SENATE

Tuesday, June 11, 1996.

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence from today's sitting to Sen. Vernon Gilbert with effect from June 2, 1996 until further notice. Sen. Gilbert will be out of the country for medical reasons and I know that Members will join with me in wishing him a very speedy recovery.

I have also granted leave to Sen. Selwyn John to be absent from sittings of the Senate from June 4 to July 7, 1996.

SENATOR'S APPOINTMENT

Mr. President: I have been advised that His Excellency the President has appointed Mr. Verne Richards a temporary Senator with effect from June 4, 1996 and continuing during the absence from Trinidad and Tobago of Sen. Selwyn John.

OATH OF ALLEGIANCE

Sen. Verne Richards took and subscribed the Oath of Allegiance as required by law.

JOINT SELECT COMMITTEE

(INTEGRITY LEGISLATION)

Mr. President: Hon. Members, I have received the following communication from the Speaker of the House of Representatives:

June 04, 1996

"Sen. the Hon. Ganace Ramdial

President of the Senate

Office of the President of the Senate

Parliament

Red House

PORT OF SPAIN

Dear Mr. President,

Resolution - Joint Select Committee

Please be informed that at a sitting held on Tuesday June 04, 1996 the House of Representatives agreed to the following resolution which was moved by the Hon. Attorney General:-

> "BE IT RESOLVED that this House appoint the following six Members to sit with an equal number from the Senate as a Joint Select Committee for the purpose of considering the Green Paper on Integrity Legislation, to receive and consider the comments of members of the public on the said paper, and to submit its recommendation to Parliament thereon -
>
> Mr. Mervyn Assam
>
> Miss Pamela Nicholson
>
> Mr. Harry Partap
>
> Mr. Manohar Ramsaran
>
> Mr. Kenneth Valley
>
> Mrs. Camille Robinson-Regis

Accordingly, I respectfully request that you cause this matter to be placed before the Senate at the earliest convenience.

Respectfully,

Hector McClean, MP.

Speaker"

Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President at the appropriate stage I shall seek the leave of the honourable Senate to dispense with notice in accordance with Standing Order 25 to nominate Members of this honourable Senate to sit with Members of the other House as a Joint Select Committee for the purpose of considering the Green Paper on Integrity Legislation, to receive and consider the comments of members of the public on the said Paper and to submit its recommendations to Parliament thereon.

PAPERS LAID

1. First Annual Report of the Environmental Management Authority dated April 30, 1996. *[The Minister of Public Administration and Information (Sen. The Hon. Wade Mark)]*

2. Report of the Auditor General on the accounts of the Deposit Insurance Corporation for the year ended December 31, 1995. *[The Minister of Finance (Sen. The Hon. Brian Kuei Tung)]*
3. Report of the Auditor General on the accounts of the National Broadcasting Service of Trinidad and Tobago for the year ended December 31, 1995. *[Hon. B. Kuei Tung]*
4. Report of the Auditor General on the accounts of the Trinidad and Tobago Television Company Limited for the year ended December 31, 1995. *[Hon. B. Kuei Tung]*
5. Report of the Auditor General on a comprehensive audit of the Revenue Protection Function of the Customs and Excise Division of the Ministry of Finance. *[Hon. B. Kuei Tung]*
6. Annual Report and Accounts of Trinidad and Tobago Unit Trust Corporation for the year 1995. *[Hon. B. Kuei Tung]*

1.40 p.m.

JOINT SELECT COMMITTEE

(APPOINTMENT)

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, in accordance with Standing Order 25, I seek your leave and the leave of the Senate to dispense with a notice in respect of a Motion for the nomination and appointment of Members of the Senate to sit with Members of the House of Representatives to form a Joint Select Committee as announced earlier in the proceedings.

Question put and agreed to.

Hon. W. Mark: Mr. President, I now beg to move that the following Members of this honourable Senate be nominated to serve on a Joint Select Committee in response to the Motion passed in the House of Representatives:

Sen. Deborah Moore-Miggins
Sen. Selwyn John
Sen. Vilma Tota-Maharaj
Sen. Orville London
Sen. Prof. Kenneth Ramchand
Sen. Prof. Julian Kenny

Question put and agreed to.

COMMONWEALTH DEVELOPMENT CORPORATION

(PRIVILEGES AND IMMUNITIES) BILL

Order for second reading read.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, I beg to move,

That a Bill to confer certain privileges and immunities on the Commonwealth Development Corporation be now read a second time.

Before going any further, seeing that this is the first time I am speaking in the Senate since your ascension to the office of President, may I add my words of congratulations to the very numerous expressions that you would have already received, and to also express my confidence in your tact, wisdom and impartiality in conducting the business of the Senate.

The Bill before us has something of a history, in that in the last session of Parliament, it received passage through the House of Representatives, the other place, but it lapsed when the general elections of 1995 intervened.

The purpose of this Bill is to give legal personality to the Commonwealth Development Corporation which has been operating in Trinidad and Tobago since colonial times and which, by and large, enjoys in a *de facto* way, many of the immunities and privileges which this Bill seeks to confer; and to really confer the privileges and immunities to the organization and its staff.

The Government of Trinidad and Tobago since January 1994 signed an agreement with the Commonwealth Development Corporation, which agreement delineates the operational conditions between the Government and the Commonwealth Development Corporation.

The Commonwealth Development Corporation is a public institution which was established in 1948 by an Act of Parliament of the United Kingdom. In fact, it has been used by that government as its main instrument for promoting private sector development in developing countries. The Commonwealth Development Corporation assists overseas countries in the development of their economies in enterprises, especially in the private sector. It is essentially a financial institution and provides financing for private sector activities in developing countries. It invests in long-term loans, risk capital, management and ownership of companies and it gets its revenue from its own resources and from long-term low interest loans from the United Kingdom government.

There are significant benefits to be derived from the operation of the Commonwealth Development Corporation in Trinidad and Tobago. In fact, we have already had significant benefits arising out of its operations in this country.

Mr. President, may I take one particular instance. This organization and organizations of its ilk did become particularly important during the debt crisis of the 1980s when, as you know, some developing countries because of financial constraints—the recession, the downturn in their own economies—were unable to service many of their debts to the multilateral lending agencies and there developed this debt crisis and loss of confidence in the developing countries in their ability to service their financial obligations.

The Commonwealth Development Corporation and institutions of its kind did fill that gap to a certain extent in providing finance in helping to restore confidence in these economies.

Mr. President, in other words, the Commonwealth Development Corporation did complement the flow of funds which had slowed down to a trickle during that period in scores of developing countries throughout the globe, including the countries of Caricom, many of which had the Commonwealth Development Corporation operating in their countries.

With respect to benefits to be derived, Mr. President, the benefits are obvious because when the Commonwealth Development Corporation facilitates the development of investment in a country like Trinidad and Tobago, there is employment generation, foreign exchange earnings, enhancement of management and technical staff, technology transfer and, very significantly, the development of confidence in the economy of Trinidad and Tobago.

Of course, at present, we are very proud to say that the economy of Trinidad and Tobago enjoys considerable confidence in the international arena and we have no doubt that in the final analysis when it is added all up, the operations of the Commonwealth Development Corporation would have added its measure to the development of confidence in Trinidad and Tobago.

According to the operations agreement between the Commonwealth Development Corporation and Trinidad and Tobago, the activities envisaged by the Commonwealth Development Corporation for Trinidad and Tobago are:

1. To examine possibilities of investment in public or private sector projects which are within its statutory powers, financially sound, of economic benefit and assist the development of the relevant sectors of the economy of Trinidad and Tobago.

2. To contribute to the implementation of such projects by making loan and equity investments and extending technical management and consultancy services on terms to be agreed.
3. Whenever feasible as part of such implementation, to secure the training of local personnel at all levels.
4. To consult as appropriate with relevant government departments.

These are the conditions as outlined in the agreement by which the Commonwealth Development Corporation has been operating and would continue to operate in Trinidad and Tobago.

As I said, Mr. President, the Commonwealth Development Corporation has been here since in the colonial period and we have already had significant investment from the Commonwealth Development Corporation in this country. Its current portfolio of investments include the Development Finance Limited. It has also invested significantly in the upgrade of the Pointe-a-Pierre Refinery and, in Caroni. At present, it is involved in an aqua culture project at Orange Grove. So that just a glance at the involvement in the economy of Trinidad and Tobago we would see that the Commonwealth Development Corporation is significantly involved.

As I said, the purpose of the Bill is to confer immunities and privileges on the Commonwealth Development Corporation. There is need to have this legislation passed because the Commonwealth Development Corporation is not a normal international organization nor a diplomatic mission which enjoys the privileges and immunities that are outlined in this Bill.

If we look at the Schedules of the Bill on pages 4 and 5, we would see the privileges and immunities of the Corporation, legal personality and so forth. We are seeking to grant the capacity to contract, acquire and dispose of real and personal property; have it exempted from all direct or indirect taxes, duties, levies, deductions and imposts. We are seeking to have it exempted from customs duty and other duties on the importation of vehicles, goods and technical equipment necessary for the operation of any representation that it decides to maintain in Trinidad and Tobago and other exemptions which are outlined in Part I of the Schedule.

1.50 p.m.

In Part II of the Schedule with respect to its employees, we are seeking to have these employees "not be subject to income tax or similar taxes in respect of salaries and emoluments received from the Corporation" and here, Mr. President,

we are referring to those employees who are not citizens of Trinidad and Tobago; and that these employees of the CDC will:

> "...be entitled within six months of arriving in Trinidad and Tobago to import free of customs or import duties, personal effects, including one motor vehicle per person for personal or family use, and household goods and to export the same free of export duties and other fiscal charges at the end of their stay in Trinidad and Tobago."

May I say, Mr. President, that these exemptions, these privileges and immunities, are the norm in international relations. They are the kinds of privileges and immunities that we confer on international organizations and diplomatic missions and they are similar to what we would confer on other financial institutions.

You may remember, Mr. President, that in the last Parliament similar privileges and immunities were conferred on MIGA which is another international financial institution through which we get financing for development in Trinidad and Tobago.

Sen. Prof. Spence: Mr. President, would the hon. Minister amplify that a bit. He seems to be equating CDC, an autonomous government corporation, with other financial institutions such as the one he has named. But does not the Commonwealth Development Corporation make commercial investments, and make profits from those commercial investments?

Hon. R. Maraj: Yes, that is true, Mr. President, but the fact remains that it is an organization which has been here. It helps in the development of the economy through the provision of financing for private sector activity. It has been granted these privileges and immunities in other countries all over the globe. It is not something unusual or unique to Trinidad and Tobago. In fact, the countries which have granted similar privileges and immunities are, for example, in the Caribbean we would have countries such as Barbados, Belize, Guyana, Jamaica, Montserrat, St. Kitts/Nevis. Elsewhere in the world we have the CDC being granted similar privileges, facilities and exemptions in Costa Rica, Cote D'Ivoire, Cuba, Dominican Republic; Ecuador, Gambia, Ghana, Guatemala, Honduras, Mauritius, Mozambique, Namibia, Nicaragua and Nigeria; Pakistan, Sierra Leone, Solomon Islands, Republic of South Africa; Tanzania, Uganda, Vanuatu; Vietnam, Zanzibar and Zimbabwe.

