

*Leave of Absence**Tuesday, December 8, 1992***SENATE***Tuesday, December 8, 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. Dr. Lenny Saith to be absent from sittings of the Senate during the period December 6—10, 1992. I have also granted leave to Sen. Ainsley Mark and Sen. Camille Robinson-Regis to be absent from today's sitting.

**LATE ARRIVAL**

**Mr. President:** Sen. Gordon Draper has indicated he would be a little late.

**SENATOR'S THANKS**

**Mr. President:** I have also been asked by Sen. Pundit Gosine to express gratitude on behalf of himself and members of his family to all Members of the Senate for the expression of sympathy extended to them in their recent bereavement.

**ORAL ANSWERS TO QUESTIONS**

**School Feeding Programme  
(Resumption)**

**21. Sen. Wade Mark** asked the Minister of Education:

- (a) Could the Minister of Education state what are some of the factors preventing the resumption of the long promised School Feeding Programme?
- (b) Could the Minister state precisely when the School Feeding Programme is expected to resume?
- (c) Could the Minister state what efforts are being made to assist students and/or parents of students who are dependent on the School Feeding Programme during its absence?

**Sen. Huggins:** Mr. President, could the answer to this question be stood down to a later stage of the proceedings?

*Question put and agreed to.*

**Mt. Pleasant Road (Arima)  
(Bridge Repair)**

**22. Sen. Wade Mark** asked the Minister of Works and Transport:

Could the Minister of Works and Transport state when the bridge at Mt. Pleasant Road, Arima, leading into Blanchisseuse would be repaired?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. President, could I ask that this question also be stood down? It should really be addressed to the Minister of Local Government who should be here shortly.

**Mr. President:** Do you want the question deferred to any period of time?

**Mr. Imbert:** Yes, Sir. Could it be deferred for a period of one week, please?

**Mr. President:** Before we go further, did you say something about the Minister of Local Government?

**Mr. Imbert:** Yes, Mr. President. Question No. 22 will be answered by the Minister of Local Government because it falls within his jurisdiction.

**Mr. President:** We will put it in the name of the Minister of Local Government.

*Question put and agreed to.*

*Question, by leave, deferred.*

**Blanchisseuse Bus Service**

**23. Sen. Wade Mark** asked the Minister of Public Utilities:

Could the Minister state when a bus service will be established for the residents and school children of the Blanchisseuse area or of Blanchisseuse?

**The Minister of Public Utilities (Hon. Morris Marshall):** Mr. President, the general condition of the roadway in the Blanchisseuse area is one of steep gradients and numerous curves. In this context the Public Service Transport Corporation has advised that in order to provide a service it is necessary to use the small 28-seater buses. The Minister has also been informed that the Public Transport Service Corporation does not at this time own such size and equipped vehicles. Accordingly, it has had to suspend its bus service to that area. The Minister wishes to advise, however, that in order to alleviate the hardships being experienced by the residents, the corporation is utilizing the maxi-taxi concession

service to transport secondary school children. The corporation has indicated that from all reports the service is working effectively and efficiently.

The Minister wishes to indicate further that the corporation is making efforts to obtain funds to acquire 40 new buses. It is to be noted that as soon as these buses are acquired, some will be utilized to ensure that the service to the Blanchisseuse area is restored.

**Sen. Spence:** Could the hon. Minister say whether the cost to the students being transported is any greater than if they were having PTSC service?

**Hon. M. Marshall:** The PTSC arrangement in place at this time is at no cost to the students.

**Cynthia Riley-Hayes  
(Injustice)**

*The following question stood on the Order Paper in the name of Sen. Diana Mahabir-Wyatt:*

- 24.** Will the Attorney General please state whether he has met with Mrs. Cynthia Riley-Hayes, the President of the Industrial Court and the Registrar of the Industrial Court with a view to implementing the recommendations of the Ombudsman in his Special Report, No. 1 of 1992, in connection with the injustice suffered by Mrs. Cynthia Riley-Hayes.

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Mr. President, it seems that I arrived here before my answer did. Could this matter be put for a later point in today's proceedings?

*Question put and agreed to.*

**Diego Martin River  
(Completion Works on)**

**25. Sen. Roi Kwabene** asked the Minister of Works and Transport:

- (a) Is the Minister aware of the urgent need to complete the paving and cleaning of the Diego Martin River?
- (b) Is the Minister aware of the distress and inconvenience suffered over many years by residents of surrounding areas through flooding of the same?

- (c) Could the Minister state why the necessary work has not yet commenced on this project?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. President, yes, the Minister of Works and Transport is aware that work is required on the Diego Martin River.

The Minister is also aware that some low-lying properties in the vicinity of the river are flooded during periods of peak rainfall. The problem is aggravated by the indiscriminate dumping of rubbish in the river by persons in the vicinity of the river.

Desilting work on the river was undertaken upstream of the Morne Coco Road earlier this year. It is proposed to clear and clean the river downstream of the Morne Coco Road during the first quarter of 1993.

**Diego Martin Main Road  
(Repairs to)**

- 26. Sen. Roi Kwabene** asked the Minister of Works and Transport the following question:

Could the Minister indicate to this House how soon repairs will be done to the Diego Martin Main Road?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. President, repairs to the Diego Martin Main Road began in January of this year. So far this year, repairs have been carried out to 390 square metres of the surface of this road. Additionally 535 square metres of roadway which was damaged by WASA's operations has also been repaired. Repair work is expected to continue in 1993 and beyond.

**Sen. Kwabene:** Is the hon. Minister aware of the fact that there are galvanized and clay mains below the ground for the past 30 years that are in need of repair? What steps will be taken by the Minister in conjunction with the department responsible to alleviate the problems that exist?

**Hon. C. Imbert:** Several roads in the country, including the Diego Martin Main Road, create difficulties for the Ministry of Works and Transport with respect to repairs to the road surface because there are old water mains in these roads. The Ministry has been having discussions with WASA to determine an action plan for possible replacement of these mains so that the Ministry would not have to continuously repair damage to the road surface caused by frequent breaks in the mains.

**Blue Basin Road  
(Repairs to)**

**27. Sen. Roi Kwabene** asked the Minister of Works and Transport:

- (a) Could the Minister indicate to this House if there are any plans to repair Blue Basin Road?
- (b) If in the affirmative, how soon will these works be effected and what are the reasons for the delay?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. President, repairs to the road surface and other road maintenance work on the Blue Basin Road are carried out on an ongoing basis. This work is expected to continue into 1993 and beyond.

**1.40 p.m.**

**School Feeding Programme  
(Resumption)**

**21. Sen. Wade Mark** asked the Minister of Education:

- (a) Could the Minister of Education state what are some of the factors preventing the resumption of the long promised School Feeding Programme?
- (b) Could the Minister state precisely when the School Feeding Programme is expected to resume?
- (c) Could the Minister state what efforts are being made to assist students and/or parents of students who are dependent on the School Feeding Programme during its absence?

**The Minister of Education (Hon. Augustus Ramreakersingh):** Mr. President, first of all, may I apologize for arriving late. I was a little detained at the office. No offence was meant. May I also express my joy at being in this Senate for the first time, officially, during this Parliament. I started in this House in the previous Parliament. It is always good to be back here.

The School Feeding Programme provides meals for children in 457 primary schools in Trinidad on a three-day per week basis. Caterers are contracted in various areas to supply meals to schools in accordance with diet sheets provided by the programme. These contracts normally run from September to July of the next year. In other words, they coincide with the academic year of the schools.

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It was found that it was several years since the original tenders for catering contracts were awarded. These contracts had simply been renewed, except where, for one reason or another, someone was discontinued from the programme. During the course of 1992 several complaints were received by persons to the effect that they felt they had not been fairly treated in their bids for catering contracts in the past. A decision was taken, therefore, that instead of simply renewing the contracts of the caterers under the programme, we should use the period to throw the process of award of contracts open to tender so as to ensure that the process was transparent and that all interested persons would have a chance at catering once they satisfied the criteria of the programme.

The process of open tender and competitive bidding proved more protracted and time-consuming than expected. The complete tendering cycle involved the pre-qualification of tenderers, invitations to tender, the evaluation and award of tenders. The pre-qualification process required inspection by the School Feeding officers and the public health officials of all the kitchens of those caterers who applied to be pre-qualified, to ensure that all health requirements were satisfactorily met.

The School Feeding Programme for the academic year, 1992/93, resumed on Monday, November 23, after the awarding of contracts by the Central Tenders Board and the posting of performance bonds by caterers to indicate acceptance of the offer.

