

SENATE*Tuesday, July 08, 2014*

The Senate met at 10.30 a.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Embau Moheni who is ill, and to Sen. Faris Al-Rawi who is out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: MS. ASHAKI SCOTT

WHEREAS Senator the Honourable Embau Moheni is incapable of performing his duties as a Senator by reason of his illness:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ASHAKI SCOTT, to be temporarily a member of the Senate, with effect from 8th July, 2014 and continuing during the absence by reason of illness of the said Senator the Honourable Embau Moheni.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 7th day of July, 2014.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: MR. STUART YOUNG

WHEREAS Senator Faris Al-Rawi is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, STUART YOUNG, to be temporarily a member of the Senate, with effect from 5th July, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator Faris Al-Rawi.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 7th day of July, 2014.”

OATH OF ALLEGIANCE

Senators Ashaki Scott and Stuart Young took and subscribed the Oath of Allegiance as required by law.

VISITORS

**(BP Trinidad and Tobago
University of the West Indies)**

Mr. President: Hon. Senators, before we start, perhaps you will recognize that in our public gallery we have a number of visitors. I understand there are among those visitors, people from bp Trinidad and Tobago and from the University of the West Indies. So we welcome them here and hope that they will enjoy today's proceedings. [*Desk thumping*]

PAPER LAID

Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Accreditation Council of Trinidad and Tobago for

fifteen and a half months ended September 30, 2005. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President, and welcome back. Mr. President, the Government is in a position to answer questions Nos. 69, 100 and 102.

The following questions stood on the Order Paper:

**Colour Me Orange Programme
(Funds Expended)**

- 78.** A. Would the hon. Minister of Housing and Urban Development indicate what amounts of the Government's figure of \$73,568,637.50 expended on the now defunct "Colour Me Orange Programme" was specifically spent on (i) Equipment, (ii) Materials (iii) Security; and (iv) Salaries and Emoluments in both actual and percentage terms?
- B. Would the Minister indicate what plans are in place to generate further employment in the communities from which the "Colour Me Orange" programme was withdrawn and discontinued?
- C. Would the Minister explain why the government's targets of this programme of a \$300 million expenditure and the creation of 20,000 jobs, as outlined by the Prime Minister were not achieved? [*Sen. C. Robinson-Regis*]

**Atrius
(Details of)**

- 87.** With regard to Atrius, could the hon. Minister of Finance and the Economy inform the Senate:
- (i) what is the status of Atrius;
- (ii) what are the impediments to the transferring of the assets from CLICO to this new entity; and
- (iii) what activities has the Board of Directors of Atrius been engaged in and are they being paid? [*Sen. Dr. L. Henry*]

**VMCOTT
(Details of)**

- 91.** With respect to the Vehicle Management Corporation of Trinidad and Tobago, could the Minister of Transport please inform this Senate as to:

- (a) whether the CEO contract at VMCOTT was terminated by the new Chairman of the Board;
- (b) if the answer to (a) is in the affirmative, on what basis was it done;
- (c) whether the Chief Operating Officer position at VMCOTT was an existing position prior to 2010;
- (d) whether the Chairman of VMCOTT is an Executive Chairman; and
- (e) have the Managers at VMCOTT met the minimum qualifications for their positions? [*Sen. A. Singh*]

Questions, by leave, deferred.

Sen. Camille Robinson-Regis: Thank you very much, Mr. President. Mr. President, before I ask my question, I would just like to enquire about the questions for written answer.

Sen. The Hon. G. Singh: I will provide that at tomorrow's sitting, an answer to your question.

Sen. C. Robinson-Regis: Thank you. Question No. 69 to the hon. Minister of the Environment and Water Resources, and welcome back, Mr. President.

Contract WTC 197/2011 by WASA

(Details of)

69. Sen. Camille Robinson-Regis asked the hon. Minister of the Environment and Water Resources:

- A. Would the Minister indicate whether an investigation has been launched into allegations of bid-rigging, in respect of Contract WTC 197/2011 issued by WASA, in the sum of approximately \$70 million?
- B. Would the Minister indicate the status of this investigation, if indeed, one is ongoing?
- C. Would the Minister confirm whether this allegation of bid-rigging, or any related conduct, was reported to either the Auditor General, the Integrity Commission or to the police?
- D. If the answer to C is affirmative, would the Minister indicate when was/were this/these report(s) made and what is the status of this/these report(s)?
- E. If the answer to C is negative, would the Minister say why no report was

made and further indicate whether there is any plan or intention to do so?
If so, when?