So that, it is not something unusual we are doing and, as I said, Mr. President, it is an agreement that we have already signed with this organization. It was signed in January, 1994. We feel that the Commonwealth Development Corporation will continue to have a role in the continued buoyancy of the economy of Trinidad and Tobago. As you know we have embarked on the process of private sector-led growth and we need to have as many mechanisms as possible through which our economy, businesses and private sector can get financing at the best possible terms.

May I say that the financing that comes from the Commonwealth Development Corporation comes at very low interest rates and so, as a commercial venture, it is something that is of benefit to the private sector development of Trinidad and Tobago. I feel certain, Mr. President, that in the final analysis this honourable Senate will give support to this Bill.

Mr. President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, I rise this afternoon in support of the legislation. After all, it was a piece of legislation that was actually brought to the other place by the former administration, the party of which I am a member. We have no fundamental quarrel or difficulty with this legislation, and I thank the Minister for his contribution and for letting us know the history of the CDC and the activities it is involved in and so forth.

However, Mr. President, I regret that he did not take the opportunity to advise us what his Government's policy is *vis-à-vis* divestment and privatization in state-owned enterprises. Because he, quite clearly, stated that one of the activities of the CDC is the investment and financing of both public and private sector corporations. I know that it is a practice and policy of the CDC that when they participate in any venture which is a state-owned enterprise, there is a prerequisite to their involvement that they involve themselves in the divestment and privatization of the entity. Therefore, I would have looked to the Government for a statement as to exactly what their policy was, *vis-à-vis* divestment.

Now, you see, Mr. President, the question of divestment is very important in terms of financing. The practice of divestment has been one of governments both here and abroad as a source of finance for local development. The former administration used the practice of divestment to raise capital which was applied, primarily, in the liquidation of foreign debt. The practice and policy of a

previous administration was to divest in a way—what they were doing, if you will recall Mr. President, was that they had captured the state-owned enterprises in a basket that they were going to place in a corporation they called a National Investment Corporation (NIC).

The value of these shares was going to be used to settle a major liability to the public servants; in fact a liability that had been incurred by that administration back in the 1986—1991 era. Therefore, Mr. President, it begs the question as to what the practice or policy would be of this administration *vis-à-vis* the divestment of the remaining state-owned enterprises; whether they would, in fact, apply the proceeds against debt, or against the remaining debt or liability that exists to the public servants.

2.00 p.m.

I refer to the remaining liability to the public servants, because on Friday last there was an article in the *Daily Express* quoting a statement by the Prime Minister, indicating that the question of arrears and the bonds owed to the public servants have now been fully settled, that it was now a dead issue—these are my words; I am not quoting from the article—but I understand that that is not entirely accurate. It is partly accurate, and it represents a partial truth. I mentioned it in this Senate some months ago that I was pleased to hear that the public sector debt had, in fact, been settled and we heard the Minister of Finance explain how the $984 million was going to be paid off in several tranches. But I understand that that is not the end of the whole story.

If you would permit me just to recap a little here. A situation came about in 1987 when the Government of the day decided to reduce public servants' salaries by removing the COLA. There was also the question of an award from the special tribunal, of January 1, 1985 that had yet to be implemented. What happened is this. The NAR administration had planned to form the National Investment Corporation to try to settle the question of the debt by, in effect, privatising the state-owned enterprises and fulfilling their obligations of the liability to the public service by means of these shares. As we know, there was a change in government and therefore a change in policy. The divestment process was used to settle foreign debt and the question of the liability to the public service remained.

In 1995, the previous administration finalised arrangements for the issue of bonds that we have heard so much about and made certain arrangements. What happened was this. There were three elements of the public sector debt. There was the award of the special tribunal that had to be implemented; there was the

non-payment of COLA and there was the settlement of increments from 1987—1995. The question of the COLA and the arrears of the special tribunal award was fairly simple to quantify. Arithmetically, I am advised, that the computation for the settlements of the increments was far more complex and was never concretised, to use a non-English word.

What happened was that in 1995 the PNM administration made an agreement with roughly half of the public servants. I am advised that the unions and organizations, the teaching service, the police service, the fire service, the statutory authorities, the Institute of Marine Affairs, the Port of Spain Municipal Police, the San Fernando Municipal Police and the daily-rated, central—

Sen. Prof. Spence: Mr. President, on a point of order. I am finding it difficult to follow the relevance of the hon. Senator's comments to the matter under discussion.

Mr. President: I am inclined to agree with Sen. Spence and ask you to address the question.

Sen. D. Montano: Thank you, Mr. President. The question is relevant because what we are talking about here is an organization whose policy is to take state-owned enterprises to privatization. If that is the activity that is on the table here in front of us, then it is a directly related activity to say what the Government is planning to do with the proceeds. The application of the proceeds is what we are discussing here because it is directly relevant. What we are talking about is the financing of a young nation that is trying to become world class, and that is what we are talking about here.

Sen. Mark: On a point of order, Mr. President. I would like to find out if the hon. Senator is challenging your ruling, Sir. You have indicated that he is irrelevant and he says he is relevant, so I would like you to rule on that, Sir.

Mr. President: I would like the hon. Senator to stick to the issue before the House, please. I ruled that what you have been saying is not totally relevant to the issue.

Sen. D. Montano: Mr. President, I understand what you are saying and I will certainly defer to your wisdom. That being the case, I will have to cut my contribution very short at this point. Allow me to say, however, that the remaining $2.3 billion liability for the increments still has not been dealt with and it is very relevant. However, I accept your ruling, Mr. President.

Thank you very much.

Sen. Prof. John Spence: Mr. President, I think we ought to examine the status or the type of organization that the Commonwealth Development Corporation is, particularly in relation to the fact that the hon. Minister seemed to be comparing it to other financial institutions. Now my impression is that the financial institutions to which he is referring are organizations, in large measure of which we are a member. For example, if one is talking about the World Bank or the Inter-American Development Bank, these are organizations of which Trinidad and Tobago is a part and as such, in relation to their method of operation we may feel that we do not need to give exemptions in certain areas to those bodies. The Commonwealth Development Corporation, to my mind, is a somewhat different organization. While it is true that it does make investments which may be important for development in many countries, it is nevertheless also true that it does make commercial investment.

So I think to give a blanket agreement, as we seem to be doing, particularly in relation to Part I of the Schedule, clause 2, I would suggest that we need to think a little more carefully about it. The hon. Minister has read out a list of countries that are giving concessions to the CDC. I wonder if they all are giving quite the concessions we are giving here. Certainly there are countries such as Malaysia which have very substantial investments from the Commonwealth Development Corporation which we did not list among those countries that are giving concessions.

So it would seem to me that there are some countries which looked at the organization and decided that this is not quite how they would like to operate in relation to this organization, but nevertheless CDC still makes investments in those countries. So I do not think it is good enough for us to say these other countries do it, therefore we should do it. I think we ought to look at it in relation to our own circumstances to see, indeed, if we did not give these privileges whether the Commonwealth Development Corporation would not invest here, and whether we are not giving away more than we are getting in this regard.

I have some concern, too, with some of the investments that they seem to be making here, which the hon. Minister has referred to. For example, he mentioned Caroni (1975) Limited. I know that he mentioned a very limited involvement in Caroni, namely aquaculture, but, quite frankly, the fact that he has mentioned Caroni at all, leads me to have some concern with respect to what sort of investment we may be allowing other entities to make—especially those which may be semi-commercial—into our state enterprises.

2.10 p.m.

I have this concern particularly with Caroni (1975) Limited because it owns a great deal of land. It was not many years ago that we were able to recover this land from foreign ownership, therefore, I would certainly urge that any arrangement that Caroni (1975) Limited might go into with the Commonwealth Development Corporation should be such that there is no alienation of land. In the case of the state-owned oil enterprises which also own substantial areas of land, my understanding is that they have kept the land separate in the original company and not transferred to the new company.

So, just to make a general point, I would hope that any state enterprise which owns land and is thinking of having investment shareholdings with other foreign companies, that land, at least, should revert to the state and be released back to the state enterprise. It is an extremely important point and we could find that because this is a development agency, we are by the back door alienating land from this country.

With respect to the actual investments which CDC is making, I would suggest that there are certain investments that they may have been interested in which we did not develop. I know, for example that at one time CDC in discussions with Dr. Elton Richardson, who was a private forester, for investments in forestry. Now, it seems to be a pity that this particular activity was not pursued by the Government because if one is thinking about investments for development—about long-term loans at low interest rates—certainly forestry is one of the areas that would be very important to us. Certainly, something like agriculture we can do on our own. We do not need CDC's investment in that area.

In the case of forestry, Dr. Richardson had shown that mahogany can be grown in Trinidad and Tobago. This is something which we had not been able to do before. He has established 1,000 acres of mahogany and there was this interest on the part of CDC, but it could not be carried further because they do not make small investments, they make rather large investments. In this particular case, the area of land was too small for them to be interested. Certainly, I think, perhaps, that is one the Government should develop.

My understanding is that they are also interested in some tourism development in Tobago. Again, are we saying that an entity such as this would be able to make any sort of investment in Trinidad and Tobago? Because that is what the Bill is saying. It is not being selective. If there was an enabling clause which stated that the Trinidad and Tobago Government may—when it sees it is of an

interest to the country—allow developed investments by CDC which then become tax-free and the like, that I can, perhaps, go along with. We are giving a blanket agreement for this semi-commercial enterprise to invest in any activity in Trinidad and Tobago and have its profits tax free. I do not understand how the Minister of Finance could agree to this with respect to income from investments.

Clearly, if one is talking about a liberalized economy in which we are being market led, surely it does not give that type of concession to a semi-private sector organization. Certainly, I think we would need to have much more explanation with regard to how this particular entity operates.

I have no difficulty with the privileges being given to the staff. It is an organization which has a development aspect and I can see that there may be some reason for giving privileges to its staff. I do not think that is a very big deal and I see no reason why we should not give immunities and privileges to them.

I am a little concerned about the fact that we seem to be doing this to so many organizations and we are not giving it to our own university. It has always worried me that time after time we give privileges to Cardi, and now to CDC and the like, but we do not think our own university really needs that sort of privileges.

I have no difficulty with the first part, that it should have a legal entity here and therefore legal identity. Therefore, they would be able to sell, buy and make investments. I have no difficulty with it.