There is no provision which will enable the Minister of Education to make interim arrangements for school feeding prior to resumption of supply through the School Feeding Programme. However, some non-governmental groups, community organizations, principals and teachers, were able, to some extent, to assist students in certain schools.

**Sen. W. Mark:** Could the hon. Minister indicate to this Senate how many students are covered by the programme and secondly, could he indicate whether the Government has any intention of expanding the School Feeding Programme to incorporate a wider cross-section of the school population both at the primary and secondary school levels?

**Hon. A. Ramrekersingh:** Mr. President, the number of students covered is 58,000. At the Ministry of Education and at the level of the Government itself, we are looking at ways and means of expanding the School Feeding Programme. The major constraint to expansion, of course, is the availability of funds. But we are

looking at possibilities for expansion and, funds permitting, we will move in that direction.

**Sen. Hosein:** Mr. President, I wonder whether the Minister can indicate whether he awarded any contracts to caterers whose kitchens did not meet the criteria laid down under the School Nutrition Programme.

**Hon. A. Ramrekersingh:** Mr. President, may I say, first of all, that the Minister of Education was not involved, nor took any part in the award of the contracts. That was handled by the Central Tenders Board. In fact, the awards to caterers were made and the Minister of Education did not even ask to see who were the ones chosen. My concern is that the Central Tenders Board have certain authority; they proceed in a particular way and they award tenders to the people who are most competent. My concern is also that those who are chosen perform effectively and efficiently.

**Sen. Prof. Spence:** Mr. President, may I ask the hon. Minister whether there is any provision in the contract that locally-produced food would be given priority. Secondly, is he aware of my proposal during the budget debate for a considerably expanded School Feeding Programme as a development tool as well as a social instrument, as a catalyst to the development of the agricultural sector? And what does he think of it?

**Hon. A. Ramrekersingh:** Mr. President, my understanding is that locally produced food is used as much as is practicable. In fact, one of the regular ingredients is local fruit.

**Sen. Prof. Spence:** Is it in the contract?

**Hon. A. Ramrekersingh:** No. They follow diet sheets which are prepared, and part of the terms of reference is that the nutrition personnel at the School Feeding Programme produce monthly diet sheets which the caterers have to follow.

I am aware, not only of the hon. Senator's call for the expansion of the School Feeding Programme and its integration with agricultural policy in the budget debate recently, but also that similar calls has been made by the Senator on many other occasions.

**1.50 p.m.**

Mr. President, as I said, we should like to expand the programme and quite clearly, it must be tied with things we produce. As the funds become available, we will expand the programme.

**Mr. President:** I believe we have exhausted the replies that are available for the time being. If the Attorney General receives his reply a little later in the proceedings, we will get at it at a convenient time. I do not know if he is prepared to chance his reply from his own personal knowledge of the facts of the case, but I do not want to put him to anything that is not in keeping with his reply.

The reply to question No. 24 will be deferred to a later stage in the proceedings, when it will be more convenient.

*Question put and agreed to.*

**Cynthia Riley-Hayes  
(Injustice)**

**The Minister of National Security (Sen. The Hon. Russell Huggins):** Mr. President, before we move into the motion, I think the answer that the Attorney General was waiting for has arrived. Maybe this is the appropriate time to take his reply.

**Mr. President:** I think the Senate will agree that before we get into the debate on motions and bills, we could allow the Attorney General to reply to question No. 24.

*Question put and agreed to.*

**Sen. Diana Mahabir-Wyatt** asked the Attorney General:

- 24.** Will the Attorney General please state whether he has met with Mrs. Cynthia Riley-Hayes the President of the Industrial Court and the Registrar of the Industrial Court with a view to implementing the recommendations of the Ombudsman in his Special Report, No. 1 of 1992, in connection with the injustice suffered by Mrs. Cynthia Riley-Hayes.

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Mr. President, I have met with Mrs. Cynthia Riley-Hayes with a view to resolving the existing problem. As a result of that meeting a proposal geared to an amicable resolution is being prepared for further discussion with Mrs. Riley-Hayes, and thereafter, with the President of the Industrial Court.

**Sen. Mahabir-Wyatt:** Mr. President, could the Attorney General tell us when this meeting is going to take place? The last time the Senate was addressed on this matter we were told that the Attorney General was going to meet, not only with Mrs. Riley-Hayes, but also with the President and Registrar of the Industrial

Court, and this was to be done shortly. This was two or three months ago. Can the Attorney General give us a more precise idea as to when this meeting is going to take place?

**Hon. K. Sobion:** Mr. President, on the basis of the original meeting I had with Mrs. Riley-Hayes, it seems that there is no real need for me to meet with the President or the Registrar of the court. I did indicate in the answer that I still proposed to meet with the President after the proposal is formulated and discussed with Mrs. Riley-Hayes. So, there may be no need for any further meeting.

**Sen. Daly:** Mr. President, may I enquire whether the proposal that is being made is at variance with the Ombudsman's recommendations?

**Hon. K. Sobion:** Mr. President, the proposal which is being formulated is not at variance with the Ombudsman's proposals. In fact, it contains an additional element.

#### PUBLIC HOLIDAYS

**The Minister of National Security (Sen. The Hon. Russell Huggins):** Mr. President, I rise to move the following motion standing in the name of the Minister of Planning and Development:

*Be it resolved:*

That this Senate consider it expedient that a committee of both Houses be appointed to consider the entire question of public holidays.

Sir, the question of public holidays has lately been raised by different sectors within the community, particularly the East Indian community and to some extent the African descended community. Towards this end, it is to be noted that on November 22, 1990, the then Caroni County Council adopted a motion recommending that Government declare Indian Arrival Day a public holiday and that it replace an existing less significant public holiday.

Subsequent to that motion, the then St. Patrick County Council and the Victoria County Council also adopted motions on January 23 and 29, 1991 respectively recommending also to Government that May 30 be declared a public holiday to be known as Indian Arrival Day.

In that connection the Cabinet by Minute No. 829 of May 2, 1991, agreed, inter alia, that the entire question of public holidays be referred to a Joint Select Committee of both Houses of Parliament. Accordingly, a Joint Select Committee

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of both Houses of Parliament was appointed to consider, *inter alia*, requests by various organizations and individuals for public holidays in Trinidad and Tobago.

The Joint Select Committee commenced consideration of another of its terms of reference, namely, the Report of the Constitution Commission and expressed its intention that on completion of those deliberations it would consider the request made by various organizations and individuals for public holidays in Trinidad and Tobago.

The committee then submitted an interim report wherein it was reported *inter alia* as follows:

“Your committee is of the view that, given the extensive nature of its deliberations and the fact that Parliament is due to be prorogued soon, it would be unable to complete its deliberations before the end of this session and therefore seeks to report progress and recommends that the matter under its consideration be referred to a committee in the next session of Parliament.”

The interim report, Mr. President, was laid in the Senate on October 30, 1991 and in the other place on November 4, 1991. Parliament was then prorogued on November 5, 1991. The Joint Select Committee did not commence consideration of that term of reference to consider the request aforementioned.

More recently, and in particular, on March 24, 1992 the present Cabinet looked into the whole question of public holidays and decided that the same should be referred to a Joint Select Committee of both Houses of Parliament. This matter came before the Lower House sometime earlier in this year and it is now before the Senate for consideration.

**2.00 p.m.**

Mr. President, the Cabinet views the requests made by various organizations on the question of public holidays very seriously. Because of the allegations that are flying all over the place amongst religious organizations as to the question of bias being shown in the selection of public holidays, the Cabinet is of the view that the matter is a serious one which should engage the responsible attention and I stress, “responsible attention”, of a Joint Select Committee of Parliament.

The substance of the motion is not one that should detain us beyond half past two. I beg to move.

*Question proposed.*

**Sen. Wade Mark:** Mr. President, the motion before this Senate as outlined by the hon. Minister, is one that is designed to consider the appointment of a Joint Select Committee of Parliament to consider the entire question of public holidays. Well, this is a frivolous and vexatious matter as far as we on this side are concerned. We feel that the Government, as manifested in the hon. Minister's intervention a short while ago which took a mere five minutes, tells the country and tells us in this Parliament that the Government is not really interested or serious about critical matters affecting our nation. We believe that there are sufficient pressing issues, burning and serious issues, that should really engage the attention of both Houses of Parliament, but the Government, in its normal style—we do not know if it is still tootoolbé from the licks it got in Tobago yesterday; it must be still recovering from that defeat—comes to this Senate after that kind of licking and presents this kind of frivolous motion.