- F. Would the Minister also indicate whether the person or persons who was/were suspected to be involved in this matter is/are still in office or whether such person or persons has/have been suspended, pending the outcome of this investigation?
- G. Would the Minister further indicate what interim measures, if any, have been taken to protect the authority and the taxpayers of Trinidad and Tobago from the type of conduct that brought about these allegations and investigation?
- H. Would the Minister provide the names of the companies which bid for the said contract and which company actually emerged as the awardee, in the process now under investigation?
- I. Would the Minister say whether this contract award is the subject of any court proceedings?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President. Mr. President, I requested from the Water and Sewerage Authority all information, that is, tender notes and board notes relating to WTC 197/2011.

Mr. President, WTC 197/2011 is a sole select tender under WASA Tender Rules 18(e) and (f). The tenders committee of the Water and Sewerage Authority on July 23, 2013, approved the sole selection of A-TECH Products and Services Limited to perform emergency waterproofing services on the roof of Block C building, on the WASA compound at St. Joseph, at a cost of \$635,654 VAT exclusive.

Mr. President, having regard to the answer to part A of the question, parts B, C, D, E, F, G, H and I are irrelevant.

Sen. Robinson-Regis: Supplemental. Mr. President, could the Minister indicate why there was a sole select tender if it was an emergency?

Sen. The Hon. G. Singh: Mr. President, by virtue of the proprietary equipment and services rendered by this company, A-TECH Limited—and I can read into the record the reasons why, but basically it was a chemical process to treat the leaking roof of Block C, whereas previously, the asphalt-coated material that was used proved to be inappropriate.

Sen. Robinson-Regis: Supplemental. Mr. President, would the Minister indicate whether A-TECH is the only company that can treat chemical leaks of this nature?

Sen. The Hon. G. Singh: Mr. President, the following companies, Quality Roofing Company Limited, A-TECH Products and Services Limited, Lifetime Roofing Limited, Weathershield Systems Caribbean Limited, Dover Waterproofing Technologies Limited, Coating and Services Limited, Tamet Life Waterproofing Limited, all firms mentioned there, excluding A-TECH Products and Services, proposed a solution either using the traditional asphalt-based solution which had previously failed because of our weather conditions, or aluzinc coverage, which is not feasible based on the lengthy time it would take to be installed. These methods were not the preferred choice of the Authority.

Sen. Young: Further supplemental, Mr. President. Hon. Minister, is it that none of those companies that you have just quoted could have provided the chemical treatment that A-TECH in fact provided?

Sen. The Hon. G. Singh: Mr. President, A-TECH Products and Services Limited was the sole contractor that proposed a polyurethane elastomeric solution. This is the only one of its type being offered in the country and is presently being successfully, at the time, installed at the nearby Mount Hope Medical Hospital, where they were also replacing asphalt-based membrane covering on concrete roofs.

Mr. President: I see the next question we have is Sen. Diana Baldeo-Chadeesingh. Is somebody—*[Interruption]*

Sen. Robinson-Regis: Mr. President, Sen. Baldeo-Chadeesingh is on her way. Could I have that deferred, please, to a little later and we will go on to the other question? Thank you.

Mr. President: The other question was by Sen. Anthony Vieira, but I do not see him here either.

Dr. Mahabir: He was here, but he stepped out shortly. He is coming back.

Sen. The Hon. G. Singh: The only consideration, Mr. President, is that we have Minister Lincoln Douglas, who is from the other place, and he came specifically to answer that question. So perhaps if it is we can defer that for tomorrow, if Sen. Vieira is not—*[Interruption]*

Sen. Dr. Mahabir: Oh, no, Sen. Vieira will be here shortly. He just went to his office to get something. So I suspect in 10 minutes, Mr. President.

Sen. The Hon. G. Singh: Would you be able to—let me have a discussion, Mr. President, if you would permit me to, with Minister Douglas.

Mr. President, having conferred with my Cabinet colleague, Minister of the Arts and Multiculturalism, I have persuaded him to hold on until the arrival of Sen. Anthony Vieira.