I have no difficulty, as I said, with the part about the staff, but certainly, I would need to be convinced, that we should give the blanket exemption from taxes which we are giving here. I would go along with an enabling clause which allows the Minister of Finance, or whoever, to select certain investments which are clearly in the development of the country. As I said, one of these areas which would be of priority in my book would be forestry. It is long-term, it means low interest in order to develop and certainly, it is an area that CDC is interested in. That is one for which I would give exemption. If they are going to invest in the hotel industry, or even something like agriculture, why should they not pay taxes if it is a successful venture?

Certainly, I think we should look at this aspect of the Bill much more closely and have much more discussion on it, certainly before I would be prepared to support it.

Thank you, Mr. President.

Sen. Philip Marshall: Mr. President, I intend to give my whole-hearted support to this Bill, but I would just make one or two points. Organizations such as the CDC are very important for the development and financing of certain projects where the required rate of return may take a longer time period than may be acceptable from a normal commercial investment.

Just to follow up the point that Prof. Spence made just now, investment in the tourist or hospitality industry very often may require, in fact, a period of three to four years before a specific entity can demonstrate sustainable profitability. So, there is some element of risk in it. However, I would like to support Sen. Spence's point that the benefit of these exemptions, albeit that the CDC may charge favourable or lower interest rates, must be one in which we may be able to persuade them to channel their investment into the type of projects that may develop our intellectual capability, or capacity, in the long-term to be more competitive at the national level. In other words, projects that may have some form of significant infrastructure element, or if it is a private sector investment, which because of the small size of our markets may not be as commercially viable.

What we are saying is that in exchange for these kinds of benefits we would like an organization such as this to possibly assist us in the development of our long-term goals. In fact, what we must ensure is that these exemptions do not put an organization such as this in a more favourable financial position than our local resident financial institutions.

In fact, what one should also be concerned about is that when they make loans, possibly to public sector type organizations, they do not request onerous security or guarantees which may not be provided to local financial institutions.

We must recognize, however, that foreign funding for projects—whether they be tourism projects—are very often not as easily attainable as we may make them out to be. So the significance of an organization such as this very often has access to substantial funding which may not be available locally. We want to make sure that in return for the benefits that they provide us with some measure of competitiveness.

In fact, the hon. Minister of Finance recently talked about the need for our local financial institutions to lower their interest rates. Therefore, I would ask him to exercise due diligence as well in terms of the interest rates that may be charged by the CDC, and to take into consideration that they are not taxable, thereby, they are not overpriced in relation to the risks that support the projects.

2.20 p.m.

Very often we talk about the need to increase our saving levels in Trinidad and Tobago for our competitiveness. I believe our savings ratio is presently about 17 per cent whereas in Singapore and countries in that area, it is about 42—52 per cent. This was a point I read in an article in the *Business Week* very recently.

Following up on Sen. Prof. Spence's comment, very often we do not regard the expenditure we make in education and training as savings. If we think about it logically when we allocate budget expenditure to fund the University of the West Indies, we are, in fact, saving. We are making an investment in the future earning capability and competitiveness of our nation. A person attending university or a school is, in fact, foregoing what may be immediate salary earnings which he may be able to get in exchange for further development of education for our nation.

As one can see presently in our income tax returns, there is just but a very small measure of allowable deductions for that investment, children attending university either at home or abroad. This is a factor we should encourage. The Minister of Finance earlier this year also talked about one of the problems, a difficulty in Trinidad and Tobago, which is the lack of insufficient human resource skills in doing project design and development. I think the Caribbean Development Bank could be persuaded to invest in the intellectual skills and capabilities of our people in putting together the project designed packages. These are the packages where the World Bank or other institutions may have made loans to Trinidad and Tobago but because we cannot fulfill the project design objectives, these projects cannot get on the way. In fact, they cost us money because the funds have been reserved for Trinidad and Tobago, but although they are not drawn down I am sure the Minister of Finance will confirm that they do cost us low interest rates just because of the fact that the funds have been allocated to us.

I hope that organizations like the CDC would focus some of their lending in the type of areas that may not be backed by more commercial institutions but in terms of intellectual capability and knowledge for the long term development of our country.

Thank you, Mr. President.

Sen. Mahadeo Jagmohan: Mr. President, and Senators of this honourable Senate, I wish to congratulate the hon. Minister for his very lucid presentation which he made pretty simple for us to understand.

Notwithstanding Sen. Montano's inability to complete his presentation because of the ruling of the Chair, our position remains the same. We support the Bill. This Bill was originally presented by the People's National Movement in the other place, under another administration, and is an indication of continuity. The present Government must be commended for maintaining continuity of good measures, legal or otherwise.

Mr. President, I have a problem. I am sure the hon. Minister will attempt to assist me. He has his colleague, the hon. Attorney General who may also help this Senate and, very importantly, the Minister in charge of Public Administration and Information will have first-hand information on what I am about to say.

With respect to granting the immunities set out in the Bill to the Commonwealth Development Corporation, the hon. Minister referred to 24 countries where the Commonwealth Development Corporation is operating. What I understood him to allude to is that they have got similar diplomatic immunity in those countries. The human rights records of the governments of several of those countries for the past quarter century is terrible. I do not think we could talk about them in any nice way at all. We are not questioning that. That is a matter for the Ministry of Foreign Affairs to look into in certain regards.

Mr. President, some time ago Sen. Prof. Spence referred to Cardi (Caribbean Agricultural and Development Research Institute). They were granted a measure of diplomatic immunity. I am not sure it was done by legislation of this nature. *[Interruption]* Thank you very much Senator, but there was a big problem there with respect to industrial relations.

A very well-known trade union, the Bank and General Workers Trade Union was the recognized majority trade union at Cardi. They had serious industrial relations problems there, that they could not resolve by discussions. The Bank and General Workers Trade Union had the matter referred to the Ministry of Labour and Co-operatives. The Ministry of Labour and Co-operatives adjudicated on the matter but they were not satisfied and the matter was then sent to the Industrial Court. While the matter was at the Industrial Court, Cardi applied for a measure to invoke the diplomatic immunity that they are entitled to and the matter was thrown out—I do not know if that is a good term to use but the matter was thrown out and the workers had to bite the dust. They got nothing. The Bank and General Workers Trade Union was very embarrassed.

We see in Part I of the Schedule at (c):

> "to be a party to legal proceedings."

Would this mean that they are precluded from that kind of legal immunity and that they can participate in legal proceedings and argue their cases in the normal way? Of course, the Industrial Court is part of the judicial and legal system. We are glad that the judiciary is an independent body and quite rightly so, and they can move in a particular direction.

This is a problem I am thinking about, because in our free-enterprise system, the labour movement has a role, and quite rightly so, and may wish to exercise it. What of the participation, interest, connection or nexus of Commonwealth Development Corporation if such a situation should arise? What will happen? This is something we should put into the records of the Parliament so that the people who will have to deal with this after, would be able to see what kind of thinking was expressed.

Thank you very much, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, I just want to make a comment which I think is important. One of the previous Senators made an observation and asked a question concerning the former administration. Reference was made to the former administration divesting certain state enterprises to raise funds to liquidate the external debt.

2.30 p.m.

A question was asked about the practice and the policy of the new government concerning divestment. I would respond to that very briefly. The answer to the question is that the last administration left nothing to sell except the Red House, which I noticed while coming in has yellow pieces of tarpaulin at the top. It is only the Red House that might be up for divestment. I do not think there is much elbow room for the new government by way of divestment.

Sen. London: I would like your ruling on the relevance of that.

Sen. Rev. D. Teelucksingh: I was just responding to a comment which was made at a time when that comment was not ruled as being irrelevant.

As I move on to the question of the Bill and some of my observations, I identify with some of the concerns of my colleagues, Sen. Prof. Spence and Sen. Marshall. Who will not be attracted by the generosity clauses of the Commonwealth Development Corporation (Privileges and Immunities) Bill? In fact, the full benevolence of the Bill is well illustrated in Parts I and II. Look at some of the clauses featuring exemptions and freeness galore. Sen. Prof. Spence alluded to some of these.

Part I provides for the Corporation to be exempted from all direct or indirect taxes, duties, levies, deductions and others imposed of any kind in Trinidad and Tobago. I heard someone say this is a deserving case. Forget it! The only concession I see in the Bill that seems reasonable is that which relates to tax exemption on goods and technical equipment which the corporation requires for its work. That is the only concession with which I may be sympathetic. Reference was made to the University of the West Indies, reference was made by Sen. Marshall to other local financial institutions. How many local organizations and firms enjoy similar exemptions when technical equipment and machinery are imported to develop indigenous industries? One speaks about a level playing field. It is not so level.

If the Commonwealth Development Corporation has been operating here for so many years—and I think they have been here long before 1994—why the need for such privileges and immunities now, or even at 1994? They were here long before that. Are we rewarding them for their work? I am not talking about this administration, they inherited that from the previous administration. Whether it is the previous administration or the present administration, it is still a question we are going to ask. Is the Commonwealth Development Corporation rewarded for its good work in Trinidad and Tobago, hence the need for all these concessions, privileges and immunities? Are we going to follow suit because other countries have granted the corporation such recognition? Is it an act of gratitude? That is the question I want answered.

I may also ask whether it is a precedent in the making which will weaken our bargaining status with potential investors. Do you not think that others might make similar claims? I contend that if international organizations care for developing countries as ours, they should identify a little more with the real struggles and difficulties of our people. Is it not true that servants of foreign companies receive more than handsome allowances to cushion such local conditions inclusive of duties and taxes?

Look at our system of VAT. Where did we get it? Maybe from the sales tax and duties in these countries that these persons are accustomed paying. In our country with direct and indirect taxes at every turn, why can our visitors, benefactors and economic godfathers not share in the adjustment as we do? Super rich multinational companies and investment agencies continue to cream off the fat of this land and we encourage it. We also change our laws to make it possible. We are not changing laws to make it easier for local companies, organizations and our people. I am concerned about that. To grant to an investment company

such total and comprehensive concessions amounting to freedom from all direct and indirect taxes, duties and levies of any kind would certainly not convey good signals to our people, especially the poorer classes.

I think that charity must begin at home. There are the hungry masses who can do with some concessions now and then. Ask the local importers and investors in the business community about privileges and concessions that they really need. I am going to make two illustrations based on this concern of mine. The first is that it had to be madness and sheer irresponsibility, about 26 years ago—before we saw the face of the Paris Club—the nation's father preferred to leave his children with bad roads, poor housing, joblessness, run down health services, water lines that should be changed in his time and other ailing public sector services in need of support, to deprive his children of these and more needs as he took US $536 million to lend a country with rich forests and richer mineral deposits. He further went on to lend millions to others, depriving his children in Laventille, Beetham, Caroni and Penal. Babies who were born 26 years ago, today remain poor and unemployed adults. One speaks about charity beginning at home! We have a bad record, not 26 years ago, but maybe before that. I see him like a spoilt schoolboy with loads of money in his back pocket which he thoughtlessly mismanaged.