We take strong objection to the abuse of this Parliament by that motley bunch of men and women on the other side. We call on the Government to withdraw this motion. It is irrelevant, frivolous and vexatious in spirit. We do not see any basis whatsoever for this motion being placed before the Parliament at this time. We know that in Trinidad and Tobago while there have been discussions on the question of public holidays, the reality is that at this time the population would be more interested in Government's addressing issues such as unemployment, crime and poverty, destitution and suffering which are now gripping our society rather than abusing the parliamentary process, coming here to seek to get our engagement in a matter that is totally irrelevant at this time given the matters we have to deal with in Trinidad and Tobago.

Our country is sitting on a time bomb, ticking away very quickly and the Government comes with a motion to deal with some select committee of Parliament to deal with public holidays. We reject, oppose and are completely against this motion and as I go down further in my contribution, I am going to propose an amendment. We served notice that we are going to propose an amendment to the Government's motion on this issue of public holidays and we believe in the spirit of co-operation if the Government is serious, it would accept what we are going to propose.

One of the areas to which we feel the Government ought to be paying attention instead of coming to this Senate and speaking about public holidays, is the issue of public accountability. Everyone has been talking. If there is one issue that people are concerned about in Trinidad and Tobago today it is the question of

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Government's accounting for the taxpayers' money. They want to know how it is spent. The issue is not one of public holidays. That is not an issue right now in Trinidad and Tobago. It is not a burning issue that a Cabinet of this country should sit down and discuss, that Government should view so seriously that they come to this Parliament and say, let us have a joint select committee.

We cannot allow this Parliament to be used in that kind of way and therefore we feel if the Government is serious, let us deal with accountability, let us get some information, let the Government move a motion to establish a Joint Select Committee of Parliament to monitor the Government's budget. That is what we are interested in. Not in public holidays. We told the Government that if they are serious, we would co-operate with them. Let us determine how they spend our moneys? How these deals are made with Enron and this scandal at the Piarco Airport.

**Mr. President:** Sen. Mark, as I expected, you are going way off course. We are dealing with a motion to establish a joint select committee on the subject of public holidays. It is either you agree with it or you disagree. I allowed you to indicate certain other things that you have in mind, but you are not going to be allowed to go into detail on those matters. All you had to do was to bring a motion asking that a joint select committee be established on any one, two, three, four, five, six or seven of the matters that you are concerned about. This matter is on public holidays and we cannot debate other matters. It is going to be referred to a joint select committee where the public and Members will have the opportunity to have their views heard. When the report comes back we will go into the issue of public holidays.

**Sen. W. Mark:** We on this side would not be able to support this motion. We will take no part in any joint Select Committee of this Parliament to deliberate on or to discuss public holidays. We want to make that abundantly clear and we serve notice that we are going to propose an amendment which I shall now read. We propose that this motion be amended if the Government wants to seek our co-operation. We would want to insert between the words, "of" and "public holidays", the words "destitution, poverty, suffering, unemployment." Our proposal is in keeping with the spirit of public holidays, because we are talking about public holidays in the context of welfare, and we believe that the issue of poverty and unemployment and the question of destitution and suffering are appropriate matters to be discussed by any joint select committee that is interested in the population and its welfare.

Mr. President, as you would be aware, if the Government is concerned with the issue of public holidays it is either that it is saying we have too many of them or too few, or we want to introduce new ones and get rid of others. That is all part of the public welfare and therefore in this context we want to add a slight amendment to the motion and hope that the Government side would accept it. Only in those circumstances would we be able to serve on this committee. And the amendment, as I said, is to insert between the word "of" and "public holidays" the words "destitution, poverty, suffering, unemployment". We believe that there is a link between those four words and "public holidays".

I shall not detain you further, Mr. President. I thank you.

**2.10 p.m.**

**Mr. President:** Would someone second the amendment?

**Sen. Capildeo:** I second the amendment.

**Mr. President:** Hon. Senators, the amendment proposed by Sen. Mark and seconded by Sen. Capildeo is as follows:-

"Insert between the words, "of" and "public holidays" the words, "destitution, poverty, suffering, unemployment".

It would read:

"That a committee of both Houses be appointed to consider the whole question of destitution, poverty, suffering, unemployment and public holidays."

**Sen. Huggins:** Mr. President, whilst I am prepared to forgive Sen. Mark for that proposed amendment, I can in no way forgive Sen. Capildeo for compounding the error by seconding it. I should have thought that with his years of experience behind him, as an Attorney, he would have taken cognizance of Standing Order No. 31 (1) which states:

"When any motion is under consideration in the Senate or in a committee thereof, an amendment may be proposed to the motion if it is relevant thereto."

I fail to see the relevance of the proposed amendment to a motion specifically to deal with public holidays. I do not see what destitution, suffering, unemployment and poverty have to do with public holidays.

**Mr. President:** The amendment contravenes the Standing Order.

**Sen. Huggins:** You have just taken the words out of my mouth.

**Mr. President:** I did not want you to make a second speech.

Hon. Senators, the Minister of National Security has made the point that the amendment proposed by Sen. Wade Mark contravenes the provision of Standing Order No 31:

"...an amendment may be proposed to the motion if it is relevant thereto."

I agree with the point taken by the Minister of National Security. The amendment does contravene the Standing Order and is therefore out of order.

I reiterate my suggestion to Sen. Mark. He can feel free at any time to bring a motion before a select committee of the Senate, or a joint select committee of both Houses to consider any one of the matters he wants to raise.

**Sen. W. Mark:** The hon. Minister of National Security did not justify the basis of irrelevancy. He just said it was irrelevant. I think we need to have some clarification on that. We believe it is relevant.

**Mr. President:** The President has ruled.

**Sen. W. Mark:** I know the President has ruled. I am saying that you ought to justify the matter.

**Sen. Prof. Spence:** Mr. President, I confess that I would not feel it worthwhile spending my time on this sort of committee at this time.

Certainly, there are several very important issues which came out of the budget debate which I think we can spend our time on. Quite frankly, I too, feel at this time that this matter could be dealt with in another way.

I would say that I found it was not possible to set up the select committees which are in our Standing Orders, because I believe it is suggested that since we are part-time we do not have enough time to spend on these matters. I find it passing strange that we should be able to find the time to spend on a matter such as is proposed in this motion.

I would refer the hon. Minister to the amended Standing Orders of this Senate which set up seven committees, one of which could have dealt with this matter in the course of its normal activity.

Thank you.

**Sen. Hydar Ali:** Mr. President, I came here with the intention of mentioning certain things but having heard your ruling and other discussions, I have to be guided by what you might say when I start to speak.

I had used the precedent in an earlier debate when the Report of the Elections and Boundaries Commission came before us. I noticed that people simply looked at the election in Tobago and went on to talk about it without dealing with the actual recommendations made there.

Based on that, I thought this motion was up to the same sort of debate. Whether substantive debate or not, you feel free to rule on whether what I intend to say should be said at a later stage or not.

**2.20 p.m.**

Mr. President, in supporting the motion before us, I should like to take the opportunity to raise some issues which might be of interest to the Senate and the nation as a whole. The first of these concerns the determination of the date of the public holiday, Eid-ul-Fitr. Every year there appears to be some uncertainty about the exact date of this holiday and this invariably causes anxiety among our citizens especially, I think, our businessmen who would prefer having this information long in advance. Mr. President, I give you the facts surrounding Eid-ul-Fitr.

Eid-ul-Fitr is celebrated on the first day of the next month after Ramadan. As the Islamic calendar is based on the lunar year, the months are determined by the appearance of the new moon. These lunar months are either of 29 or 30 days duration, so that on the evening of the 29th day of any month the new moon can appear. If it does not appear, the current month is deemed to have 30 days and any attempt to look for the new moon on the 30th day is purely academic at that stage. Hence, the inability to determine exactly the length of each lunar month causes the delay in announcing the Eid-ul-Fitr holiday. The birth of the new moon can be determined in advance but this fails to satisfy the Islamic requirement—as interpreted by the majority of Muslims in Trinidad and Tobago—that the moon be actually seen. This latter event, is usually adversely affected by climatic conditions on the day in question. Can one not look at another event to be granted that status.

Mr. President, Eid-ul-Fitr is one of the two festivals in Islam, the other being Eid-ul-Adha or the Festival of Sacrifice. I would like to recommend that a public holiday be granted for Eid-ul-Adha, which is commemorated on the 10th day and

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not the first day, as is the case with Eid-ul-Fitr, of an Islamic month. This move has two advantages; firstly its date can be determined nine days in advance and, secondly, and perhaps more importantly, Eid-ul-Adha is considered the bigger Eid and hence more important than Eid-ul-Fitr.

The other issue, Mr. President, is a more vexing one and it deals with the status of the so-called Hosay Festival. I refer to Hosay in this context as both public holidays and festivals are governed by the same Act.