Sen. Dr. Mahabir: Much obliged. [*Desk thumping*]

Mr. President: What I would do is, propose that we defer the questions to later on the Order Paper? Shall we?

I understand you have a particular position?

Sen. Robinson-Regis: Yes. Thank you very much, Mr. President. Mr. President, I will put question 100 on behalf of my colleague so that we can proceed with the questions. So, may I do that now?

Mr. President: Yes.

Sen. Robinson-Regis: Thank you very much, Mr. President.

10.45 a.m.

Surveillance Bays (Maintenance and Upkeep Contract)

100. Sen. Camille Robinson-Regis on behalf of Sen. Diane Baldeo-Chadeesingh asked the hon. Minister of National Security:

Could the Minister inform this Senate on:

- (a) the number of surveillance bays currently installed on the Solomon Hchoy Highway and their exact locations;
- (b) whether a maintenance contract exists for routine upkeep and, if so, the name of the contractor to whom such was awarded; and
- (c) if the answer to (b) is in the affirmative, the cost per month of the contract?

The Minister of National Security (Sen. The Hon. Gary Griffith): Thank you, Mr. President. The question pertains to the number of surveillance bays currently installed on the Solomon Hchoy Highway and their exact locations; also, whether a maintenance contract exists for routine upkeep and if so, the name of the contractor and to whom such was awarded.

Mr. President, in an effort to enable police officers to respond more effectively to situations requiring their intervention, the Government of Trinidad and Tobago made the decision to construct several surveillance bays along the Solomon Hochoy Highway and the Uriah Butler Highway. The construction of the bays which commenced in 2011 was undertaken by the Ministry of Works and Infrastructure which is also directly responsible for the maintenance of the physical facilities.

In November 2012, following the completion of the necessary infrastructural work, nine surveillance bays became operational, six along the Solomon Hochoy Highway, that being in the vicinity of Seeram walkover, in the vicinity of the Highway Roti Shop, the Ato Boldon Stadium, Indian Trail overpass and south of the Tarouba Stadium that has never been opened after several years, and in the vicinity of the current overpass. Also, there were three along the Uriah Butler Highway, that being in the vicinity of Ramlal Trace, in the vicinity of Ripspeed and in the vicinity of Guayamare.

Mr. President, these bays have been equipped with solar power provided by the EMA and CCTV cameras through a managed agreement between the Ministry of National Security and TSTT. The construction of these surveillance bays along the highways has assisted police officers in preventing and solving several serious crimes including kidnapping and recovery of stolen vehicles.

As I mentioned, the physical facilities are maintained directly by the Ministry of Works and Infrastructure. These bays have been outfitted with the solar-powered equipment, and the cost under the managed service agreement with TSTT for the CCTV cameras is \$10,000 per camera per month. Thank you, Mr. President.

National Academy for the Performing Arts (NAPA)
(Details of)

102. Sen. Anthony Vieira asked the hon. Minister of the Arts and Multiculturalism:

In relation to the National Academy for the Performing Arts (NAPA), could the Minister inform the Senate:

- (a) which Ministry/Department has oversight responsibility for health, safety and maintenance of the three functional areas at the National Academy for the Performing Arts (NAPA), specifically: (i) the Auditorium; (ii) the Academy; and (iii) the Hotel;

- (b) which Ministry/entity is responsible for handling maintenance of the complex as a whole or, if such responsibility falls separately, then who is responsible for handling maintenance in respect of each of the three functional areas;
- (c) are formal inspections carried out and, if so, by whom and how often;
- (d) is there a maintenance operations guide or any controlling policy in respect of maintenance and support designed to maximize the performance of the complex; in particular as regards routine repair or maintenance; and as regards preventative maintenance routines;
- (e) is there a help-line support facility available to occupiers or users of the buildings for the purposes of reporting equipment malfunctions and failures or as regards areas or aspects of the building in need of maintenance, repair or adjustment;
- (f) who is required to respond and what is the typical response time; and
- (g) if third party maintenance is used, how is the provider selected and is there a standard maintenance and support agreement?