On another matter, I hope that the present Government would not grant another concession to impress the world by paying US $900,000, a debt claimed by one Pouchet of France. He plans to go to an international court. One newspaper editorial says:

> "We see this as an undisguised attempt to gouge out the eyes of innocent Trinidadians and Tobagonians."

I conclude with privileges, immunities and concessions we give such as provided in the Bill. I have very serious reservations about that. I do not know how far it would go. I hope we do not have a Bill like this again in a hurry. Why must we come to change the law to give that kind of *carte blanche* privileges and immunities to somebody else? I would not like to take part in a debate like this in a hurry.

I notice that both major political parties in preparing for the forthcoming local elections are using an expression which I want to use as I close. Of such immunities and freedoms we have granted to persons and organizations who invest here; my other point about our failure to let charity begin at home—as I make up my mind about what to do with this Bill—and this attitude which is

developing to make this climate nice and comfy for everybody who wants to come to Trinidad, I say to both the governing parties, "enough is enough."

Thank you.

2.40 p.m.

Sen. Prof. Kenneth Ramchand: Mr. President, I will be very brief. I believe that I want it to be recorded in history that I did not support this Bill. I want to concur, in every respect, even with the opening irrelevancies—which I do not consider irrelevant—of Sen. Rev. Teelucksingh.

With respect to Sen. Prof. Spence's point that concessions should never exceed financial advantages to be gained by the country, I want to repeat a previous position, that people should not be given so much *carte blanche* and so much financial benefit for the pleasures of living and working in this country.

Finally, I want to take Sen. Marshall's point about the importance of the university as one of this country's major investments and advance this proposition: "As you do unto the university, only so should you do unto foreign investors."

Sen. Dr. Eric St. Cyr: Mr. President, before I make the specific remarks on the Bill I would just like to point out that our colleague, Sen. Prof. Spence got the two names together correctly, the CDW and the CDC, one was an extension of the other, both deriving from the celebrated Moyne Report—the CDW being outright grants by the colonial governments to raise the standards in the social sphere in the colonies and the CDC being the investment arm that, sort of, pre-dated much of the work which the World Bank does, in investing in infrastructure and so forth.

I was interested to note that the honourable Minister did not mention St. Lucia, which is one of the earliest countries in which the CDC had substantial investments. If it is that they have not granted immunities, I would be interested in finding out why. *[Interruption]* They have granted this?

Mr. Maraj: The list is not an exhaustive one

Sen. Dr. E. St. Cyr: Mr. President, I would like to join the debate where my Colleague, Sen. Marshall, ended. There are certain types of investments which have very long gestation periods, which are not attractive to the regular commercial finance houses. I think the CDC, historically, has fitted into that particular list and has done yeoman work throughout the former British Empire.

The issue in my mind is that is about 50 years ago. My first question is, do we still need this? Is the case still there for us to do this? Very interestingly, if they have operated without these privileges enshrined in our law, is there any special reason why we should lock ourselves into that arrangement permanently, as it were, at this time, when the whole economic policy is being shifted to ensure two things: firstly, transparency wherever we give subsidies, and secondly, that the rate of return, market determined, impacts heavily on the allocation of financial resources?

With respect to the first of those points, I find this Bill contradictory to the fundamental policy-thrust which the hon. Minister of Finance, so eloquently and accurately has been putting to us. My first big comment is that I find that fundamentally, this is contrary to that market liberalization policy. Is there a good reason why we want to do it?

The second comment I want to make is the one raised by Sen. Prof. Spence, that the Bill is far too broad in that if one gives a financial advantage, such as this, I think the authorities should direct where those advantages may be applied. If not, then the playing field is not level and in another 50 years—since this is a long-living corporation—we are not sure where they would be.

The CDC is certainly not what we would call a pioneer financial institution, it is fully grown and I think it should be treated with a heavy hammer, not with a light hammer, which the Government seems to be suggesting.

I think the exemption from all direct and indirect taxes, duties, deductions and so forth, is certainly too broad. Since there is no limit to the sectors, industries and the size of investments, hypothetically, it could emerge as the only financial institution investing here, which means that we could get taxes from no returns to financial investments. I do think, quite seriously, that we must put some constraints on what we are allowing: at least we should say large, otherwise not commercially attractive investments, in certain infrastructure-type development activities, but we just cannot, both on the one hand, appear to be positing that we are levelling the playing field and on the other hand, 48 years later, enshrining in law, privileges for a specific institution.

Let me hasten to say, Mr. President, that like many of us, I went to school in the Mother country, so I am not other than partial—not against them in any way, but I do think that this is a matter of national interest and we should have a proper review of this measure before us.

I thank you, Sir.

2.50 p.m.

Sen. Diana Mahabir-Wyatt: Mr. President, I would just like to add my support to the point made by Sen. Prof. Spence that if we could amend clause 2 under the Schedule, Part I of the Bill to make it an enabling clause, I do not think it would be nearly as offensive as it is now. One of the unfortunate things about this Bill is that it has come to us at a time shortly after the Unit Trust has been told that it is no longer going to be given any special immunities or privileges, exemptions, or special financial considerations. If we are doing this to the Unit Trust which is, after all, one of our own organizations, then to give this kind of privilege to what turns out to be an investment body which makes profits and reinvests and cannot be doing it solely out of altruism to help us, if I understand the debate correctly, so far, it seems a little difficult for us to just agree that our own organizations have to get one sort of treatment and the CDC gets another. I support the suggestion made by Sen. Prof. Spence that that particular clause be made an enabling clause rather than just a blanket granting clause.

Thank you, Mr. President.

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, let me see if I can bring this debate a little bit more along the lines of the subject because I think we are getting off track. I can understand the amount of emotion that is generated when an organization that is perceived to be making profits is suddenly being conferred with privileges and immunities which it seems it does not need. I also understand clearly that if the Members of the Independent Benches felt that this organization needed support in terms of the fact that it was entering into areas that are more of a developmental nature and, therefore, it was making very risky investments and suffering losses and maybe the Trinidad and Tobago Government needed to confer these privileges to prop them up. I think that is the type of argument I am hearing coming across and therefore, the fact that they are making profits suggests that they really do not need these privileges and immunities. I want us to understand a number of facts that have brought us to where we are today.

Firstly, over the years, the Commonwealth Development Corporation has had an agreement which has been inherited by Trinidad and Tobago coming out of the old colonial days between England and Trinidad and Tobago. What happened then is that the agreement gave them the rights to these privileges and immunities but they got it either by means of a Cabinet note or decision. In other words, they had to keep applying because they did not have it by right of law, as it was never

conferred upon them in Parliament. What this Government is seeking to do now is to clean it up so that they will be allowed and have the right to such privileges and immunities and without having each application being approved by Cabinet.

More than that, however, over the years the activities of the Commonwealth Development Corporation in Trinidad and Tobago have been sort of wound down and maybe if I refer to one of the investments that they had made, Members would understand and appreciate why some of these privileges and immunities can be conferred on them.

The last major investment that was made by the CDC here was the Trinidad and Tobago Mortgage Finance. I do not know how many people are aware of that. At one time this entity was 100 per cent owned by the CDC. What it meant, therefore, was that the CDC made a conscious decision to enter into the financing of low-cost housing which I think any reasonable businessman would accept is not the type of investment that the private sector is in a hurry to get into. They went in and offered subsidized rates of interest, they tried to support the lower end of the housing market. Over the years the Trinidad and Tobago Government bought out, I think, 51 per cent and subsequently, has bought out all of it and that allowed the CDC to leave us. I say leave us because since that, there has been a marked decrease in the amount of investments we have made in Trinidad and Tobago. This is neither an enticement nor a reward.

What this Bill seeks to do is to try to legitimize it in a way that will allow us to discuss with the CDC to go into other areas and to use a more moral suasion for them to return here. Their major operation right now with the regional head office for the Caribbean is in Barbados. We lost out on an opportunity for us to have them located here; they were happy to do so, but they could not find the right environment. For one, they were getting a little fed up of these immunities and privileges because they had to apply for each one and it meant a Cabinet decision would be required for literally each immunity or privilege they wanted to enjoy.

Sen. Prof. Ramchand: Could you say whether these immunities and privileges were being noted each time an application was made?

Hon. B. Kuei Tung: It was not renegotiable. It was subject to an agreement and that agreement conferred it on them but did not give them the legal right as I said. So it meant that they had to go literally cap-in-hand each time and ask. Let me explain that this does not mean that every investment that they make requires that they will get all these privileges and immunities. The privileges and

immunities that they enjoy cannot be passed on, as it were, to an investment they make. It is only the CDC which has an office here that can get these privileges. So let us not get carried away and think that these are huge sums that the Government is giving away. As a matter of fact, over the years, if one looks at it—and I really do not have the number here, but I know I had inquired about it—it is so minuscule that one would hardly think it was worth coming here with. But because we want to get the CDC to look at areas that we want to get developed, we are trying to ensure that we create the environment that will allow them to return.

If, for argument sake, the CDC had an office in Trinidad and Tobago and they had a foreign officer based here, he would be afforded, what may be regarded as, similar diplomatic privileges, as it were. I am not suggesting that he is a diplomat, I am merely stating that is the kind of privilege that would have been given to the CDC. Not that if they had an investment in, let us say, Caroni (1975) Limited, that it would suddenly get these privileges. They cannot, as it were, be passed on to other investments that they make; it is for the CDC itself.

Sen. Prof. Spence: Does that mean that the profits on the investment they make in Caroni (1975) Limited would be exempt from tax or not?

Hon. B. Kuei Tung: Mr. President, that will be dependent upon the actual investment that they make. I am not sure whether they will or will not qualify. What I do know is that the investment they make may only apply to a certain fiscal or incentive act. For instance, if they got involved in the hotel development, they may get other privileges which would then mean that they will get profits exempt under different acts, but I do not think they can claim profits to be exempt in an investment that they make. They would have to make these investments and would have to negotiate the questions of incentives separately from this. It does not mean that the investments automatically attract these diplomatic immunities and privileges.

Sen. Prof. Spence: Of course, I am not a lawyer, but in ordinary English, that is what it seems to mean, so we must get it clarified. Clearly, the hon. Minister of Finance is saying that he is not sure. This is a vastly different kettle of fish. If we are saying the office in Trinidad does not pay taxes and duties, that is one thing, if their investments do not pay taxes on the profits, that is a different thing altogether.

Hon B. Kuei Tung: I would imagine what would happen here is if the Corporation itself receives the profit, but the profits are in the investment

company—let me see if I can explain that. If the CDC has an office in Trinidad, and it makes an investment in a hotel and therefore the profits are transferred to the corporation then the corporation begins to enjoy the tax but the profits of the hotel itself, not because the corporation has an investment there, will it get any special privileges or immunities.