The activities connected with Hosay in the various parts of the country have absolutely nothing to do with Islam and Muslims. This festival purports to celebrate the martyrdom of the grandson of the prophet Muhammad, but it is merely coincidental that the martyrdom coincides with the 10th day of the Islamic month, Muharram, which is the day of Ashura, a day that is sacred to both Muslims and Jews and has its origins in the life of Moses.

As I said earlier, there are only two festivals in Islam and there is no room for another festival, certainly not one like Hosay, which represents everything that is unislamic.

I strongly recommend that the Government and its agencies, especially the Tourism Development Authority, refrain from proclaiming that Hosay has anything to do with Islam. I mention the TDA, in particular, because there is a report on page 15 of the *Sunday Express* dated December 6, 1992 which mentioned a big programme in St. James and which says:

"We need to have some big event happening every single month, and that is what the St. James plan is all about, to take advantage of Hosay, Carnival, Christmas and the like."

Not only would I recommend that the Government refrain from associating Hosay with Muslims and Islam but, in particular, I would ask the media that it so refrain because it is really annoying for us year after year when we see these pictures of this nonsense in the newspapers purporting to have to do with Islam. We have to be a little more sensitive to one segment of the community, and I think one way we can do that is to disassociate Hosay from Islam. It is some sort of festival, but I say there are only two festivals in Islam, and there is certainly no room for the Hosay festival.

I temper my remark a bit both in tenor and length because of your earlier ruling, Sir. At this stage I leave my further comments for another time. Thank you very much.

**Mr. President:** Nothing in my ruling would have prevented what you said from being said.

Would anyone else like to speak?

Before the Minister replies, I think that Sen. Spence referred to the amended Standing Orders dealing with joint select committees, which I believe is No. 72, and which says:

"At the commencement of each Parliament, the Senate with the concurrence of the House of Representatives shall appoint the following joint parliamentary committees..."

and listed a whole number. These Standing Orders were amended in the Senate, but there is an old saying "one hand does not clap". They never amended its Standing Orders to include this provision, and a joint select committee means a Joint Select Committee of both Houses.

So as of now, and until such time as both Houses have provision as contained in this amended Standing Order in the Senate, we shall follow the well laid down procedure. There is adequate provision in the Standing Orders of both Houses, since 1961, for the appointment of a joint select committee on anything. As a matter of fact, there was a time when the Public Accounts Committee was a select sessional committee of the House of Representatives only, because the elected House always guards jealously its rights in matters of finance. They used to meet regularly and submit a report at the end of each session, because if they did not the matter would lapse. Since we have these joint select committees of both Houses, since 1976, the thing has turned the other way and it is sometimes difficult to get one report in the life of a Parliament, whereas we used to get a report every session.

What I wanted to point out is that in 1971, when there was no Opposition, the Standing Orders were amended. They suspended the provision of the Public Accounts Committee being a sessional committee of the House, and moved, very legally, in accordance with the Standing Orders of both Houses that a joint select committee be appointed to consider the Public Accounts, and that the Chairman should come from the Independent Benches in the Senate. Of course, everybody knows that the Chairman of the Public Accounts Committee by tradition is a Member of the Opposition and is responsible for calling meetings. I just want to point this out to you.

Does the Minister wish to reply to this?

**The Minister of National Security (Sen. The Hon. Russell Huggins):** Mr. President, in keeping with my promise that this will be dispensed with by 2.30 p.m., I just want to respond briefly to a statement made by Sen. Wade Mark about the Government not being serious, and that this is a frivolous motion.

Those on the UNC Benches always seem to blow hot and cold at the same time. This was a matter raised by UNC Members on the Caroni County Council. It was their motion. It was the then Member for Oropouche who moved a similar motion in the Lower House as recently as 1991. Suddenly, it is no longer serious.

**2.30 p.m.**

Mr. President, let me explain to you why we believe this is serious. You see, there are certain elements in this country who are seeking to engender racial disharmony in this country. Listen to this motion, Sir.

“Whereas people of East Indian origin comprise a very large percentage of the population of Trinidad and Tobago and have since their arrival in this country contributed most significantly to the physical, social and economic development; and

Whereas in recognition of similar contributions and remembrance liberation of our people of African origin, Emancipation Day was declared a public holiday and rightly so...”

They go on. So that if it could be done for one ethnic group it could be done for another.

This Government has always stayed far from this question of race. We are prepared to treat everyone equally. I said in moving the motion, that the Government views this matter very seriously for the principal reason that people are going to use the granting of holidays for special religious occasions as some attempt on the part of Government to discriminate in this country.

Mr. President, we believe that this matter is—

**Sen. Prof. Spence:** Mr. President, would the hon. Minister say whether the creation of previous public holidays like the one he just referred to resulted from a joint select committee of both Houses?

**Hon. R. Huggins:** My youth in Parliament prevents me from answering that question, Mr. President, but I shall endeavour to acquire that information to answer my friend.

Notwithstanding that, I believe the whole question of public holidays is, in fact, a national issue and should be dealt with at the highest level of national representation, which is the House of Parliament.

Before I take my seat—I see I have gone over by one minute—let me commend Sen. Hydar Ali on his comments and I would let him know that the Government will take note of them.

Mr. President, I beg to move.

*Question put.*

The House divided: Ayes 17, Noes 6

**AYES**

Huggins, Hon. B.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Ojah-Maharaj, D.

Elder, Miss J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, R.

Hassim, A.

Mansoor, M.

Rooks, J.

Ali, H.

Dean, E.

Mahadeo, C.

Teelucksingh, Rev. D.

**NOES**

Mark, W.

Capildeo, S.

Baksh, S.

*Public Holidays*

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Merrit, C.

Kwabene, R.

Hosein, M.

*The following Senators abstained:* Prof. J. Spence, D. Mahabir-Wyatt, M. Daly.

*Question agreed to.*

*Resolved:*

That this Senate consider it expedient that a committee of both Houses be appointed to consider the entire question of public holidays.

**TAX APPEAL BOARD (AMDT.) BILL**

*Order for second reading read.*

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):**  
Mr. President, I beg to move.

That a bill to amend the Tax Appeal Board Act, Chap. 4:50, be now read a second time.

Essentially, Sir, the bill seeks to eliminate certain difficulties which have become apparent in the operation of the Tax Appeal Board, particularly in relation to the appointment of the chairman of that board and consequential matters, such as remuneration of the chairman.

In dealing with the problems which have surfaced, the bill also provides for a validation provision in relation to the appointments of persons who may have been appointed as chairman of that court from after August 1, 1976.

The opening clauses of the bill, clause 3, deals with those two aspects: the appointment of the Chairman and the Vice-chairmen, and subsection (b) of clause 3 deals with the validation of the appointments of persons who were appointed to those positions after August 1, 1976.

Whilst there may be some concern as to the validity of acts done by the court over that period, I want to point out that by reason of clause 4(8), the validity of the proceeding of the board is cured by the existing legislation. So that one only has to deal with the validation of the appointments of persons and not the acts done by those persons who were appointed.

As a supplemental matter the bill also, at clause 4 deals with the question of pension provisions for the chairman of the board.

There is at clause 5 an amendment to the Constitution (Prescribed Matters) Act which is merely to delete the chairman of the board from the list of persons contain in the Second Schedule of that Act as being persons falling under the Salaries Review Commission.

The need for this bill came about because of uncertainty as to the status of persons holding the post of Chairman and Vice-Chairman of the Tax Appeal Board. This has arisen because of certain provisions in the Republican Constitution of 1976 and it is not certain whether they are public officers or whether they fall outside the scope of public officers.

It is for that reason that we have come with this amendment to ensure that a proper arrangement is in place for the appointments of those persons and that proper provisions are made for their pension rights. I may point out, in relation to the pension rights, that the Chairman of the board enjoys the same remuneration as a judge and under the present legislation, because, by reason of section 5 of the existing Act—and I will read the relevant provision, Mr. President. Section 5 (6) says:

“The offices of the Chairman and Vice-Chairman of the Appeal Board are pensionable officers for the purposes of the Pensions Act.”

Because of the doubt now cast as to whether they are public officers at all, it is now necessary to make new arrangements for their pension facilities.

What we have done with respect to the Chairman is to amend section 5 at subsection (2) by deleting “(other that provisions relating to pension )” so that it will now read:

“The other conditions of service of a Judge of the High Court shall also apply to the substantive Chairman.”

The words being deleted there are “other than the provisions relating to pension”. In addition we are repealing subsection (6).

Insofar as the Vice-Chairman is concerned, one does not have to make specific provision for his pension arrangements by virtue of section 5(3). Such arrangements can be put in place by an Order of the President.