The Minister of the Arts and Multiculturalism (Hon. Dr. Lincoln Douglas): Mr. President, thank you. Thank you for returning, Sir. In relation to the National Academy for the Performing Arts, NAPA, question No. 102, part (a) which deals with the Ministry or the department that has oversight responsibility for health, safety and maintenance of the functional areas of NAPA, currently each section of NAPA is managed by the following Ministries: the auditorium is managed by the Ministry of the Arts and Multiculturalism; the academy is the Ministry of Tertiary Education and Skills Training and the hotel is by the Ministry of Tourism. The University of Trinidad and Tobago had official responsibility for the maintenance and security of the common areas effective until April 29, 2013.

Subsequently, by Cabinet Minute No. 965 of April 11, 2013, the Ministry of the Arts and Multiculturalism was given full responsibility effective from April 30, 2013. However, the Ministry of the Arts and Multiculturalism is currently engaged in discussions with the Ministry of Tourism and UTT to finalize an MOU which transfers overall responsibility for the facilities and that defines the responsibilities of UTT and the Ministry of Tourism. Meanwhile, a safety committee comprised of personnel from the three entities—the auditorium, the academy and the hotel—was formed in August 2013 to oversee the health and safety and equipment needs of the entire compound. The committee meets on a monthly basis.

Part (b) of the question deals with which entity is responsible for handling maintenance of the complex as a whole and where the responsibility falls separately and who is responsible for handling maintenance, et cetera. The Ministry of the Arts and Multiculturalism is responsible for handling all major routine maintenance, effective April 30, 2013 and, as I said, per Cabinet Minute No. 965 of April 11, 2013.

At present, the Ministry of the Arts and Multiculturalism handles the maintenance of the auditorium and the external grounds. UTT manages the maintenance of the air-conditioning, fire alarm, sprinkler systems, electrical system for the compound, and the Ministry of Tourism handles the maintenance of the hotel. The Ministry of the Arts and Multiculturalism, the Ministry of Tertiary Education and Skills Training and the Ministry of Tourism are presently working on the MOU that will outline the roles and responsibilities for each entity.

As it relates to part (c): some formal inspections are conducted using the relevant authority in addition to major maintenance requirements. They are as follows: the fire services inspection, this is conducted every three months; inspection of the natural gas line by the National Gas Company, this happened on April 2014; monthly health and safety inspections and monthly inspection of the elevators are done by R.B.P. Lifts. Other major maintenance requirements are generally identified by the end users and are treated with accordingly. We also do have two operations departments that are also involved in some form of maintenance.

Part (d) of the question: the main contractor, design and construction, Shanghai Company Group, provided the as-built drawings and maintenance manuals for the major equipment when the complex was handed over in 2009. The users would be guided by the maintenance manuals for the major equipment. Additionally, there is a planned preventative maintenance schedule presently under review and is soon to be implemented. However, appropriate funding is required. The preventive maintenance plan will ensure optimum output of all services and equipment.

Part (e): that deals with a helpline support facility for occupiers or users of the building and that deals with maintenance and repair or adjustment: currently, a helpline support facility is not in place and required maintenance is requested through the formal channel. If an issue arises, the UTT maintenance department, the Ministry of the Arts and Multiculturalism or the Ministry of Tourism would be contacted where a report can be made and from there, a work order is completed, and after completion of the job, the work order is signed off.

Part (f): each of the three Ministries' respond to matters pertaining to the respective session they oversee at NAPA, response time is generally immediate but also contingent upon the request and availability of the funding.

Mr. President, as I was here the last time, I want to remind that these buildings, they would require an extensive labour force and maintenance crew to—I mean, if you have ever visited any major building in the world, you know, like the Grand Ole Opry or Lincoln Center or any one of these, there is an extensive crew of people to the tune of over 100-and-something people that are constantly working on these buildings. I am not sure what people had in mind what they were doing when they created this building and what was necessary, and so, we are working up to that place where we could have a significant labour force that is constantly working on these buildings which is what is actually necessary.

Part (g) of the question: third party maintenance providers are selected in keeping with the Central Tenders Board requirements for selection of service providers. Our warranty period is usually requested in the RFP or the RFQ depending on the nature of the works. With matters pertaining to the Lord Kitchener, Mr. Aldwyn Roberts Auditorium, third parties are selected via the three-quote system. A request for quotations is prepared and three or more suppliers and vendors are contacted and invited to do a site visit. Selection is based on the ability to provide the required services, references, general knowledge, expertise and cost. Thank you, Mr. President. [*Desk thumping*]

Sen. Vieira: Minister, thank you, first of all, for your graciousness in waiting on me. I much appreciate it and thank you also for your very extensive answers. Just one supplemental. May I take it therefore then that by virtue of this Cabinet Minute in August 2013 that your Ministry now has charge of the entire NAPA complex and serves as a coordinator for all of these different Ministries and functions?