Sen. Prof. Spence: I understand that. *[Inaudible]*

Hon B. Kuei Tung: The corporation then begins to enjoy these privileges and immunities.

Hon. Member: Who invests, is it not the corporation?

Hon. B. Kuei Tung: The corporation does not make the investment.

3.00 p.m.

Sen. Prof. Spence: The corporation does not make the investment.

Hon. B. Kuei Tung: I said the corporation has made investment, but only the dividend which is received once per year enjoys special treatment. I do not know whether the Commonwealth Development Corporation may want necessarily to invest 100 per cent in a hotel in Trinidad. If it does, then that corporation when it transfers its dividend to the Commonwealth Development Corporation will be able to attract duty free status. They are two separate entities. One entity which makes investment does not necessarily enjoy the privileges and immunities as the Commonwealth Development Corporation because it owns 100 per cent of it. So that the investment it makes is subject to the normal Value Added Tax.

Sen. Mahabir-Wyatt: Mr. President, I am trying to understand the hon. Minister. If the Unit Trust Corporation invests a certain amount of money into a hotel and the Commonwealth Development Corporation invests an equal amount of money in the hotel will they both be exempt from tax on those dividends, or would it be only the Commonwealth Development Corporation?

Hon. B. Kuei Tung: Let us assume that they both went 50/50 per cent into a hotel development. In the case of dividends which reached the hands of the Commonwealth Development Corporation, they are given privileged status. The dividends that reach the Unit Trust Corporation will not be given privileged status. Any other profits that remain in the hotel are not given any special status unless the dividends are given from the hotel to the Commonwealth Development Corporation.

The point I want to make, as to why we can justify making these allowances, really relates to the fact that over the years the Commonwealth Development Corporation has been making developmental type investments. Given the fact that the British government does not want to have a Commonwealth Development Corporation that keeps coming back to its exchequer, the Corporation has been given a mandate to try to balance its investments so that profit is made to support the ongoing viability of the Commonwealth Development Corporation. It is in the context of that kind of liberalization that I told Dr. St. Cyr that it had an obligation or a mandate to ensure that it is not focused entirely 100 per cent on development type projects which would generate losses but it was required to make some profits at the end of the day.

Sen. Prof. Spence: Mr. President, the Commonwealth Development Corporation would do well to make profitable investments in a country like Trinidad and Tobago to subsidize its investments in other countries where it has to make developmental investments. It would be sensible to invest in oil in Trinidad and Tobago.

Hon. B. Kuei Tung: That makes sense but I am not too sure whether the Commonwealth Development Corporation thinks that way. Over the years it has had opportunities to make such investments in Trinidad and Tobago and still enjoy the benefits under the agreement, but it has not done so. Its historic behaviour suggests that it has not seen it fit to use the profits of profitable countries to subsidize. I have known that it has made investments in the same countries where profits as well as losses were made.

As I have explained to this honourable Senate, the TTMF is a typical example of what it has done. The Commonwealth Development Corporation made an investment in TTMF in Trinidad at a time when investment in low cost housing was not done by the private sector and it was meant to buttress the activities that were being pursued by the Government. That low cost housing investment, to my mind, was not the kind of attractive investment that other private sector companies would have wanted to go into. I do not think there is any evidence that it would want to come to Trinidad and Tobago to make what is being perceived as ultra profitable investments in order to support less viable investments in poorer countries; but really there is nothing to stop the Commonwealth Development Corporation from doing that.

This is done on a somewhat diplomatic initiative. The Commonwealth Development Corporation does not make investments merely for the sake of

making investments. There is much talk that goes on with the governmental agencies. Therefore, there is much give and take done when the Commonwealth Development Corporation is encouraged to make investments in Trinidad and Tobago. At this time, the activities have really been reduced and I do hope that if the Government can grant these privileges and immunities and they can be seen in the context of what is being done, that it is much narrower than we think, that Members would be able to lend support to this Bill.

Thank you.

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, I rise to make a limited intervention in response to my good Friend, Sen. Jagmohan. I am very young in the business of parliamentary life although I have had some experience during the period I have been here.

I must say for the parliamentary record that many Motions and Orders have been brought to this Parliament, granting privileges and immunities to a number of international agencies. When I was on the other side, I had made many interventions in an effort to get the PNM to address the issue of immunities and privileges insofar as the rights of workers are concerned. The kind of history outlined by the Senator is well known to me and the issue involving the workers at CARDI, in particular, has continued to be a sore point in terms of seeking to grant the workers and the organization which represents those workers the status necessary for proper representation.

What the hon. Senator has said is true, it has gone many stages. While I was on the other side, the government did not make any effort to seriously address the issue in spite of representations made at various times by me.

Sen. Jagmohan: Mr. President, I am sorry to disturb my good Friend, but, how can any government interfere with the jurisdiction of the courts? The Industrial Court is part of the judicial system.

Hon. W. Mark: Mr. President, I do not understand the Senator's point of view. He himself argued a while ago, that he had some concern for the CARDI workers and he was looking at the Bill in the context of whether there may be a repetition of what took place at CARDI and the various efforts that were made by the union. I thought he was interested in seeking to have justice for the workers at CARDI.

Sen. Jagmohan: Mr. President, I certainly have a great deal of interest. I had 40 years of my life in that kind of activity and I have an interest in the matter. I

was trying to relate a particular section of the Bill to see whether, because of diplomatic immunity, the Commonwealth Development Corporation will be precluded from taking that kind of action to have the court knock out any action taken by a recognized majority union taking matters through the stages of the Ministry of Labour and finally to the Industrial Court or the High Court at the appeal stage.

Sen. London: Mr. President, can the Minister indicate to me which clause of the Bill deals with the concern that he so eloquently addressed?

Hon. W. Mark: Mr. President, in an effort to ensure that my colleague understands what this Government is about, I mentioned that we are committed to ensuring and manifesting—[Interruption] Is the Senator on a point of order or seeking clarification? Okay, Mr. President, I give way.

Sen. London: Mr. President, I asked a question and I need some clarification from the Minister.

Hon. W. Mark: The Senator cannot force me to give clarification.

Mr. President, I was making the point that the issue which was raised by Sen. Jagmohan has to do with the rights of workers and to ensure that what happened under the CARDI arrangement would not repeat itself. I think that is the point he was attempting to address.

This government had an excellent opportunity—three and a half years, not to mention the 30 years before; almost 34 years—to address these issues that he raised today.

3.10 p.m.

I can tell the Senate that the Government of National Unity is, in fact, addressing the issue of workers' rights to have trade union representation, and how it impacts on organizations which come to Trinidad and Tobago to invest and are granted exemptions or privileges and immunities. It is a matter that is engaging the attention of the Government to ensure that, in the long run, that particular deficiency and shortcoming which we have discovered, could be addressed by liaising, communicating and arriving at some kind of consensus with the relevant parties involved.

Mr. President, this Government is committed to the promotion, not only of workers' rights in the country, but also to the promotion of political, economic and social rights of the citizenry, generally. In this regard, one would know that just recently we tabled in the Parliament conventions and recommendations

emanating from the International Labour Organization which served, for almost ten years—

Sen. London: Mr. President, would you please rule on the relevance of that statement?

Mr. President: The Hon. Minister is replying to a point made by hon. Sen. Jagmohan, and it is a clarification of the very point.

Hon. W. Mark: That is part of the skills of debate. *[Interruption]* He is not following the process. I realize he is lost, and not properly aware of the Standing Orders, yet. The rules of debate, Sen. London. I am responding to your colleague, and I am just making the point, Sir, that the PNM had a lot of opportunities to put on the parliamentary record the conventions and recommendations of the ILO Constitution which mandated the PNM Government so to do, but it was never done.

Sen. Prof. Spence: Mr. President, just to test the relevance of the comment, could the hon. Minister state whether those tabled ILO resolutions affect the Bill with regard to whether the workers would be protected, or not?

Hon. W. Mark: The point I am making, Sir, is a simple one. This Government of national unity *[Interruption]* is committed to promoting the rights of workers in Trinidad and Tobago; and I was just making the point, Sir, that in an effort to manifest this commitment, we tabled, for the first time the various recommendations and conventions that were supposed to be here ten years ago.

So when he comes here today and makes reference to CARDI and to what could evolve from this piece of legislation, to give the Parliament the impression that the PNM is concerned about workers' rights and people's rights, I am just demonstrating to the Senate, Sir, that it is pure hypocrisy on the part of that Senator and the PNM benches when coming to the rights of workers and privileges which they have denied the workers.

Mr. President, in trying to put the record straight, I would simply like to say that we are conscious of the difficulties that workers of CARDI are faced with; and we are also conscious of the difficulties and limitations that are inherent in some of the legislation which prohibits workers from having adequate representation.

The Government of Trinidad and Tobago is addressing that issue, so that we can give that particular position here, today, to CARDI and other workers who are at the present time not given that right, that status. We are trying to address that issue to ensure that, in the long run, those workers would be able to have the kind of representation necessary. This is why I said, Sir, that I was making a limited intervention to clear the air on some matters raised by my colleague.

Thank you very much.

Sen. Martin Daly: Mr. President, I apologize for not having been here for the start of this debate, but I do have a very fundamental problem with this piece of legislation. In fact, it is undermining the advance that this Government made recently in its negotiations for the LNG Plant, that is to say, starting to hang tough with foreign investors and demanding terms that are good for the country.

I have a fundamental problem with any investor coming in here on terms that give a blanket exemption from all of the taxes imposed by the Government in respect of its operations. I cannot swallow that at all! Indeed, Mr. President, to me it emerged in the course of the debate that, since this corporation could no longer get a subsidy from its home government, it really was coming to us for that subsidy instead.

Now I do not want to enter into any debate as to whether we should have subsidized Guyana recently, but I certainly would enter into a debate as to whether we should be subsidizing any creature established by an Act of Parliament in the United Kingdom, a country that is regarded as far wealthier and far more developed than ours. Therefore, I fundamentally reject the approach that is being taken, and cannot support it.

If the rationale for giving the tax exemption is that this Corporation will come in here and make investments for the purpose of assisting the economic development, and those particular investments that are certified to have that objective and certified to comply with those conditions receive favourable tax treatment, then I do not have a problem. Because what it means is that this Corporation would be encouraged or, as my colleague Sen. St. Cyr says, directed to invest in things that are not normally commercially attractive; invest in developmental areas. Let me give a simple example. The mess that the previous government made of privatization is not going to go away for a very long time.

One of the things that we pointed out in relation to BWIA was that, if one sold BWIA to someone whose only objective was commercial and whose only

objective was bottom line, they might at any one time take decisions like this: it is not worth our while to provide a facility for frozen fish from Tobago. It costs too much money, so we will leave the fishermen in Tobago without airfreight. They might take a decision that, until they standardize the steel pan, it is not worth their while to carry by freight steelband equipment for a performance in New York, or some other major capital. The response that we got from the Government is, those are developmental things which the Government must see about by some other means; and we cannot rely on the privatized carrier to look after that. That is my point, precisely. If the Commonwealth Development Corporation is coming here to invest in something that is more risky, or less attractive to the average investor, then by all means we can consider what are the appropriate exemptions to offer them.