Section 5(3) says:

“Such other conditions of service shall be applicable to the Vice-Chairman and ordinary members of the Appeal Board as may be prescribed by order of the President.”

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[HON. K. SOBION]

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I may say that the Tax Appeal Board has performed a very useful function over the past few years. I think it is important because of the status which the Chairman holds to ensure that no question can be raised with respect to the validity of that appointment. Again, because of the status, I think it is also imperative that we ensure that proper arrangements are made for the pension benefits due to persons holding that office.

Mr. President, a matter was also brought to my attention when it was raised informally by Sen. Daly earlier today. And that is exactly why there has been no appointment made to the post of Vice-Chairman. In making the point that the Tax Appeal Board has provided very useful service to the country over the past few years, I have been able to discover that one of the reasons why no appointment has been made up to now is that it appeared in the initial stage that the board did not have a very high volume of work. The board members turned over and it was not thought necessary to make an appointment to the position of Vice-Chairman.

It however now appears, in communication which I have received from the Registrar of that court, that consideration will now have to be given to making the appointment to the post of Vice-Chairman because the board is now finding itself caught with a serious—I should not say serious—a growing backlog and, in fact, the members are now dealing with matters which were filed in 1989. That is a serious change from its original position, when they were able to expedite matters more quickly.

In this connection as well I may indicate as a signal to Senators that the Registrar has also indicated to me that there are certain procedural changes which he would like to see implemented which will also deal with what is now a growing backlog in that court.

Mr. President, in moving the second reading of this bill I want to commend it to Senators on the other side and Independent Senators. Even though it is a small piece of legislation and a small amendment, it deals with matters of fundamental importance to persons who occupy those particular positions.

Mr. President, I beg to move.

*Question proposed.*

**Sen. Surendranath Capildeo:** Mr. President, once again, my dear friend, the learned Attorney General, came to this honourable Chamber with titillating titbits of legislative trivia. One can almost imagine him as the local version of

Shakespeare's Henry V at the head of his loyal troops of amending legislative officers charging into previous defective PNM legislation declaring I once more unto the breach dear friends once more; I come to his Parliament to plug yet another loophole in our laws.

The legislative ship of this country looks as if it would sink unless, week after week, some bill is brought to this Senate to plug it. It seems as if previous PNM legislation is like a slab of Swiss cheese filled with holes. They had better go back through all of the old PNM legislation. Here we are—I was trying to unravel it—being asked to resolve a meat little conundrum: When is a public officer a judicial officer, or when is a judicial officer a public officer? Or is a public officer a species of judicial officer or maybe a judicial officer comes from the genes of a public officer. Are these officers capable of intermarriage, or does the law of consanguinity prevent the marital relationship?

Mr. President, how deeply philosophical we could get with this sort of amendment. The real problem which the hon. Attorney General touched on is that the whole constitution of the Tax Appeal Board seems to be in some doubt. Because the two posts are appointed by the Judicial and Legal Service Commission, which have the powers to appoint such officers by virtue of section 11(1) of the Constitution.

These posts, Chairman and Vice-Chairman, are analogous to a judicial position and they are not public officers. So here we have the genesis of this amendment. It is a serious problem, because what it means is that until the date of this amendment, all decisions of the Tax Appeal Board will be rendered null and void. I do not know; it is for my learned friend to advise the country on that.

The crux of the matter is, when the time is taken to come to this honourable Chamber with amendments of this nature—it is a point I have made before—why could the department not look at what is really taking place in the Tax Appeal Board and come here with solutions to solve other related problems at the same time?

My information is that the board is at present hearing matters which have been filed since around the middle of 1990 and predicts that by the end of 1993 most of the 1990 matters would have been completed. The statistics show that, on an average, about 200 matters are filed each year, but we have a litigation-conscious public and in the last two years there has been an increase to around 400 matters filed with the Tax Appeal Board each year.

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Statistics also show that in 1990, 402 matters were filed, 90 matters determine. In 1991, 310 matters were filed, 211 determined and the statistics are not quite accurate in that matters filed in 1985 may be determined in 1990. So you cannot predict exactly how many are determined in any one year; you can only determine an average.

The problems which surface at the Tax Appeal Board, I am informed, and I am subject to correction, are quite capable of being handled. They can hear all the appeal matters which come before them, but the problems are those experienced at the Inland Revenue Department and, that is to say, that the Inland Revenue Department suffers from a lack of staff. There are about five junior attorneys when there are supposed to be about seven, plus a legal head of that section. There also is a serious lack of support facilities at the Inland Revenue Department. So when they do not perform adequately, the Tax Appeal Board is affected immediately.

The point I am trying to make is that when we come to Parliament with these amendments, somebody should have been looking at the surrounding situation to see what was going on in the relevant department and what could be done to ease the situation. As has been said, there has been no Vice-Chairman. There was only a Chairman and I am told that the only complaint they had was lack of space and they need a vault. The learned Attorney General could look into that aspect, that the board needs a vault.

Also, we have a peculiar situation in Trinidad and Tobago. Anybody, including myself, can lodge an appeal and not have to pay tax until the matter is determined. So what could take place is that you have several appeals being lodged with the Tax Appeal Board which are merely for the purpose of delay, without any merit. So maybe the Attorney General could look at the situation where—and I stick my neck out on this, because I might be involved in it too—a person would pay tax first and then seek the appeal.

In Guyana and Jamaica I understand that the practice is you pay half the amount, then you proceed with the appeal. But here the peculiar situation is that the Board of Inland Revenue must file its statement for claim against the individual and 10 the individual responds. So unless the board is beefed up—that is a bad worked for a Brahmin to use—unless you strengthen the Board of Inland Revenue so that it can perform satisfactorily, you really are plugging that Tax Appeal Board. Again, I invite my friend the learned Attorney General to look at the whole area and not merely at the titbits. Come here with a larger piece of legislation where we could solve problems that are affecting the community.

Another aspect which I am told should change is the question of filing fees. Maybe the learned Attorney General could look into that aspect—the question of raising funds.

The amendments is not one which we can oppose. It is something which should happen automatically. Again, however, I make the plea that before the Government brings this sort of amendment, which really is a technical amendment which affects the livelihood of the people who are in the positions, the relevant authority should look at the entire surrounding situation and come up with solutions rather than come with these piecemeal bits of legislation, attempting to plug loopholes, because there are loopholes.

Mr. President, I would urge that in the future the learned Attorney General have his officers look at the entirety of the situation, draft amendments which would take care of a whole sea, rather than come here and occupy our time until 3.30—Mr. Minister of National Security, when we will be all over?

**Sen. Huggins:** Six o'clock.

**Sen. Capildeo:** There should be a cohesive and comprehensive amendment dealing with the problems, and this should be brought to this Senate so that we can look at it, we can make our recommendations and we can solve the community's problems, rather, Mr. President, than doing it in such a piecemeal fashion.

I thank you, Mr. President.

**Mr. President:** It seems as though the debate is finished.

I have much patience, but I may shock people sometimes. Does anyone else want to speak on that side—Front Bench, or Back Bench, please stand.

**Sen. Wade Mark:** Mr. President, in addition to what we have said here, we should like the hon. Attorney General on this very important amendment to the Tax Appeal Board Act to indicate to us and to the country what has been the performance, in his own judgment, of the Tax Appeal Board over the last 15 years.

Here it is we are being asked to approve amendments to regulate the appointment of the Chairman and the Vice-Chairman of the Tax Appeal Board, as well as to provide the Chairman with an appropriate pension, equivalent to a High Court Judge. Whilst we have no difficulty which the amendment in principle, we should like the Attorney General to give the facts before him. What has been the performance of the Tax Appeal Board? How many cases have been heard and determined by this board over the last 15 years. How many cases remain outstanding? What has been the effect on the Government's revenue stream?

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We should also like to find out from the Attorney General how many cases have gone before that board above the \$5 million mark and how many cases have been before the board under the \$20,000 mark. We should like to have some clarification and information from the Attorney General on this matter.

**3.00 p.m.**

Mr. President, if we look, for instance, at the Review of Fiscal Measures for 1992, we would realize that as far as taxes on properties are concerned, the Government has been receiving less and less annually.

In 1992, for example, the Government estimated that it would have received about \$50 million worth of taxes from property. It realized at the end of the day, \$40.5 million, a difference of \$9.3 million and I am certain if we go back to the various years we would see that the Government has not been receiving taxes from property on a regular basis at the level and scale that it has budgeted for. We on this side, wonder whether the Tax Appeal Board is being used conveniently by some employers in order to deny the state considerable revenue.

