidad and Tobago provokes great fear and trepidation in every citizen of this country. Indeed, while one editorial writer had the insolence to refer to the occasion of the opening of this session of Parliament as “deja vu”, we would do well to remember what was said by His Excellency the President about freedom from fear and freedom from want in this country.

It is a piece of insolence to use the word “*deja vu*” in any context, while there are fear and want in the country; and I am concentrating, today, on fear. The Government must expect that anytime anything touching on crime or justice comes to the Senate, those fears will be ventilated. That is not to say that within the narrow confines of this amendment, this is not a good bill. I do not have a mental thesaurus like my good colleague, Sen. Capildeo—“brother in law”, so to speak—so I can only think of “beg” and “beseech”; there must be other words, but it is in that context that I beg and beseech the Government to do something about the state of the Industrial Court.

I know that it has been said that it is part of the overall planning of reform of the public service, and the premises have to be looked at in an overall context, but there is a tremendous lack of accommodation. The place is filthy. Sen. Wade Mark has made the point about no paper for judgments. Many, many times the union and the employer have to get together and make arrangements to run off copies of judgements for them to read, let alone any one else. The mailing list which the Industrial Court had for mailing out judgments and so forth, has been completely destroyed, so the whole library of knowledge that was being built up there, has been completely lost, because of lack of paper.

So, you must forgive us, Mr. President, if in the context of this very necessary amendment, we complain a little—as we have the ear of the Government; something of a captive audience—about the state of the Industrial Court. It really is very, very, very scandalous. I appreciate that some repairs have been done to the air-conditioning, but I repeat, the place is filthy; there is no paper, and there is a lack of accommodation.

I also agree with Sen. Wade Mark about the need to look carefully at the disciplinary mix of the judges who are appointed there. It really should tell the Government something when I can say with such equanimity that I agree with a point being made by Sen. Wade Mark. I do think we need to concern ourselves a bit with the disciplinary mix. So, I just take this occasion, whilst supporting this bill, to say that all persons who practise in the Industrial Court, will readily support it. I do take this opportunity to join in the pleas that have been made about the state of that court.

I am not going to trespass today on the question of terms and conditions of the judges who are there. That is a matter which, no doubt, will come to our attention in a more appropriate context. I am happy to be able to agree with Sen. Wade Mark on those two points. I should just like to agree with him on one more.

Many of the persons who practise in the Industrial Court are very articulate. You see some of the best lawyers and Senior Counsel in the country appearing there, and very frequently, you see them appearing on behalf of the trade unions. Anyone who practises there will know the persons to whom I refer. In fact, Mr. President, sitting where you are, you would understand, in a unique way what I am saying about some of the best lawyers who appear for trade unions in the Industrial Court. So let me agree with Sen. Wade Mark that it is a place of great articulation. But it is a very evenly balanced fight most times.

Sen. W. Mark: Mr. President, for the record, just let me clear something that Sen. Martin Daly has alluded to. My principal concern—and I just want to repeat it for the record—is that too much legalism has been brought into the industrial relations arena. Therefore, even though you may have a situation in which some trade unions have hired lawyers, it is really in response to the kind of intervention that has been taking place.

I just wanted to let Sen. Martin Daly know that what we are seeking to do, even though some trade unions might be engaged in it, that is contributing to a delay in the delivery of justice in Trinidad and Tobago.

Mr. President: Before Sen. Daly resumes, I understood you to say that there are certain lawyers who, in your view, were frustrating justice?

Sen. W. Mark: Sen. Daly might be one of them, I do not know.

Sen. Daly: Mr. President, of course I knew it was going to come to that. You see, I do not know what Industrial Court Sen. Wade Mark is referring to, but he would no doubt have to refresh his memory on the number of industrial relations offences that are prosecuted by brilliant lawyers appearing on behalf of trade unions. As we all know, a prosecution is an initiatory step. So, I just wanted to give a balanced perspective. Much more important is the joint plea for something to be done about the Industrial Court.

Mr. President, there is one more thing that the Government has to get under control. There is another tiger that has to be tranquillized. Special arrangements were made in relation to the delivery of outstanding judgments by certain judges of the Industrial Court and, as far as I can tell, those arrangements have failed miserably. One reason for this is that governments are sometimes loath to take good advice. I hope that when that tiger is being tranquillized, consideration will be given to a different way of bringing those long outstanding matters to fruition.