Hon. Dr. L. Douglas: Yes, that is the understanding. However, because there has been a history of different players, there is a process now of working out a memorandum of understanding so that there is a clarity about who functions where and what responsibility falls under which organization.

Sen. Vieira: Thank you. Thank you, Mr. President.

JUDGES SALARIES AND PENSIONS (AMDT.) BILL, 2014

[Second Day]

Order read for resuming adjourned debate on question [June 24, 2014]:

That the Bill be now read a second time.

Question proposed.

Mr. President: Those who spoke on the previous occasion were Sen. The Hon. Ganga Singh, Leader of Government Business in the Senate, Sen. Camille Robinson-Regis and Sen. Helen Drayton. All Senators wishing to join the debate may do so at this time. Sen. Dr. Dhanayshar Mahabir.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. President. I almost said Mr. Vice-President but it is good to have you back and, of course, one wishes to express gratitude to the Vice-President for conducting the proceedings in your absence. [*Desk thumping*]

Mr. President, I would like to begin my own contribution to this particular Bill by taking what I consider to be the long view. I have heard and read much in the public domain which, I think, were in some respects justified but in others, I think, may have been a bit myopic. Let me preface by focusing on this notion of institutions and lest Members rise to say that I am being irrelevant, I hope you will indulge me because I would like to marry this with the issue at hand.

In this country, I think that there is a consensus that we are witnessing on a daily basis, the deterioration of institutions, which at one point in time functioned efficiently. By institutions, I mean those organizations created by people and I want to separate that from the natural endowments that we have inherited, such as the Northern Range, the Caroni Swamp and the Queen's Park Savannah. These are basically natural but we have had institutions which worked in the past and which today we are in general agreement have deteriorated with respect to their ability to discharge their functions for the general welfare.

11.00 a.m.

One of these is certainly the police service. We all are nostalgic, with respect to the type of police service we had prior to the 1980s. In the 60s, 70s, at the time when most of us were growing up, we all felt that the police service would capture the delinquents and we would feel relatively safe. What we have seen is that there is a loss in confidence that this particular function is efficiently discharged.

We quarrel about the inefficiency of the public service. We speak about public service reform. We recall an efficient public service, and today we are seeing individuals finding it very difficult to get a passport, which is a legal requirement to travel. So we are seeing some problems with the institution of the public service, and we know that there has been deterioration over time.

A major institution that I spoke about, when we were examining the Planning and Facilitation of Development Bill was the seeming inability of Town and Country Planning to enforce the laws, so that residential neighbourhoods could remain residential. It seems as though we have simply not focused on the institutions that we inherited from the colonial administrators. We allowed them to deteriorate, and when I look around at the institutions that we have created in the post-colonial era, I see institutions which are struggling to really find their way, with respect to making a major difference in the public interest.

We have seen an Integrity Commission which, really, seems unable to enforce any of the integrity laws. There has been no successful prosecution since the Integrity Commission has in fact been created and we now know that integrity is not something one legislates; integrity is something that one inculcates. So, we have seen a struggling Integrity Commission. We have seen a Securities and Exchange Commission for the last 18 years and not a single case has been made so that it could be addressed in the courts. We are not talking about a prosecution, we are simply talking about a Securities and Exchange Commission, which has been unable to build a case against anyone in this country. And it is not because there is no white-collar crime or securities fraud, it simply means that we are finding it difficult to have our institutions functioning well.

In that background there is, in this country, an institution that has worked, and because of that institution, I think there remains an abundance of hope for the future well-being of the citizens of our Republic. I would like to go back to the beginning, not to Genesis, but really to a time when this land was not yet explored. It is said, according to the records, in 1498, Columbus claimed the land for the Kingdom of Spain but it was in 1592, almost a century later, that a gentleman by the name of Domingo de Vera, according to the records, acting on behalf of Antonio de Berrio, created a site in St. Joseph. It is a long time.

Hon. Senator: He and Vieira is family?