3.20 p.m.

It cannot be right that they are going to get a blanket exemption whether or not the investment they make is developmental, which is how I construe the words, “for the purpose of assisting the economic development of certain countries". I looked at Prof. Spence's amendment, but, in my respectful view, it does not go far enough, because the whole scheme of the Bill is wrong, which is a blanket exemption. This corporation should be required to pay tax like anybody else, but should be able to satisfy the appropriate authority, whether it is the Minister of Finance or someone else, who would issue a certificate saying, “in relation to this investment, I am satisfied that it is assisting development and would not otherwise be undertaken by an average investor and I will exempt from tax any money you make from that project."

The blanket exemption cannot be right, and this Schedule is not capable of easy amendment, because the whole thing presupposes a free ride for this particular corporation. So the whole Schedule would have to be re-amended to establish a scheme whereby the corporation is normally liable for tax, but that if it makes an investment, say, in the freighting of frozen fish from Tobago, because that investment is risky or less attractive to the ordinary businessman, then some form of tax incentive is given to make that investment. It cannot be right to give this corporation a completely blanket exemption, because, as my colleague, Sen. Prof. Spence gave the example, they could come here and look for the best investments available, possibly in the energy sector, or in well-heeled companies quoted on the stock exchange, make investments in those companies and unlike any other investor, walk away with the profits tax free, and that is completely unacceptable.

This seems to me to be a fundamental flaw in this piece of legislation, and really, we seem to be still in the co-all syndrome, that Trinidad and Tobago is begging for investors regardless of the fact, as I have pointed out on previous occasions, the climate is better than Russia and the party is better than Singapore, and I do not think we need to be making these kinds of concessions at all.

Certainly, in relation to this particular Bill, I do not see how we can give a blanket exemption to the Commonwealth Development Corporation. The exemption must be tied to the fact that the particular operation relates to developmental things and in the assisting of economic development.

So unless this Bill is fundamentally changed, I will vote against it.

Thank you, Mr. President.

The Minister of External Affairs (Hon. Ralph Maraj): Mr. President, in responding to the contributions made by hon. Senators, let me, first of all, thank all hon. Senators for having contributed to this debate. Let me also express my thanks to the Opposition Senators who have indicated their willingness to support this piece of legislation.

I think the hon. Minister of Finance did respond quite adequately to the concerns expressed by the Independent Senators. I want to just focus for a little while on the contribution made by Sen. Daly; I think the Minister of Finance would also have responded to some of his concerns. The important thing that we should realize is that the Commonwealth Development Corporation is not driven by the rules, principles and concerns of a normal profit-oriented financial institution. In fact, the research shows that the investments of the Commonwealth Development Corporation take the form of long-term loans and risk capital, and that most of its investments are funded from its own resources, supplemented each year by long-term low interest loans from the United Kingdom Government's aid programme. So that its main source of financing comes from the UK Government's aid programme, and that, I think, speaks for itself.

In addition to that, the Commonwealth Development Corporation has no shareholders, nor does it distribute surpluses. So that these are some of the principles upon which they operate. It is not the bottom line oriented, aggressive, profit-making organization. In fact, it adheres, to a very large extent, to the principles upon which it was originally conceived, that is, to act as a UK Government instrument of private sector development in the developing world

and complements the flow of funds to these countries, especially where the normal international lending agencies, banks and financial institutions would have difficulty.

May I also say that with respect to the concerns expressed by Sen. Daly and others, about the kinds of projects in which the CDC would be involved which it would finance, the terms and conditions of the operation agreement between the CDC and the Government of Trinidad and Tobago, I think, takes that into account. As I said, the activities envisaged by the Commonwealth Development Corporation for Trinidad and Tobago as delineated by the operating conditions agreement—

Sen. Prof. Spence: Mr. President, would it not therefore be appropriate before we continue with any further discussion of this Bill, that we see this agreement? Here we are, debating a Bill which we are purporting to put into legal effect, and there is an agreement which we have not seen.

Hon. R. Maraj: Well, I was about to point out what the conditions of the agreement are and I did make them clear in my earlier contribution. As I was saying, the operating conditions agreement stipulates that the Commonwealth Development Corporation would firstly examine and study possibilities of investment in public or private sector projects which are within its statutory powers, financially sound, of economic benefit and assist the development of the relevant sectors of the economy of Trinidad and Tobago. So that the developmental aspect that we are concerned about is taken care of in that first part of the conditions agreement.

Secondly, such projects that have been considered important to the development of the relevant sectors, to contribute to the implementation of such projects by making a loan—

Sen. Mahabir-Wyatt: Mr. President, I hope the hon. Minister would forgive me, but we are very concerned about this. There are those of us who are brilliant enough to understand from the hon. Minister's reading, the deep meaning behind what he says, but there are others of us who really need to see and study the document before we can decide what it is that we are debating and what it is that we are making a decision on. We wonder, Mr. President, if the hon. Minister would be so gracious as to let us have copies of this so we could finish the debate, perhaps, some other time.

Hon. R. Maraj: All right. We are a very co-operative Government and we take into account their concerns and we have decided that we could possibly go for an adjournment on this particular matter pending an examination by the Independent Senators of the operating conditions agreement—and the Opposition, of course.I therefore postpone any further contributions that I would make on this particular matter.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, I beg to move, That debate on this Bill to confer certain privileges and immunities on the Commonwealth Development Corporation be adjourned to the next sitting of the Senate.

Agreed to.

3.30 p.m.

CORONERS (AMDT.) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That a Bill to amend the Coroners Act, Chap. 6:04 be now read a second time.

The Bill before us owes its origin to the *Gurley Report* of 1992. That Report drew attention to the fact that holding inquests was the responsibility of the magistrate, by virtue of section 3(1) of the Coroners Act which provides that every magistrate shall be a coroner for the whole of Trinidad and Tobago.

That report, in 1992, attracted the attention to the existing situation which is that magistrates have their regular duties, their regular list of cases and the report observed that:

> "It is often the case that the Inquests are adjourned for one or more reasons, the chief reason being that the Court does not have the time to hear them. The team examined and paid particular attention to the area of Coroners Inquests and discovered that there are over three thousand (3,000) Inquests outstanding throughout Trinidad and Tobago. Some of these are outstanding since 1977."

Bearing in mind that this report was given in 1992 and the report identified that there were inquests outstanding since 1977.

Mr. President, the holding of inquests is a part—maybe a small part—of the administration of justice, but it cannot be doubted that when there is delay in the holding of inquests, the whole quality of justice is affected.

Inquests are important for parties, victims and the population at large to know that there have been judicial determinations in respect of unnatural deaths. Normally, when there is an unnatural death, one would expect that if the person who commits that act is known, then the police would prosecute the person. There have been, and there will be, instances where persons die unnaturally and the police are not able to detect whether there was any foul play; and if there was foul play exactly what occurred.

Therefore, what normally happens is that there is a decision to hold an inquiry to examine the facts and circumstances surrounding the death of the person. That inquiry is called an inquest and under the present system it is conducted by a magistrate. The magistrate, sitting as a coroner, examines the statement and witnesses are called, but this process can be a very long one.

What this Bill is attempting to do is to put into law the recommendation of the *Gurley Report* that persons who are not magistrates can be appointed as coroners. It would give to the Judicial and Legal Service Commission the power to appoint those persons.

The Bill also seeks to give the coroner a jurisdiction to conduct a preliminary investigation into an unnatural death; that is to say to look at the statements of the reports and to give them a discretion to determine whether an inquest should be held. If the coroner decides not to hold an inquest, as I would explain later on in the Bill, a notice has to be served on the interested parties and a decision given in open court. The papers are forwarded to the Director of Public Prosecutions who can direct the person who gives that decision—the person who sits as a coroner—to conduct further investigations.

Under the present law if a coroner makes a ruling that no one is connected to a particular death and he closes the inquest, the Director of Public Prosecutions has the jurisdiction to ask the coroner to re-open that inquest. Obviously, under the new law if the coroner decides that there should be an inquest then he would proceed in the same way as he would have proceeded under the Coroners Act.

What this Bill is attempting to do really is to have a situation whereby instead of having a full hearing in respect of every death, a coroner can determine whether there should be an inquest on the basis of the preliminary investigation.

Mr. President, a coroner is a very ancient office. In medieval times the coroner was the one who carried out the inquisitions of the king and conducted his investigations in respect of crime. Historically, it is an office where the officeholder performs both a judicial act and an inquisitorial function. Over the years, with the development of the lay justices of the peace in the United Kingdom in England, the role of the coroner became less and less important because the lay justices would have then conducted preliminary investigations. Then, with the advent of a modern police service the function of a coroner became less and less.

3.40 p.m.

Over the years there has been the question as to whether the office of coroner should be retained in a legal system. Many countries have decided to opt for it because it provides some judicial machinery, in cases where there is unnatural death, for the public to feel appeased that there has been no 'fix-up', if I may use that expression, with the police or anyone else in that the inquiry is being conducted and there can be a determination on evidence as to whether anyone is connected with the particular death.

In Ontario, Canada there has been similar legislation in which it is decided after an inquiry, whether the office of coroner should be retained. There was a report in 1971 conducted by the Ontario Law Reform Commission on the coroners system in Ontario. In Ontario the coroner was given the power to conduct preliminary investigations and also to hold inquests. It was found that having regard to the functioning under that system over the years, that there has been a reduction in the number of inquests which were held and, in effect, a reduction in the backlog of inquests.

The Hong Kong Law Report Commission reported there has been a similar report. In Hong Kong the coroners are given the power to conduct preliminary investigations as a filtering system and it has also demonstrated that the backlog in respect of inquests has been reduced.

Mr. President, in Trinidad and Tobago, unfortunately, and I think it is my duty to mention it, although this problem was recognized so many years ago—since 1992—and the *Gurley Report* cried for an amendment to the law, for some reason this amendment was not done. Although there has been some reduction in the number of inquests which have been outstanding, and if I may mention that up to April 1996, from the details provided by the magistracy, there are still 2,245 inquests pending, that is to say, inquests which have not yet started.