My suggestion is that one of the experienced conciliators of the court be appointed to call the parties in and examine the status of the matter, in the light of the number of years which have elapsed, and try to extract concessions from both sides to bring the matter to an end, because the special arrangements have not worked.

Mr. President, I am quite sure that you must be getting restless as I dwell a little on the scandalous state of the Industrial Court, but I cannot in conscience, let the occasion go past. Consistent with the overall theme that I mentioned about the situation with crime and justice, the level of frustration in this country is so high that I honestly do not know when, where and how that frustration is going to explode. It is very worrying to hear about people wanting to have more firearms and this kind of business.

4.00 p.m.

The underlying cause of all that has to do with the total frustration the citizens of this country are feeling right now in matters of crime and justice. So you must forgive us if any legislation on those subjects touch some sensitive nerves and cause us to drift a little, because it is so important to understand the frustration of which all Senators speak. That is not to say that one does not accept that there may be good intentions in relation to improving the quality of law, order and justice in the country. One accepts that, but it has become a matter of life and death. Therefore, there has to be some speed.

It would help if we could have a proper information flow. I get very distressed when I read reports of things which are said and referred to on political platforms and which are not brought to Parliament and, indeed, are not disclosed to the people of the country. For example, I read in a report in the *Express* dated September 23, that the Attorney General was referring to a 78-page report which he had received. It was about a committee to analyze the problems in the administration of justice. At that meeting, he told the people what that report contained.

Why can it not be brought here? Why can it not be laid as a report in Parliament. Let us find out what the committee has said. Let those of us who wrote the committee find out what conclusions the committee has come to. By all means, tell audiences at political meetings, but bring the reports to Parliament so that we can all see them; we can all have access to them and not rely only on what the speaker chooses to tell an audience. It cannot be confidential if it is being referred to at a political meeting.

Judicial and Legal Service (Amdt.) Bill
[SEN. DALY]

Tuesday, September 29, 1992

I have that same problem whether it is the report on the Administration of Justice by the committee chaired by Mr. Dennis Gurley, or the updates on what Scotland Yard is doing. Why can we not be told in Parliament? If it is going to be disclosed at a political meeting, in a context where you have a partisan audience, come and tell us what is happening about these things. Then, we might all feel a lot easier about the things which concern us; we might all begin to have some small release and experience some small freedom from fear, about which our Head of State spoke so eloquently.

There is no way that it can be *deja vu* to keep referring to the problems of crime and justice in this country. Anyone who keeps on that theme is not doing something that is *deja vu*. We are asking that we be taken into the Government's confidence on these matters.

Mr. President, I believe that your signs of restlessness are growing. On that note, may I unhesitatingly indicate that I support this bill. I am glad that it has been brought here, but I sincerely hope that some serious attempt is going to be made to release us from fear promoted by frustration with the situation of crime and the provision of justice.

I sincerely hope that some steps will be taken along that line. If we can have a proper information flow and see the reports, it would all help. With those remarks, I unhesitatingly support this bill.

Thank you very much.

Sen. Diana Mahabir-Wyatt: Mr. President, I support this amendment as well. I do not normally choose to speak, if I am going to repeat the things which other Senators have said, but in this case, I think that there are a couple of points which I should just like to emphasize, simply because we have the hon. Attorney General with us, and for the first time since 1965, the Industrial Court—we have several practitioners here—has been put under his portfolio, rather than under the Ministry of Labour.

I welcome this amendment for the same reasons that my colleagues have: That it will finally enable the President of the Industrial Court to right a series of injustices which have taken place in relation to the Registrar of the Court. Having said that, I will just leave it there, because I do not want to go further into it. I am just glad that finally it has taken place and I look forward to seeing some action.

In addressing this I should just take five minutes to pick up a point which Sen. Mark made. Perhaps, it will surprise him that I am supporting him on this, because I suppose that he thinks the point applies only to trade unionists, but I assure him that it does not.

Let us go back to why we have an industrial court in the first place. Sometimes I think it is worthwhile to take a look at our institutions to see whether they are still fulfilling the purpose for which we originally set them up. There is a great social philosopher named Ivan Illich who said that after a while what happens to institutions is that their original purposes and goals turn into the goal of self-perpetuation. It is worthwhile looking to see whether this has happened in this case.

In his Third Annual Report the President of the Industrial Court said:

"It sought through the establishment of an appropriate judicial structure to settle disputes which the parties thereto could not resolve between themselves, to substitute order for disorder and reason for passion on the industrial scene and to arrest and repair the damage which costly and disruptive strikes had been inflicting on the Country."