Sen. Dr. D. Mahabir: No, no, no, this was the Spanish side of de Vera, not Vieira. Vieira came a little bit later in 1846. We are talking about 1592, Domingo de Vera, acting on behalf of Antonio de Berrio, in an elaborate Spanish ceremony, according to the records, Bridget Brereton, *A History of Modern Trinidad*, that was common at the time all over the Spanish world, New World, created the town of St. Joseph and when that town was created he identified the space for the square that is still there, for the convent or the monastery that is still there, for the church that is still there, for the mission or the administrative quarters and his first act was to establish a cabildo and in that cabildo, according to the records, there

were six regidores, regular individuals to administer the domain. But there were alcaldes. Those alcaldes were the first two judges that were appointed in Trinidad, 1592, and from 1592, we have had a Judiciary. In the wisdom of Spanish colonialism, we have had a Judiciary because in 1592, when there were not much lawbreakers, I would imagine, the Spanish administrators found it fit to establish a Judiciary, so that when the lawbreakers do in fact emerge, a Judiciary would have been in place.

Over the years, Spanish colonial administration, British colonial administration, Cabildo Port of Spain Town Council, now the Parliament of the Republic, a more established system of Government, we have had a Judiciary for a continuous period of over 400 years. When we look back at this period, can we, in all honesty say that the Judiciary of our Republic has been delinquent in its duties, in relation to interpreting the Constitution and administering the law, on behalf of all citizens of our Republic, administering the law on behalf of the State, on behalf of corporations, big business and small business, rich individuals, poor individuals? I think, when we look at the history of the Judiciary, what we have in this country is a sterling record and we have been fortunate to have had an independent Judiciary in our Republic. What happens in a society when public confidence in the Judiciary is compromised? We have seen states across the world where this has occurred.

I will refer, Mr. President, to a work of fiction on what happens when we lose confidence in the Judiciary. It comes from the novel *The Godfather* written by Mario Puzo. It is required reading for anyone who wishes to understand the informal underground economy. Read everything in this book except page 25. You could skip page 25. Do not read page 25 and you—[*Interruption*]

Hon. Senator: What happened to page 25?

Sen. Dr. D. Mahabir: I will not explain. No, no, no, please. You will not, in any way, lose your understanding of the underground economy if you skip page 25, page 26 and the first paragraph of page 27. That is not required reading.

Mr. President, I will read a paragraph and I want to emphasize what can happen when we lose confidence in the Judiciary, and I will use the word “bleep” when there is a word in here, which I think ought not to be repeated in public—[*Interruption*]

Hon. Senator: Unparliamentary.

Sen. Dr. D. Mahabir:—and unparliamentary language. I am quoting from

page 31, where Don Corleone is speaking to his friend Bonasera who abandoned him but who is now coming back to him for help.

“Don Corleone was gentle and patient. ‘Why do you fear to give your first allegiance to me?’ he said.”—to Bonasera. ‘You go to the law courts and wait for months. You spend money on lawyers who know full well you are to be made a fool of. You accept judgement from a judge who sells himself like the worst’”—bleep—“in the streets. Years gone by, when you needed money, you went to the banks and paid ruinous interest, waited hat in hand like a beggar while they sniffed around, poked their noses up your very’”—bleep—“to make sure you could pay them back.’ The Don paused, his voice became sterner.

‘But if you had come to me, my purse would have been yours. If you had come to me for justice those scum who ruined your daughter would be weeping bitter tears this day. If by some misfortune an honest man like yourself made enemies they would become my enemies’ - the Don raised his arm, finger pointing at Bonasera - ‘and then, believe me, they would fear you.’”

This is fiction, but I think, Mr. President, it is not far from reality.

When we lose our confidence in the Judiciary, to whom do we go for justice? We go to the Don and the Don is waiting. But when the Don is administering justice to the guys who have ruined Bonasera’s daughter, the Don is going to use the laws not created by the Parliament of that society, not according to the Constitution of that society, but he is going to create laws that he will enforce. Whenever there is, therefore, that particular view that the Judiciary is compromised, we know that the social fabric of the society disintegrates and there are those on the outside—we may call them the Dons;—we may call them the godfathers; we may call them community leaders; we may call them gang leaders; they are willing, waiting, able to reach out to the law-abiding citizen for a fee, no doubt, and they will administer justice. That is not what we have in this Republic. We have here, a Judiciary which is sterling. Not that, Mr. President, we have always had every one in there with impeccable behaviour and individuals who have never compromised the integrity of that arm of government.