We are concerned about this matter because we know that under the law, if you query your assessment, you have to file an appeal with the board. You also have a right to go, if you are not satisfied, to the Appeal Court and, as my hon. friend indicated, in Trinidad and Tobago we have a strange practice where once you appeal, you do not pay tax. In Guyana and Jamaica, it is 50 per cent—you make a down-payment of 50 per cent. We feel that this is an area we ought to look at, because what you may find is that persons who are appealing their cases are owing the state millions of dollars and, as you know, Mr. President, cases take some time at the Tax Appeal Board and when they go to the Appeal Court. Therefore, what could be taking place slowly is a situation in which the revenue stream of the Government could be affected. This is why we wanted to get from the hon. Attorney General what has been the impact on the Government's revenue stream through the operations of this important Appeal Board.

We are talking about taxation here and the Appeal Board and sometimes we ask ourselves the question: In this particular amendment, where the Government is seeking to regularize the pension of the Chairman as well as the Vice-Chairman, retroactive to 1976 in order to ensure whatever link that was missing—lacuna—a word sometimes used by the Attorney General—we should like to find out from the Attorney General what is the basis of the retroactivity in terms of pension. We should also like to find out who are these people involved.

Why has it taken the Government of the day so long to recognize that there was an error in this particular matter? It is only in 1992 that this error is discovered. As I said, we have no objection to the suggestion of the pension and to the rectification of this problem, where the President of our Republic will now be appointing the Chairman of this Board, whereas the Judicial and Legal Service Commission used to be doing that particular assignment before the whole question about the validity of these appointments became critical; and there is doubt as to whether, for instance, acts committed by the board between 1976 and the present time could not be legally challenged in the High Court, or courts of Trinidad and Tobago.

Mr. President, while it is a very honourable task for the Attorney General to come here and seek to regularize the pensions of the Chairman and Vice-Chairman of the Tax Appeal Board, you might not be aware but there are thousands of workers in the public service today who are public officers and who are defined as temporary public officers and they are denied their retirement benefits. We should like the Attorney General when he is coming here with legislation to try to deal with all these problems. There are workers in the public service today who are holding temporary posts in excess of 15 years and they have no retirement benefits to enjoy.

There was an agreement in 1977 between the CPO and the Public Service Association, but we are talking about the rights of people. We are saying that the same way the Attorney General could come here and address this question of pensions for the Chairman and Vice Chairman, we believe it is important for him to address the question of temporary public officers because, from what we understood, Sir, there was agreement in 1977 between the CPO and the PSA on this matter, but the authorities have interpreted that agreement in their own way. What they have said, in essence, is that those persons who have been employed in the public service in a temporary capacity, but who fill a permanent position and through administrative or bureaucratic blunders or delays have been denied a permanent appointment, when they retire they get their benefits which would be gratuity and pension. But those who are temporary officers in temporary positions are denied.

I am appealing to the Attorney General and the Minister in charge of Public Administration to look into this question, because we think it is unfair for public servants and workers in this country who have given their lifeblood to this country to be denied and engaged in a run around on this issue. The same situation is affecting postal workers. They went on a two-day sick out recently. They are in the service for years, not being permanently appointed. We believe that these are

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areas where, if the Attorney General is interested, he should not come to the Parliament with a simple piece of amendment, or an amendment simply to address an issue affecting two officers in the public service, but try to address the outstanding issues affecting workers generally in the country and, particularly, those workers who are involved in the public service.

We feel that if the Government is going to backdate this matter, owes the Senate some explanation. We know that the present Chairman or Chairperson of that committee is Ms. Monica Barnes. We do not know, for instance, how long she has been there. Now, if you are backdating this legislation to 1976, Ms. Barnes could not have been there then. So if the Government is regularizing the pensions of persons who served in the capacity of Chairman or Chairperson, I think the Attorney General owes it to this Parliament to give us an appreciation of who these beneficiaries are going to be. It is a pity that our accountant friend is not here today. We should like to have some clarification on this matter, Sir.

We talked about the Tax Appeal Board and as my friend indicated to you, there are some problems with the Inland Revenue Department because there is a close link between the Tax Appeal Board and the operations of the Inland Revenue Department. If the Inland Revenue Department is not providing the kind of back-up services to the Tax Appeal Board, then the Tax Appeal Board could be in some difficulty and, therefore, we really have to focus now on whether we need a Tax Review Board. Maybe we need a Tax Review Board to review the operations of the Inland Revenue Department.

**3.10 p.m.**

Mr. President, you would know that every year loyal and dedicated citizens file their Income Tax Returns on time. If they file it later than the stipulated time, they are charged interest.

This Government has been denying thousands of citizens their legitimate refunds. In 1992 you are supposed to get your 1991 refunds. I know of instances where thousands of people are still awaiting their tax refunds from the Government. They need to address that as well. Is the Inland Revenue department short-staffed, or is it a question of limited water in the barrel; the Government does not have money, and therefore it cannot issue cheques? But people are really under pressure and they look forward to their little cacada in the form of income tax refunds on an annual basis. Workers have, in fact, approached me on this particular question.

What we are arguing on this side is that maybe the time has come to establish a tax review board, because we cannot understand why, for instance, a very powerful corporation in this country, Amoco Trinidad Limited, pays \$74,000 in lands and buildings taxes. We do not understand this. In water rates they pay \$100,000, while small businessmen are being closed down because WASA is charging them a kind of rate that they cannot sustain.

Thousands of small businessmen face the threat of going out of business. Taxes for some seem to be low while taxes for others seem to be extremely high. So this is why we are arguing on this side that the time has come for the Attorney General to advise the Government to establish a tax review board. We need to review the kind of unfairness and injustice that is being meted out to people in the country as a result of the present taxation regime and the way they arrive at how much rates and taxes people pay.

We do not understand why, for instance, large companies pay little or nothing, both in building and land taxes and in water rates. Maybe if we establish such a board in this country, we could look at the 20-year natural gas contract, review it to determine why, for instance, one company can leave this country with about \$14 billion in 20 years and we the people of this country who are responsible for the natural gas receive only \$60 million.

**Mr. President:** Does the Tax Appeal Board deal with taxes other than income tax?

**Sen. W. Mark:** Yes, Mr. President, a number of taxes. They review lands and buildings taxes. Apart from income tax they deal with property taxes and building taxes.

The question of the assessment is critical here, because if a businessman believes that he has been wrongly assessed by the Inland Revenue Department in terms of \$2 million or \$5 million he can appeal. Income tax is part of it, but there are a series of taxes that one can appeal. If one looks at the Lands and Buildings Taxes Act, one would realize that under that Act one can appeal to that Tax Appeal Board. It is there in the Act. I saw it there this morning in reading so I am aware of it. It is not only a question of income tax. The Tax Appeal Board does not only focus on income tax. If I am wrong, let the hon. Minister of National Security, who I understand never practised in a court in his life, tell me that I am wrong.

All we should like to say on this matter is that we are in support of the amendment that is being proposed by the Attorney General. We believe, as he

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said, and he has always repeated, that there was some lacuna in this particular Act and he is now seeking to address it. Imagine, this thing is going back to 1976, some 16 years, and this Parliament is being asked to engage in retroactive legislation both in terms of pensions and, of course, validating all the acts done by the Tax Appeal Board. We are asking, simply, that if you want us to support you retroactively, let us get some information.

This Tax Appeal Board works like some kind of secret service in the country. We are not aware of reports coming to this Parliament. Maybe the Attorney General can tell us if they are compelled by law to provide this Parliament or the Government with report, so that we can see what is happening. Because that is a court, I will tell you, small people do not go there; it is the big shots. This is why we want to get from the Attorney General, how many cases—20,000 and less have been filed with that Appeal Court over the last 15 years, and how many over \$1 million and over \$5 million. Then we would be able to see who really goes to that court, and why when they go, they are denying the Government and the state money. Because if you take 10 years to hear an appeal, they do not pay taxes. I am saying that the time has come when they must make a downpayment. That is what we are arguing here.

We should like the hon. Attorney General to provide us with some clarification on some of the matters which we have raised. We will not, as I said, oppose the amendment that he has put forward here. It is long overdue, since 1976—but we should like him to address that issue. In winding up, he could tell us what the Government is going to do about those public servants, those thousands of workers who have given their lifeblood and who are still being denied their retirement benefits because of some kind of misinterpretation of the Act. Act 14 of 1980 is the Act that the relevant authorities use and misinterpret in order to deny temporary workers their retirement benefits. I think that the time has come when the hon. Minister ought to really address that question and at least give the population, particularly public sector workers, some kind of reassurance that the Government really cares, put to rest that question of misinterpretation so that those temporary workers could enjoy the benefit of their service to this country.