I think this reminds one of a little bit of history. In context we are talking about 1965 when we had just reached the point where we had become an independent country. We had gone through a series of extremely bitter and very costly strikes which were on the verge of crippling our economy. We knew that unless we could get the situation under control we were not going to have very much of a future. As it worked out, the court did very well. In the next couple years despite the fact, as Sen. Mark pointed out, that the court said in a report that employers regarded the court as being pro-labour and anti-employer—which they did, because so many of the judgments came out pro-labour and anti-employer—the employers, however also respected the court to the extent that their policies and systems were changed to effect the court's judgments.

In its report, and I should like to quote this because I think it relates to a point which Sen. Mark made, it said:

"The court has been able to operate with a fair measure of success. This has been largely due to our insistence on conducting proceedings without regard to technicalities and legal forms..."

According to President Hyatali who was then the President of the Industrial Court, the court is set up not just as a court of law, but of human relations. This is how the court worked at the beginning:

"eliciting the real points in controversy in disputes, allowing the parties a reasonable latitude in conducting and presenting their cases..."

4.10 p.m.

In other words, it was a court where trade unionists or labour officers by themselves could go and present a case. The judgments of this court were famous throughout the Commonwealth, wherever there were industrial courts. They were cited as precedents in the court in Kenya where President Saied Kokar ran a similar establishment; they were cited as precedents in Singapore, New Zealand and the UK. This does not happen to us anymore. As he pointed out, the simplicity of the court's procedure and the constant efforts of its members to assist, within the bounds of judicial propriety, the lay representatives of trade unions and other organizations in agitating their respective causes, contributed to the success of the court.

I think that this is Sen. Wade Mark's concern and, it is also mine. I should like to join in the pleas which have been going on now for more than 10 years, on all sides, to do something about the Industrial Court building. The intolerable conditions under which people have to work day in and day out makes us more full of passion and less full of balance when we are dealing with cases in the court. It is just not lack of paper; it is lack of copying equipment, the research facilities are not computerized. I would not even mention the unmentionables like public lavatories and the conditions under which the judges themselves have to operate. Just suffice it to say that I support entirely what my colleagues have said.

When it gets to the question of what has happened in the last few years to the court, I want to make a special plea. Because the court is now under the Attorney General's Department, rather than under the Ministry of Labour, I do not know whether this is a hopeless plea, but I will make it anyway because I feel it very strongly. It is not just trade unionists who have problems taking cases to court these days. There are many very small companies which cannot afford the luxury of paying the rather high legal fees charged by the "brothers in law" as well as several trade unions.

I realize that there are some cases where you need legal expertise, especially where they impinge on contract law, and you need the eminent "brothers in law" referred to. There are however many small cases, particularly dealing with things like disputes, which the parties have traditionally handled themselves and can no longer do this. In fact, at the level of the court itself, people have been told quite openly, "Go away and come back with a lawyer. You do not know how to present a case". This was said very recently to two gentlemen both of whom have been in industrial relations for almost 50 years, in one case, and 30, in the other. Both trade union and employer who have been presenting cases in the court since 1965 have been told to get out and get a lawyer because they did not know how to present a case. When it gets to this, we have completely lost that flexibility to which Sir Isaac Hyatali referred:

"...insistence on conducting proceedings without regard to technicalities and legal forms...allowing the parties a reasonable latitude in conducting and presenting their cases and providing litigants with adequate opportunities and facilities to produce and prove the facts in support of their contentions."

I realize that the amendment to this bill gives the President of the court the ability to control the Registrar, which is welcome to all of us. I realize that this does not necessarily change the situation as exists between the President of the court and the tenor of the court, the philosophy of the court itself. However, I am hoping that by virtue of getting this amendment through, perhaps some attention will be drawn to this whole question of the basic philosophy of the court itself and how it is being carried out. I think it is not doing justice to the cause of industrial relations or to the people who cannot, in these days of economic stringency, afford the kind of fees to which Sen. Wade Mark has referred. Thank you, Mr. President.

Sen. Dave Cowie: Mr. President, it is my privilege again to address this honourable House, merely, however, in this instance, to emphasize the significance of the word used by my learned friend and colleague, the hon. Attorney General—"tinkering"—a word of loaded signification. In its essence it manifests the superficiality and the tokenism that are seen to have assumed priority in the legislative programme—if I may describe it as such—of the incumbent Government.