One recalls, maybe about 30 years ago, the case of a magistrate, I think operating out of the Chaguanas Magistrates’ Court, who accepted a bribe of a Royal Saloon car so that individuals who had committed a criminal act would escape the arm of the law. It is interesting that the crime that was committed then is not a crime today. It would not arise, because the crime then, from what I recall,

was a crime of trying to get more foreign exchange than the Central Bank allocated to you. That issue does not arise. In a liberalized currency arrangement, these guys would not commit a crime today. You could buy anything you want, but some things never change. Then in the 80s, it was difficult to obtain foreign exchange to purchase for your imports and a month ago, we found a recurrence of the same problem. But the issue was that this particular magistrate accepted an inducement, so that these individuals who had tampered with the ECO form, I would imagine, they would change \$100,000 and add a zero so that they can then go to the commercial bank, and instead of buying the US \$100,000 allotted to them, they would buy \$1 million. It was a criminal offence at the time when foreign exchange was short.

This particular magistrate was dutifully tried and the judge at the time sent this magistrate for two years in prison and when that occurred, I think everyone in the society knew that the Judiciary of Trinidad and Tobago would, as a particular professional group, be able to discipline their own. Those who are errant will not be able to stay. Every profession has its miscreants, but they are in the minority and these are the ones who the professionals would try to exorcise, so that the integrity of the profession can be preserved. And, we have had, therefore, an institution in which there is public confidence. So that if an individual has a matter against the State, if the Attorney General appears before the courts, there is no guarantee that the courts would look favourably to the Attorney General. The courts, the laws are such, that the judges are such, they are ruled by the law, and if there is some injustice at one point, the judges at the lower courts know that there are higher judges who will be reviewing their judgments and we are fortunate, therefore, to have this type of institution in the Republic.

11.15 a.m.

Mr. President, we therefore have to ask ourselves, do we want, in an atmosphere where institutions all around are crumbling, where public confidence in the public bodies is being eroded, do we want to have one institution that is the beacon in this country of professionalism to be preserved? Of, course, that is a rhetorical question. We want that to be preserved. We want the Judiciary then, hopefully, to be able to influence other arms of Government to follow suit, and for other institutions to be revived.

We have had institutions—and in this country we seem not to respect institutions that we have inherited at all. There are seven buildings around the savannah, these buildings constitute part of our heritage. Every time we drive around, we see one more plywood board being knocked against these buildings,

and it seems as though we have no pride in our historical legacy. I say we are fortunate to have a historical society that was able to restore Hanuman Lion House in Chaguanas, the house of VS Naipaul, the House for Mr. Biswas, and I understand they did the same thing for the house on Nepaul Street in St. James, but save and except those two institutions, we are allowing the history that we have inherited to gradually disappear.

A lovely house like the President's House, formerly Governor General House, it seems as though we have no interest in restoring that particular house built by the colonial masters as part of our legacy. I am hoping that as we proceed, and as we chart our course forward, we would look at our monuments, and we will spend a few dollars to ensure that we have a historical legacy, built by man that could be preserved for the future generations.

The issue before us is how do we preserve, Mr. President, this institution of the Judiciary, and we know that the Judiciary is separate and distinct. The comments I have heard in the public domain are comments which are legitimate. When I heard that there are some public officers who also are in need of pensions, that everyone has been ravaged by inflation, that judges like everybody else should save, and that they should be responsible for their own retirement, and why should they be especially singled out? The case I am making is that that is an institution that has been preserved, and we need to look at the reality of the situation. What is the reality? Who are the individuals that we would like to attract in our Judiciary?

Well, in the legal profession we have many individuals entering, probably all of them extremely brilliant. To get into law school is not the easiest thing; many of them graduating, and there are career paths: they can become litigators, earning huge sums by suing corporations and people, and they do not have to worry about a pension; they can become partners in their law firms and they do not have to worry about a salary; they can, in fact, create their own legal enterprises, and it is available for them to service in a number of branches, those who are public spirited, may be—may want to become prosecutors, they may go into corporate law, criminal law, air and space law, maritime law, it is huge. But to whom do we wish to appeal when we are looking at the Judiciary?