As I said, we will support the proposed amendment to the Act and we ask the hon. Attorney General to provide us on this side with clarification and information on this Tax Appeal Board and its operations and, as I said, matters which have gone before the board over the last 10 to 15 years. Thank you very much, Mr. President.

**Sen. Carol Mahadeo:** Mr. President, I did not really intend to make a contribution at this time, except to support the Attorney General's amendment, but after hearing my colleague Sen. Wade Mark I thought I ought to just give of my experience, because I happened to have had the honour in 1970/71 to be the Registrar of the Tax Appeal Board under the chairmanship of the then Justice Cecil Kelsick.

As I remember it, in my two-year period there, that board was beleaguered with many matters, and as the Senator pointed, not only income tax matters, but matters from, what you call, the corporations, things like your house and land and water rates and so on. Not only the "big people" were the ones that were coming. I think Sen. Capildeo's father was among those who had at the time, appealed—I am not giving out confidential information—so did our former parliamentarian, Lionel Seukeran, people who had lands and so forth in various parts of Trinidad, and they were appealing against taxes which they considered excessive.

**3.20 p.m.**

There were also very poor, down-to-earth individuals who thought that they were unfairly assessed and they too brought their matters before that board. So, it was not only the large corporations and big men only. There were these normal, everyday, poor citizens, and theirs was really the problem of getting their matters moving on as quickly as they could.

The question of the Vice-Chairman, I think that is an important position and it ought to be tackled and an appointment ought to be made. I ask the hon. Attorney General to address that question of having the vice chairman appointed. Actually, these people are called public servants and, as I said, they are between fowl, fish and beast; we do not know which. Because on one hand they are called public officers and on the other hand, they are under the Salaries Review Commission. I know their perks used to be that for all judges of the Supreme Court, but as to the other terms and conditions of service, I do not know. However, I imagine that now that the Attorney General has said they will try to put them within the purview of the Salaries Review Commission, they will.

I am happy about that because their pensions and other things which are now going to be addressed, ought to have been addressed a long, long time ago. I felt very sad to know that Madam Justice Monica Barnes' name had to be called. Actually, it was long before her time that these conditions were operating, and she is just one of those who have come lower down the ladder in time. She is just as

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much entitled to having her pension and so forth reviewed as were the others who went before her.

**Sen. W. Mark:** Mr. President, on a point of clarification. I did not call Madam Monica Barnes' name in any derogatory way. I simply drew reference to the fact that she is the current chairperson. I think the Senator interpreted me as being derogatory. I want to disabuse her mind of any such thing. *[Interruption]* No, I did not imply that, and I make it very clear.

**Mr. President:** No argument about this, please. I am quite satisfied of the way Sen. Mark made his remarks. I would have pulled him up if I thought otherwise.

**Sen. Mahadeo:** Mr. President, I am not saying that he was derogatory in any way. What I was trying to clarify is the position of these people who are coming down the ladder of time. I sincerely believe that these people do the type of jobs that entitle them to have the review done for them now. I am very supportive of that. I am very happy that the Attorney General is looking into this aspect of it to see that a good determination is made of it.

Thank you.

**Sen. Martin Daly:** Mr. President, I had hoped not to have to speak on this bill, but I am a little concerned about two things. Firstly, I must say in passing that I have been forced to rise as it really baffles me that if we all come here to support a bill, why we take so long over it. But I suppose that is the way of politics.

What I am concerned about is that when we fire scatter shots, as has been done in the course of this debate, in my respectful view, things get a little out of proportion, and as someone who practises there, I should just like to correct a few impressions, derogatory or otherwise, that have been created.

Mr. President, I support this bill and may I just say that my information is that the Tax Appeal Board, at present, takes two to three years to dispose of a matter, which by the standards of some other courts in this country, is quite good. My information also is that they have no outstanding judgments, which is more than quite good. It is quite brilliant to be in a position not to have any outstanding judgments. As the Attorney General has pointed out, a Vice-Chairman needs to be appointed urgently, otherwise they will begin to have a backlog.

I am concerned about the suggestion that revenue is slipping away from the country because of the lack of a tax review board, or any suggestion that it is the

business of the Tax Appeal Board to collect revenue for the Government. That is not their business at all, and I want to make that absolutely clear.

I am also concerned that it is not understood that quite apart from any suggestion of a tax review board, the Inland Revenue Department has a division called the Objections Division, which is the first port of call for the aggrieved taxpayer. My information is that the Objections Division is not performing well and is, in fact, not making any real attempt to perform that sifting operation. That is what is causing the dramatic increase in the number of matters going to the Tax Appeal Board. That is a linkage which the Attorney General and the Minister responsible for Public Administration need to examine—whether the Objections Division is functioning efficiently.

Mr. President, it is no part of the job of the Tax Appeal Board to collect revenue for the Government. That is the job of the Inland Revenue as a whole, and if there is some suspicion that someone is not meeting his tax obligations to the country, that is a job for the Audit Division of the Inland Revenue. In that context therefore, it is quite wrong, in my view, to suggest that the Tax Appeal Board needs to report to the Government. It would be a very sad day if a superior court of record has to report to the Government.

Their job is to provide a safe haven to which aggrieved taxpayers, large and small, can appeal against the acts of the Government. That is why the Tax Appeal Board is there as a superior court of record to entertain those appeals. So, I should just like to put that in its proper perspective. Indeed, so far as oil companies are concerned, I believe the Inland Revenue has a specialist division called Oil Audit, which focuses exclusively on the business of oil companies.

So, once these things are properly understood, in my respectful view the Tax Appeal Board, whose record is very good, deserves our support in this particular piece of legislation. We cannot always interpret things in precisely the same way, therefore, since there is some suggestion that the personalities involved in this board are relevant in some way. May I just say that part of the distinguished history of this board is that it has been in operation for 26 years. The chairpersons have been Mr. Cecil Kelsick who eventually became Chief Justice; Mr. Herman Besson, Queen's Counsel, who eventually became a High Court judge; Mr. Justice Koylass who is still serving on the High Court Bench, and the present chairperson. Perhaps, it is a reflection of how judicial appointments were made in those days, that this board has been so successful.

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So, I just make the point that these are the persons whose pensions we are dealing with in the pension section of this Bill. Indeed, Mr. Justice Besson is deceased, so if anyone has anything to benefit from this legislation, presumedly, it would be his widow. So, I do not quite understand why it is important to look at the personalities in relation to this bill. I should like to just put that too in its proper perspective.

I support this bill and I suggest, very emphatically, that if there are any deficiencies in revenue collection in this country, it is the business of the appropriate divisions at the Board of Inland Revenue. The Tax Appeal Board is there as a haven to which persons can appeal. It certainly has been my experience that the litigants who go there are of all walks, classes and income levels in the society. This board has functioned well and there is no need to interpose any other agency. What is required, if anything, is for the Objections Division of the Ministry of Finance to do its work efficiently and timely.

In fact, it has been my experience that the Objections Division is so far behind in its work that if the sum of money is large, and the relevant time period of six years is running out, in mid-December of the appropriate year, without any real consideration of the matter, rejects the objection just so it does not have to deal with it and it is passed on to the Tax Appeal Board. If in any way a backlog is going to develop in the Tax Appeal Board, it would be because that precedent and practice continues.

**3.30 p.m.**

With those few words I am happy to support this bill and would ask that everyone else do likewise. Really, we look at the operations of the Tax Appeal Board as something which we might seek to aspire to in some other divisions of our justice system. I certainly would not take us past half past three by looking at the other aspects of the justice system.

I know the Attorney General is still considering whether he should debate the Gurley Report. I just take the opportunity to remind him of that.

I thank you, Mr. President.

**Sen. Muntaz Hosein:** Mr. President, if it is that some Members in this Senate get the impression that we do not feel that the Tax Appeal Board has done a good job let me clarify that. We are not saying that the Tax Appeal Board is not important. We believe that it has done very good work. Therefore, I want to correct that impression if that was created.

The problem, as my colleagues who spoke before me pointed out, is the question of bringing legislation in piecemeal fashion, which is something we are very concerned about. We should have hoped that the numerous occasions that we have had over the last 11 months would have been sufficient to have the Government look into legislation in its entirety; to look at the problems that beset these divisions, before just bringing legislation. We agree that the legislation is important, whatever problems that may have occurred in the past need to be rectified. The question of why it has taken this long is immaterial at this point because we cannot do anything about the past; we can do something now about the future.