Sen. Huggins: Mr. President, I do not want to tinker with my friend's train of thought but I have got the impression that he said that I used the word "tinkering". I am not a tinkering person. I believe that word was used by Sen. Capildeo.

Sen. Cowie: This bill is reflective merely of a pretence of an organization and management initiative. In the Explanatory Note, in no uncertain terms, it stipulates that the specific purpose is to include the President of the Industrial Court as the person having control and supervision over the holder of the post of Registrar, Industrial Court. In my respectful view, a more critical question is whether the President of the Industrial Court, himself a judicial officer seised of the responsibility for adjudication in matters of industrial relations that come before him, ought at all to be constituted in a position in which in effect a management prerogative is being engrafted onto his already onerous portfolio as a judicial person.

Members of this honourable Senate who have addressed the question have articulated their concerns with respect to the logistical and organizational constraints and difficulties that afflict, not only the Industrial Court's judiciary, but the judiciary at large. The doctrine of the separation of powers constitutes the judiciary as an arm of the state and no way in that doctrine has there ever been articulated any desirability that, in addition—and this being in any uncertain terms a most grave and serious responsibility—to its functions of adjudication, the judiciary should also have inflicted upon it the potential for controversy that will invariably arise when the judiciary or any of its officers is cast in a management role. It was one of the key planks of the UNC's manifesto published prior to the 1991 general elections, that the office of chancellor with respect to the puisne and appellate judiciary would be created purely to relieve the onus that at this stage is virtually an unbearable one that the puisne and appellate judiciary has to deal with.

4.20 p.m.

In my respectful view, this thinking ought appropriately to be extended to the judicial forum in the Industrial Court as well. In any meaningful exercise geared towards the enhancement of the system of administration of justice, any learned friend on the other side might have been well-advised to invite serious consideration to the desirability of relieving judges and, in particular, His Lordship, the Chief Justice, and His Lordship the President of the Industrial Court, of these management functions.

The substantive necessity for differentiating the management from the judicial function cannot be over-emphasized. It is entirely unsatisfactory that a jurist, in the true sense, should be cast in a position or find himself in circumstances—and

my learned senior, Sen. Daly, had made reference to the tiger. So it is certainly an unenviable situation, as learned senior apprehended, that the President of the Industrial Court be placed in a position in which he is going to perhaps—one knows not one way or the other—join issue on personnel matters with persons who are constituted subordinates.

These very issues which may or may not have to be joined could in due course become contentious and that leads us to an inevitable situation in which the President of the Industrial Court may find himself embroiled in industrial relations contentiousness and quite possibly, litigation.

As a logistical matter, it is impossible to satisfactorily and effectively service the administration of the judiciary, be it in the Industrial Court or the puisne or the appellate jurisdiction, as well as to function as a full-time judicial officer, hearing cases, giving decisions, writing judgments, without the benefit of qualified lawyers as clerks to the judges or technological aids, advances and innovations which are replete in virtually every other area of endeavour; without the benefit of the research staff and resource personnel whose attendance whose attendance would invariably make the judicial function much more amenable to effective performance.

I beg to suggest that there are several other priorities which are not of direct relevance to the bill before this honourable Senate, but which, along the lines I have suggested, could perhaps more meaningfully be addressed at this juncture, in priority to this rectification in very cosmetic terms of an oversight, as my learned friend described it.

The problems of the erosion, subversion, undermining of the judiciary and its true independence and the fortunate immersion of the judiciary into controversy—quite unfortunately at this juncture—are matters that require much more immediate attention than, as this bill seeks to do, virtually break the camel's back with a further function that ought perhaps to be rationalized in a management and organizational context, as opposed to a framework within the Judicial and Legal Service Act. Perhaps the intention of the incumbents should be redirected toward that area.

Against that background, perhaps a fresh look should be had at the viability of having these functions served by some alternative office or by some alternative function.

I am grateful for your indulgence, Mr. President.

4.28 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):

Mr. President, I noted, coming from the other side, certain expressions of support for this measure. I therefore do not propose to be very long in conclusion.

There are a few observations which I think are necessary to be made, particularly in relation to the matters raised in connection with the problems of the Industrial Court generally, and with respect to the question delays in the administration of justice. There is one preliminary point that I should make and that is in response to the approach adopted by Sen. Capildeo who, as well read as he is—I think he made reference to four different quotations in his contribution, one of a politician/philosopher, one from Shakespeare, I think one from me and one from Dr. Farrell. I think the only relevant quotation was the one from myself and I want to ask him to become a little more relevant in his readings.