The aim of this amendment is to give legislative approval so that the Judicial and Legal Service Commission would have the power to appoint persons to perform the duties of dealing with these outstanding inquests. Hopefully, these are the offices created—and I should mention that at the same time that this legislation is passed under the Judicial and Legal Service Act, an order would have to be made under section 4 prescribing the classification or title of the office. One does not have the office of coroner because a magistrate sits as a coroner under the Schedule and, therefore, an order would have to be made under section 4 prescribing for that office. This will be an office in the Judicial and Legal Service Commission and there are offices there which will be filled. It is hoped that afterwards when there is a reduction in the backlog these same persons can then be appointed magistrates or continue performing the function of coroners as the Judicial and Legal Service Commission sees fit. They are going to be full time officers. There is no question because under the Judicial and Legal Service Act, one cannot be a contract person. It will be an office-holder, full time occupation, and the policy of the legislation is to give to the Judicial and Legal Service Commission absolute discretion in determining whether a candidate is suitable or not in order to perform this function.

Mr. President, I think I should inform this Senate of what the *Gurley Report* stated about this matter so that this honorable Senate can see in what context this legislation is being brought, and then I shall go through some of the provisions of the Bill.

At pages 64 and 65 of the *Gurley Report* under Coroner's Inquests it states:

"1. In the Magisterial District of St. George West the responsibility of hearing Inquests is assigned to one of the Magistrates who sits as a Coroner. This Magistrate does not sit exclusively as a Coroner but also sits as a regular Magistrate with a regular list of cases. It is often the case that inquests are adjourned for one or more reasons, the chief reason being the Court does not have the time to hear them.

Recommendations:

That at least 7 Magistrates be appointed immediately to sit as Coroners to attack the backlog, 3 of whom should be posted to the Magisterial District of St. George West and 2 of the Magisterial District of Victoria. The remaining 2 should be assigned to the other Magisterial Districts as required.

(ii) As a means of shortening the process of hearing and determining Inquests, the Coroner should be allowed to examine the written and sworn statements of witnesses in his Chambers and make a finding where possible. It should not be necessary for the Coroner to hear the *viva voce* evidence of each witness from the witness box. However, the Coroner or an interested party should be entitled to require a witness to attend before the Coroner to give *viva voce* evidence in Open Court and for that witness to be further examined by Attorney-at-Law appearing on behalf of the interested party. The Coroner's verdict must however be given in open Court. The aforementioned recommendation will require the appropriate amendment to the Coroners Act, Chap. 6:04."

Mr. President, when this Report was published, the Government of the day stated that it was going to appoint a special committee to implement the Report. Although the Government recognized that there had to be quick action, words such as "the fact is that we can no longer continue to pay lip service to the problem; we must act swiftly"; "Cabinet agreed to an immediate and urgent action plan to activate a team charged with the responsibility to provide solutions for immediate implementation in dealing with the problem of delays"; "implementing as quickly as possible the measures which are non-controversial and which can be implemented as quickly as possible so that some immediate relief can be brought to the system". I think history must record this.

3.50 p.m.

On May 15, 1992 the Attorney General under that administration spoke about these matters when the committee was being appointed. The last administration knew before the committee was appointed and got the report. We had to wait from 1994—1996 to have this Bill brought to Parliament. I cannot help but say that it is very unfortunate that these matters have to occur in this way. The Attorney General under that administration said:

"I may have painted a dismal picture but that is not even the whole canvass. The fact is that the situation is truly bad. My investigations have shown that there is no area of the delivery aspect of the system of justice which is free from the horror of delay. The final nail in the coffin so to speak lies in the statistics relating to coroners inquests. That is preliminary inquiry into unnatural deaths.

Those figures show that there are over 3,231 cases which have not even reached the coroner for a determination as to the cause of death, far less to determine whether or not a felony has been committed."

Bearing in mind that the determination of an inquest is not only important for the vindication of the public interest in a general way, there are many instances where the estate of the person cannot be settled and insurance money cannot be collected until the inquest is determined. When insurance money has to be collected for a family it means that the ripple effect of not collecting that money is there. The education of the children is affected from primary school up to university level. I think that we should try to commit ourselves to matters like these to ensure that in the future no government fiddles with them.

It is not that the government of the day did not know. It was on the newspaper and even the Independent Senators were talking about it. I would quote if I am permitted from the *Trinidad Guardian* dated May 21, 1994. This was by Sen. Martin G. Daly SC. Page 7 states:

"Open forum. Follow advice of the *Gurley Report*.

In the short and medium term an improvement in the administration of justice can be readily achieved by the implementation of the *Gurley Report*. This report was commissioned by the Government and a team chaired by Dennis Gurley an attorney-at-law was appointed."

Then it gave the history of the matter. The article continues:

"Two years later not even simple things like amending the law and interest to deter time wasting tactics have been done. To date less than five per cent of its recommendations have been implemented."

Imagine in May 1994 less than five per cent of the recommendations had been implemented when this report was available in 1992.

"What is worse is that the Law Association in correspondence addressed to the Attorney General and the administrative secretary to the Chief Justice sought to identify that the recommendations could be implemented quickly. The correspondence of the Association dated March 23, 1993 has not been acknowledged. Given these circumstances I can legitimately ask whether the commissioning of the *Gurley Report* was a cynical act."

One sees the background against which this Bill comes to the House. One would see that this administration decided that it would try to implement the *Gurley Report* as quickly as possible. One would have seen that there were several pieces of legislation which have dealt with that. There are many aspects of the *Gurley Report* with which we are dealing. Only yesterday the Legislative Review Committee completed its assignment on the Administration of Justice (Miscellaneous Provisions) Bill which would implement more recommendations of the *Gurley Report,* especially those dealing with increasing the jurisdiction of the petty civil court, in order to reduce the work of the High Court.

May I mention that this is part and parcel of the aim of this administration to tackle the problems which confront the administration of justice, and reform some of the criminal procedures in the court. I have not seen Sen. Diana Mahabir-Wyatt. I wish she were here. On one occasion I made her a promise that we were going to get this Bill to provide for appeals by the state against sentencing and points of law in the High Court and acquittals. That Bill is in my possession. It would be introduced shortly in Parliament.

I had also made a promise to Sen. Teelucksingh with respect to video recording. I am subject to correction, but I think that was also a recommendation of the *Gurley Report*. When children have to testify in respect of certain matters they would not have to face the cross examiner. The cross examiner would have to examine through a video screen. Those are some of the reforms we have been able to put into that Bill.

We have dealt with the question of whether the whole law of corroboration should not be reformed to meet the modern trend. I am trying to give an indication that it is not difficult to deal with these matters. It takes time sometimes. One would see that this administration has committed itself to provide relief in the administration of justice.

I am saying this because I hope to get some explanation from the PNM Opposition. Why was it so difficult to bring a simple Bill like this when there was such a crying need in the country to deliver justice to people? I hope they would give this House and the country an explanation as to why they could not have done it.

You would remember that the Minister of Finance in his budget presentation provided for new posts for magistrates and allocations to deal with some of the problems in the administration of justice. We can say that money has been

allocated to deal with this situation. There is a commitment and we have brought this Bill to show our commitment.

Under the existing Coroners Act, one would see the definition of an unnatural death. Section 2 states:

"'unnatural death' includes every case of death of any person—

(a) which occurs in a sudden, violent, or unnatural manner;

(b) where a dead body is found;

(c) as to which any reasonable suspicion exists that the death has not arisen from natural causes; or

(d) as to which any reasonable suspicion exists that any person is criminally responsible for such death;"

4.00 p.m.

Under the existing law, wherever there is an unnatural death, an inquest can be held in accordance with the Act in respect of that death. Under section 4 of the Act, everyone who becomes aware of an unnatural death must give notice to the District Medical Officer, or, to the police officer in the area. In any event, the DMO must get that information as quickly as possible. When he gets that information, he then views the body. When the DMO has viewed the body he can determine whether he would release the body for burial or whether there would be need for a pathologist to examine the body.

The DMO, however, having viewed the body, must then make a report to the coroner. Under section 10 of the existing law, Mr. President, it states:

"A Coroner, having received a report of a District Medical Officer as to the cause of death of any deceased person, shall hold an inquest as to the cause and circumstances of the death in either of the following cases..."

(a) if the District Medical Officer reports that further enquiry ought to be made; or

(b) if the circumstances of the case appear to the Coroner to render it proper to hold an inquest although the District Medical Officer does not report that further enquiry ought to be made."

Under the existing law the coroner must hold an inquest if the DMO tells him that he ought to hold an inquest. He also would have a discretion to hold an inquest if

the DMO tells him that he should not hold an inquest, but he believes, having regard to all the circumstances, he should hold an inquest.

In clause 4 of the Bill the amendment is asking for section 10 to be repealed and a new clause 10 to be included which reads as follows:

"(1) A Coroner having received the report of the District Medical Officer as to the cause of death of any person, may hold a preliminary investigation as to the cause and circumstances of the death."

So he must carry out a preliminary investigation.

"(2) Where upon the completion of the preliminary investigation the Coroner finds that the circumstances of the case warrant no further enquiry he shall deliver his findings in open Court on such date, time and place to be fixed by the Clerk of the Peace of the district to which the Coroner has been assigned.

(3) The Clerk of the Peace of the district to which the Coroner has been assigned shall cause written notice to be given to the investigating officer, and any parties interested therein of the date, time and place for the delivery of the findings.

10A. Where at the close of the preliminary investigation the Coroner finds that the circumstances of the case warrant further enquiry he shall hold an inquest in accordance with this Act."

What this amendment is trying to do is to make it mandatory for the coroner to conduct a preliminary investigation into any death. Having conducted a preliminary investigation, he then decides whether there should be an inquest into the particular death; that is to say, an inquest with a full hearing. There are the safeguards that if the DMO decides that there should be no inquest he must give his findings in open court, transmit the papers to the DPP and the DPP still has the power to request him to conduct an inquest.

Mr. President, for completeness I think I should do this. Under section 22 of the existing law, one would see that, where the inquest is being held the witness' evidence is taken down like depositions—the evidence is recorded and read over to the person, who signs the evidence; it is a whole judicial enquiry. I am saying this in order to illustrate the point that if an inquest is held for each matter, there would be a lot of time spent going through this process, and the aim of the Bill is to try to prevent that process, if it is not necessary.

Under section 28 of the Act:

> "If, during the course or at the close of any inquest, the Coroner is of opinion that sufficient grounds are disclosed for making a charge on indictment against any person, he may issue his warrant for the apprehension of the person and taking him before a Magistrate, and may bind over any witness...".

This is to enlighten Members who do not know that when an inquest is held, if the coroner finds that there are persons who are involved in the death, the coroner has the power to order the person to be arrested and then a preliminary enquiry will be held by a magistrate into the particular charge.

Under section 32—I would not read the others because this is the relevant one:

> "Where it appears to the Director of Public Prosecutions that further enquiry is necessary, the Director of Public Prosecutions may, by direction under his hand, require a Coroner to re-open any inquest held by him and take further evidence, and thereupon the Coroner shall have the power to and shall re-open the inquest..."

One sees, under the present system, the safeguards for having an inquest re-opened, or to have the coroner conduct further enquiries by the Director of Public Prosecutions requesting for such action to be done. What we have done in this Bill is to carry out that same policy.