Mr. President, I wish to support Sen. Daly in his analysis of the problem with regard to the backlog at the Tax Appeal Board. The Objections Division of the Inland Revenue Department is first of all, understaffed and secondly, the quality of the staff leaves much to be desired. They are short of experienced staff. I should like the Minister to look at this because this is what happens in that department; this is where the backlog really stems from and it is passed as a last resort. So that matters do not lapse, they are simply passed on to the Tax Appeal Board. This is why the Tax Appeal Board finds itself with numerous cases coming before it that need not necessarily come. I believe we would want to look at that part of the Inland Revenue Division. If we can give them more qualified and experienced staff, we would have solved in the main the problems that beset the Tax Appeal Board.

Once more, Mr. President, I make an appeal for the taxpayers of Trinidad and Tobago. When we file our returns late we are charged interest; however, when the Government pays refunds on taxes late, we do not get interest. I think that is an unfair situation. We should look at the legislation in the United States of America where it is a straight case of tit for tat. If you file late they charge you interest and if they pay you your refund late, they gave you interest. I make an appeal to the Minister to look at that. I think that taxpayers ought to be treated more fairly. If you are able to do that, you will send a better signal to the taxpayers of Trinidad and Tobago, and they may pay their taxes far more willingly than they now do.

Mr. President, I thank you very much.

**The Minister of Public Administration in the Office of the Prime Minister (Sen. The Hon. Gordon Draper):** Mr. President, like a number of persons before, I did not intend to speak on this matter. Sen Wade Mark put as one of his

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centrepiece, an issue relating to pensions in the public service, and I thought I would take this opportunity to provide him with the information he seeks. Two weeks ago Cabinet as part of its deliberations on public service reform treated with that issue of pensions. I should like to locate Sen. Wade Mark's particular concern in a slightly wider context because there are several pension related issues that Cabinet deliberated and agreed on to go forward. In fairness, I should put it in context.

In looking at pensions and the issues of temporary workers which Sen Wade Mark referred to, Cabinet noted that there are several other categories of workers where one needed to treat with pensions issues. Among the decisions which we took to go forward in terms of legislation was the decision would allow the linking of service under different pension laws which would, for instance, permit persons to move from one service to the other; from the teaching service to the public service and carry their service with them for pension calculations. Then the case of pension for persons holding temporary appointments and for officers who have not been confirmed, which was a very specific concern of Sen. Mark—Cabinet has taken a decision to regularize that situation. Not only will persons who are holding temporary appointments be now eligible for pensions, but also persons who may act for that period when they are not confirmed will also have that period of their acting work counted for pension purposes. A decision was also taken to allow several statutory authorities to come under the Pensions Extension Act. What that would essentially do, would be to take a number of relatively small public service organs and bring them into the pensions pool and, therefore, allow those workers who up to now did not have pension entitlements to be entitled.

We have also moved to allow for the transferability of pensions between the public service and statutory boards, the public service and the diplomatic service, the preservation of service in the public service for persons who come into Parliament so that services in both places will also be counted for purposes of pension. I want to assure Sen. Wade Mark that his particular concern has been treated within the context of several other pension related issues and he could therefore rest assured that public service reform is alive and well.

I would also say to Sen. Daly and to Sen. Hosein that the concerns raised with regard to the operations of the Inland Revenue Department in terms of staffing, training where necessary, in terms of other facilities for the work of that division are also being taken care of. Indeed, the Minister of Finance in his budget

presentation talked about the importance of those administrative arrangements for revenue collection.

I thought I would rise and spend these couple minutes just to clarify for our friends opposite what has been happening in the areas on which they sought some information. I thank you.

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Mr. President, this debate has proceeded in such a harmonious fashion that I was reluctant to make the one comment I think I should make.

Every time I come to this Senate I get the criticism from Members opposite about piecemeal legislation, and whilst I can, like my friend Sen. Huggins, forgive Sen. Hosein and Sen. Mark, certainly I cannot do the same for Sen. Capildeo.

The fact of the matter is, that this Act which we are seeking to amend contains 11 sections and essentially what it does is establish a Tax Appeal Board. We have discovered a problem in relation to the appointments of persons to that board and that is the one problem that exists in relation to the Act. I do not understand what Sen. Capildeo and his colleagues expect, that if there is nothing else to amend, we leave that problem and let it continue for another 16 years?

**3.40 p.m.**

There are other problems to be addressed in relation to the Tax Appeal Board. I did refer to the fact that there was a creeping problem of delays—and Sen. Daly pointed it out—and that so far they have had a good track record and there are no pending judgments. However, we are not going to leave it to reach a state of near crisis before we act. I did point out that in communication I have had with the Registrar, we are looking at certain problems which we are seeking to address. Those problems, as Sen. Capildeo ought to know, are to be dealt with by way of rules and regulations established under the Act.

Under section 12 of the Act there is a power to make rules regarding the operations of the Tax Appeal Board; how appeals are processed; which party should file statements of claim, and in what order the matter will progress thereafter, before hearing. That does not come to the Parliament. That is a rule-making power given to the Appeal Board.

Similarly, in relation to other rule-making needs at the moment, moving from the Tax Appeal Board to the Appeal Court, there is a rule making power, and that

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again is administered by the Rules Committee of the Supreme Court. And rules are made by that Committee. They are not made in Parliament.

I think it is in a sense misleading to suggest that we are coming here in a piecemeal fashion when there are other things we can bunch together and present as a wide ranging sort of amendment. All that is necessary at this time is to correct the problem which exists and we are addressing the other problems which are to be dealt with by the rule-making committees under the Act.

I am not going to suggest that Sen. Capildeo should not make the statements that he makes, but certainly there must be a basis for making them and he should address the problems as they exist; look at what requires the exercise of the rule-making power and consider what requires an Act of this Parliament.

Sen. Mark asked me several questions. He may wish to reduce them to writing in the regular form. At this stage, I cannot respond to the several questions of how many cases there are, above and under \$20,000.00 and how many there are over \$1 million. Certainly, the information can be provided and if the goodly Senator wishes to ask me in the regular course of things, I would certainly be prepared to respond to them.

As Sen. Daly pointed out quite rightly, and as I said in my opening, this board has performed very well over the years that it has served this country, and clearly, it must not be taken to be some extension of the Government. It is a superior court of record. The public have access to it if they feel offended by anything that happens with the executive through the Inland Revenue. They have performed a sterling function and continue so to do. I think it is clear that we must regularize the existing position.

I believe some concern was expressed by Sen. Wade Mark about retroactivity of pension payments. I think it is clear that the Act as it stands from 1966, recognizes that these positions were going to be paid pensions. What has happened is that since 1976, because of the amendment of the Republican Constitution, it is not certain whether the Pensions Act properly applies to them, so a new arrangement has to be made for the pensions. It is not a question of retroactivity in that strict sense of the word. It is merely ensuring that what we now put in place would be valid and effectual to deal with pensions which the state had agreed to pay in respect of those positions. It is not in that sense retroactive.

I think that those were the major concerns that I heard coming from the other side, except for perhaps one somewhat irrelevant reference to the assessment of Amoco's water rates. I think it might be useful if Senators do some investigatory work and research before making suggestions of the kind. For instance, I know that—and it is perhaps because I represent the constituency of Ortoire/Mayaro—Amoco have done a lot of development work in respect of wells. They now have wells which are on stream and which are used in the WASA system. Sen. Mark would probably find that there is an existing arrangement with respect to the water provided by Amoco to WASA. *[Interruption]* This is why I suggested rather than make statements without getting the information, as responsible Senators, we should do that kind of investigation and research first.

I beg to move—

**Sen. Hosein:** I sense that the Minister is winding down. I wondered whether he wanted to respond to the question of interest payments to taxpayers, regarding the late payment of refunds. Would he recommend that?

**Mr. Sobion:** I am sorry if I omitted that very relevant point that the Senator made but it is perhaps because—

**Mr. President:** I do not think you should get into that now.

**Mr. Sobion:** I am not going to get into it, save to say that the reason why I have omitted to respond to it, no doubt, is that it strictly falls under the jurisdiction of the Minister of Finance and I certainly would indicate to him that the point was made during this debate.

*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 to 5 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.*

*Adjournment*

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**ADJOURNMENT**

*Motion made, That the Senate do now adjourn to Tuesday, December 15, 1992 at 1.30 p.m. [Hon. R. Huggins]*

**Aluminium Sulphate  
(Water Supply)**

**Mr. President:** Hon. Senators, before putting the question for the adjournment, I should inform you that Sen. Rooks has obtained leave to raise the following matter on the motion for the adjournment: The high extent of aluminium sulphate in the domestic water supply which can seriously affect the health of all citizens.

**3.50 p.m.**

**Sen. John Rooks:** Mr. President, I have, this afternoon, found out that there are various sources of water each one with a different reading, and I need to do some further checking before I can give the Senate a full and clear picture. I should now like to hold this motion until the new year.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 3.51 p.m.*