He gave the impression that this was a trivial matter. I had not sought to put it into any particular context, or to personalize the amendment proposed in any way, but I think it is important, now that it has been raised in that manner, to refer to the Ombudsman of Trinidad and Tobago, his Special Report No. 1 of 1992, which deals with the complaint of a judge of the Industrial Court. In that report, which is a public document, he dealt with the nub of the complaint and said as follows:

“The Registrar of the Industrial Court, who is the Accounting Officer under the Exchequer and Audit Act, has refused to afford leave passage grants to the judge, despite the fact that the Vice-President of the Court, acting on behalf of the President of the Court, had approved of the grants.”

This is a situation which has persisted for some time. One of the ways of dealing with it is to propose the amendment which is before this Senate. It is not merely a question of the removal of a full stop and the introduction of the semi-colon. It goes to the root of the administration of the affairs of the Industrial Court.

On the question of the problem of delays in the administration of justice, again, clearly Sen. Capildeo continues to march to the tune of a different drummer, because he presents it in such a way as though legislation is the only means of dealing with that problem. When one analyses the problem very carefully, one finds that there are a number of procedural and administrative things which have to be put in place rather than legislative measures.

In fact, in the report of the team which set up earlier this year, the bulk of the recommendations relate to the procedural matters, rather than legislative measures. I think there are three or four recommendations which deal with matters of legislation. This does not suggest that the Government is tinkering—the way that he wants to suggest it. In March, 1992, a team comprising not only lawyers but also people with management expertise was set up and they came up with a 78-page report which contains recommendations for implementation.

I am sorry that Sen. Daly felt left out, and suggested that the report should be laid in Parliament. I want to indicate to him that when this bill was presented in the other place two weeks ago, I indicated then that the report was due to be laid in Parliament and we will ensure that is done in the shortest possible time.

Sen. Daly: I wonder if the Attorney General would give us a date, because if it is now in the public domain, many other people apart from me, have been left out. Perhaps he can give us a date.

Hon. K. Sobion: I had hoped to be able to lay it by this Friday. That is not now possible and I hope to lay it as shortly as possible thereafter. I cannot give you a date at the moment.

Sen. Daly: Mr. President, would he give way again? That does make co-operation a little difficult. The report has been referred to on a public platform. What is the problem? Give us a date when we can have it. It really makes co-operation difficult.

Hon. K. Sobion: Mr. President, referring to a report, whether on a public platform, at a graduation ceremony or wherever, is a much easier matter than preparing sufficient copies of the report for laying it in Parliament. As I have said before, the report will be laid as soon as possible.

On the question of the problems of the Industrial Court, I am grateful for the statements made by Sen. Mark, Sen. Capildeo, Sen. Daly and the others who contributed to the debate. I assure them that the problems of the Industrial Court have not escaped this side. In fact, at this moment insofar as the accommodation aspect of it is concerned, the Minister responsible for public administration is having dialogue with the Industrial Court, not only in relation to housing them in Port of Spain, but also in relation to the San Fernando court. Those matters are in hand and we will certainly be dealing with them in the future.

Judicial and Legal Service (Amdt.) Bill
[HON. K. SOBION]

Tuesday, September 29, 1992

There is as well the question of the outstanding judgments. That is a matter which has plagued the court for some time and we are reaching the point where some of those judgments will become, to use a word, undeliverable with the passage of time. I take the suggestion raised by Sen. Daly with respect to the possible use of conciliators *et cetera*.

I do not think that the way the matter was stated by Sen. Cowie in relation to the onerous burden that is being placed on the President of the Court—this is routine, day-to-day management activity. I think he started off on the wrong premise, because the concept of the separation of powers has nothing to do with the exercise of a management function by a judicial officer. This bill provides for the President of the Industrial Court to exercise supervisory control over one officer, the Registrar of the Industrial Court. I do not see how that could be compared to the proverbial last straw, as he tended to refer to the matter.

Mr. President, as I said in presenting this bill, it is a simple piece of legislation. There is good reason for it and it is necessary for the proper and due administration of the Industrial Court.

In the circumstances, Mr. President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 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.

Motion made, That the Senate do now adjourn to Tuesday, October 6, 1992, at 1.30 p.m. [Hon. L. Saith]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.15 p.m.