Clause 9 of the Bill says:

> "The Act is amended by inserting after section 30 the following sections:
>
> > 30A. If at the close of a preliminary investigation the Coroner is of opinion that the circumstances of the case warrant no further enquiry, he shall certify his opinion to that effect and transmit the proceedings to the Director of Public Prosecutions.
> >
> > 30B. Where on receipt of the proceedings under section 30A it appears to the Director of Public Prosecutions that further enquiry is necessary he may, by direction under his hand, require a Coroner to hold an inquest, whereupon the Coroner shall hold the inquest in accordance with this Act."

Mr. President, one sees, therefore, that the policy and safeguards of the existing legislation remain. What this Bill is doing is to create something which

has been adopted in certain other jurisdictions to give to the coroner that power to have the preliminary investigations in order to determine whether there should be a full inquest.

4.10 p.m.

If one wants to argue about the concept of it, one can argue that, here it is a coroner is given the power to perform both investigative and later on judicial functions. I recognize that, but that has been an inherent function and power and the whole office of a coroner is characterized by those kinds of powers. As a matter of fact, one would not find a coroner who would not have that kind of power, it is one of those unique offices in which the person, because of the nature of the functions, would perform both a judicial function at times and an inquisitorial one at times.

Mr. President, for completeness also, I think I should explain clause 3 A (1) of the Bill, and one would see in that clause it says:

> "Notwithstanding section 3, the Judicial and Legal Service Commission may appoint persons other than Magistrates as Coroners."

I had mentioned in my opening that the Government would have to ensure that an Order under the Judicial and Legal Service Act is passed in order to give effect to this Bill to have the office of coroner mentioned as an office. One would see that clause 3(2) states:

> "Every person appointed...shall, before he performs the functions of a Coroner, take and subscribe to the oath of office..."

It is a judicial office and he will take the oath and clause 3A (3) says:

> "A Coroner appointed under this section shall have all the powers, privileges, rights and jurisdiction of a Magistrate and Justice as are necessary for the performance of his duties."

And 3A (4) says:

> "The Chief Justice may assign any number of Coroners to one magisterial district or one Coroner to any number of districts."

Mr. President, there is another aspect of this Bill which I would like to mention. This Bill has also dealt with the aspect of moneys being paid for these services. It is proposed in clause 5 to increase the fees payable for viewing the body of the deceased person and for the performance of an autopsy.

We have been advised that these fees had been at their present level for several years but they are no longer related to the services which are given. The fee for the performance of an autopsy by a pathologist, for example, is $60.00 at the present time and had been for the last 26 years. The fee would now be $300.00 and an autopsy performed by a District Medical Officer would be $100.00, and for viewing the body of a deceased person it would be $50.00.

I have been informed that when one compares this fee to the fees paid in other countries, it is still below what exists. For example in Canada the relevant fee as far as an autopsy performed by a pathologist is concerned is much higher, but maybe we can say that it compares with the Canadian dollar. It is $300.00 Canadian. In Dominica the fee for the pathologist is EC $500.00, I am told.

Mr. President, the Bill really is—I am afraid to say in this Senate—a simple Bill. It is a simple Bill, or shall I put it this way, it has tried to effect a simple reform. It is a Bill with the intention of reforming the procedures and measures to deal with the hearing and determination of inquests and we would like very much, if the Opposition, apart from giving us the explanation which I am sure they would be anxious to give, would give us their support. We feel assured that the Independent Bench would recognize that this Bill was long overdue and we would be happy to get their support.

Sen. Daly: Mr. President, before the Attorney General takes his seat, could he explain clause 8 of the Bill and the repeal of section 20 of the Act? Why is that being repealed?

Hon. R. L. Maharaj: Clause 8 repeals section 20, and section 20 of the Act states:

> "Every inquest under this Act shall be a judicial enquiry and may be held as well on Sunday as on any other day."

Since the person who is performing the investigation would also be doing an inquisitorial function apart from a judicial function, we believe that section 20 is not necessary and having regard to the procedures being specified as to how an inquest is to be conducted, it was thought by the Law Commission and the persons who drafted this Bill—and this is one of the questions which I also asked—that this is not necessary as it would just provide problems because the person who was appointed to do this matter would be doing both inquisitorial and judicial functions. Mr. President, I beg to move.

Question proposed.

4.20 p.m.

Sen. Nafeesa Mohammed: Mr. President, contrary to the view being propagated by the Government that the official Opposition in Trinidad and Tobago is being obstructionists in Parliament, may I indicate that we wholeheartedly support the recommendations of the *Gurley Report* and certainly we on this side have no difficulty in supporting the Bill.

However, we do have one or two concerns with respect to this Bill. Before I point out these concerns, I would just like to respond to some comments which the hon. Attorney General made insofar as the implementation of the recommendations of the *Gurley Report*.

Mr. President, today we have been accused of not implementing the recommendations of the *Gurley Report* and this is a very unfair statement. I say this because a while ago the hon. Attorney General quoted—I believe it was a *Hansard* report—from a contribution made and he referred to the dismal situation. That in itself shows that as early as 1992 when the PNM administration came into government, it had recognized the very dismal situation affecting the administration of justice in Trinidad and Tobago. It was for this reason that the Gurley Committee was appointed to examine the administration of justice in a holistic manner.

When the report of the Gurley Committee was submitted, an implementation team had been appointed. The hon. Attorney General is now the head of the Attorney General's office and he has access to the information—and this is a government that is committed to transparency and freedom of information—therefore, I urge him to indicate to this honourable Senate, in his reply, who the members of the implementation team were. When he says that the former administration did not implement the recommendations of the *Gurley Report* he is attacking very senior heads of departments and public servants in the Attorney General's Department, and I have very serious concerns about that.

The hon. Attorney General brings certain pieces of legislation to the Parliament—they have been described as a "vaps" government—one bill after the next. For many of the recommendations of the *Gurley Report* that have to be implemented, the ground work has to be laid. A perfect example is the Bill before the Senate.

This Bill seeks to appoint persons as coroners for the holding of preliminary investigations. When we examine the situation throughout the length and breadth of Trinidad and Tobago, if we visit any of the Magistrates' Courts, we would see

the very deplorable and cramped conditions that exist in some of these courts. If one goes to Nipdec House, one would be walking up the steps to get to the court room and one would be walking side by side with people who have been charged for very serious offences. In the appointment of coroners there must be the physical accommodation to sit and conduct their investigations.

May I remind hon. Senators that it was under the previous administration that there were many infrastructural works going on with respect to the administration of justice. It was under the former PNM administration that the beautiful building, the San Fernando Hall of Justice, was constructed. The hon. Attorney General likes that building, he is accustomed being there, and he knows what a significant improvement that building has been from what existed previously.

It is not only the San Fernando Hall of Justice, but also the Tunapuna Complex, where efforts were being made to improve the court facilities at Tunapuna. I am a resident of San Juan and I know that there were plans afoot to build a new court house in San Juan, a magistrates' court. Now that there is this new government, we trust that they would continue with this plan.

Mr. President, with these new facilities, the kind of infrastructural ground work was being laid so that there could have been measures like these put in place.

It was under the former PNM administration, as well, that there were significant reforms taking place in our court registry. We all know about the computerization programme that was in place, and that would have gone a long way in improving the administration of justice and expediting—

Mr. R. L. Maharaj: Mr. President, I wonder if the hon. Senator would state why the PNM administration did not bring this Bill to the Parliament for four years.

Sen. N. Mohammed: Mr. President, this is the point I am making. There were all those recommendations and other things were happening and this was one of the Bills that was in the pipeline under the former administration. How they arrived at the five per cent, I really have to wonder.

It was under the former PNM administration that there was the introduction of night courts.

When one is dealing with the administration of justice, one is dealing with a very important arm of the state, and that is the Judiciary. In our democratic

system, all efforts are made to keep the Judiciary as independent as possible. It is a fact that other reforms have to take place hand in hand with the Judiciary, but one has to be careful that one does not railroad the situation.

Just a few months ago, one measure that was being put in place by the former administration—and in fact progress had been made in that regard—was the appointment of judges and magistrates. Several new judges and magistrates had been appointed under the former administration. Early in the term of this new government a bill was brought to this Senate to increase the number of judges.

The fact of the matter is that the appointment of judges is linked to the Judicial and Legal Service Commission. That is an independent body and it has its job to do, and we have to be very careful how we approach this situation.

It is very unfair to give the impression that the People's National Movement did nothing to improve the administration of justice in this country because the facts speak for themselves.

Mr. President, as I indicated at the outset, this Bill is a measure which we welcome because we appreciate the problems which are associated with inquests and the very many people who are affected.

Clause 3 (A) (1) of this Bill states:

"Notwithstanding section 3, the Judicial and Legal Service Commission may appoint persons other than Magistrates as Coroners."

A while ago, the hon. Attorney General indicated that an Order would be passed to classify the office of a coroner. We are of the view that some stipulation should have been made as to the qualification for these coroners. Are they to be doctors, lawyers, priests, business people?

Mr. R. L. Maharaj: The Judicial and Legal Service Commission Act provides for judicial and legal officers.

Sen. N. Mohammed: Mr. President, I knew that the hon. Attorney General would have come with that answer. But some kind of stipulation should be made, for example, the kind of experience a legally trained person should have. In the case of magistrates, to be a magistrate one must have a certain number of years experience as a practitioner.

Insofar as the qualifications for the appointment of a coroner are concerned, there can be some kind of elaboration. Otherwise, there will be the case of square

pegs in round holes. It is like taking an economist and having that person host a programme on television as a broadcaster.

4.30 p.m.

Mr. President, there is also the question of the remuneration of these coroners, insofar as the terms and conditions of employment of coroners are concerned. Some kind of stipulation could have been made. Otherwise, there will be a situation where coroners are appointed and, as we have been seeing happening in recent times, the firing of Major General Ralph Brown; and recently, so many workers at the Ministry of Information were dismissed from their jobs. We must avoid that kind of situation, and so, Mr. President—

Mr. R. L. Maharaj: We will hold an inquest into the firing.

Sen. N. Mohammed: We are hearing about an inquest; and we look forward to an inquest being held into the death of the former Attorney General, Selwyn Richardson and, of course, Mr. Clint Huggins.

Mr. President, these are some of my major concerns with respect to this Bill. As I indicated before, we on this side welcome the measure, as it emanates from the *Gurley Report*. We had appointed the Gurley Committee and we are very pleased to see that our work is being continued.

Thank you very much, Mr. President.

ADJOURNMENT

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, I beg to move, that this Senate do now adjourn to Tuesday, June 18, 1996 at 1.30 p.m., at which time, Sir, we are going to continue with the Bill dealing with immunities and privileges for the Commonwealth Development Corporation; and then we go on to conclude our debate on the Coroners Bill.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.32 p.m.