There are in the professions, all professions, those I consider to be the thinkers, the quiet scholars, the people who are motivated not by money, but by something which drew them into the profession in the first case. There are medical doctors who are interested in the health and well-being of the population. There would be lawyers who would be interested in ensuring that the poorest

people can get a defence, and then there would be some there who are interested in philosophizing and thinking about the law, they can find their way anywhere, but these are the people you want to sit on the Bench. These are the people; I consider them the most scholarly of lawyers.

When I see some of the judgments written by the Supreme Court judges in the United States, I say to myself, these are the legal scholars that I think we would like to replicate in the Caribbean and in the Commonwealth. I see them as they speak about affirmative action and same sex marriage, and all of these abortion rights and so on. You see the level of intellectualism in that particular Supreme Court. I think that is the type you would want to attract, and how do you do it?

Well, first off, these individuals must, Mr. President, have distinguished themselves on the ground. They must have practised their profession, and after a point you would want the Bench to appeal to them, and how do you do it?—by working conditions. We give them respect, we absolutely do and we need to do that. There are some things that money cannot buy, for everything else it is said, there is a MasterCard. [*Laughter*] But the respect, we give them a J on their cars, we give them adequate housing, and we are very courteous to the judges. But we have to understand that without money man cannot live; man does not live by bread alone, but without bread man cannot live. So you have to pay them well. So the terms and conditions under the purview of the SRC is something that would continually be assessed.

We come, however, to the retirement. When an individual accepts a position on the Judiciary, it is no different from when a scholar who could earn zillions—I have heard the word used in this Parliament—in the private sector, accepts a position to become a professor at a university. So someone could be a researcher in Silicon Valley, or he could decide to teach people how to make computers, and when that occurs, you want to get the scholars out of those engineers to come into the engineering schools and in business schools, to ensure that we can train the next generation. When they do that, they should not be in any way seriously disadvantaged because if they are, we will be reducing the pool from which we are going to draw for a higher social purpose. In the case of the professor, it is to teach the young, in the case of the judge, it is to administer justice.

In the legal profession, those individuals who are motivated not by money, but by the scale of justice only, are the individuals you want to attract. When we look at their pension arrangements, we need to understand that for a decade after they have demitted the Bench, they simply cannot practise in their profession. This means that we need to be cognizant of how we compensate the judges, not only

during their working life, but during their retirement period as well, and retirement benefits, therefore, happen to be particularly important. It is, I think, unacceptable that someone would have sacrificed the opportunity—we call it the opportunity cost—of making a large sum in the private sector by joining the Judiciary, to build the institution, so that our society could then be promoted, and when they are in need, they live under impecunious conditions.

So I have looked at the proposals of the Government, and I am in agreement with every one of these proposals. [*Desk thumping*] I think it is time that we really look at the compensation package and the retirement package, and I think it is a fair compensation. [*Desk thumping*] However, I think the Government did not go far enough, and I am speaking as an economist. I did not think the Government went far enough.

And so I know there is a tradition that we do not take amendments when we are dealing with a money Bill in the Senate, but I am placing for the consideration of the Government, the following: I think that we need to recognize that there is this notion called longevity. People are living longer now than they were 50 years ago. The average life expectancy now, I do not have the figure, is certainly mid-70s. We could have judges who are over 80 years on the roster. It would have been good to have the data to look at the average age of the retired judge in Trinidad and Tobago. Once an individual is aging, we know what happens.

In the parent legislation, we have a movement from clause 9 to clause 10. When we move from clause 9 to clause 10 in the parent legislation, we speak about when a judge dies what will happen to the benefits, but before death there is always illness. It is not often that people are fortunate enough just to “drop and dead braddap, b-r-a-d-d-a-p”. [*Laughter*] [*Desk thumping*] People are not that fortunate to get up one morning, have their coffee and then as they walk towards the TV to look at CNN, they just collapse. It does not happen that way, “braddap”. It does not.

Sen. Ramlogan SC: Or “boodoops”.

Sen. Dr. D. Mahabir: No, no, no. Unfortunately, in the general case, we find the situation where there is illness, and I think the Government did not really consider this fact, that judges can become ill and they need medical care. The medical care that they require is going to be offered by the public institutions, we know, I have seen that. But you know, if you need a cataract surgery at the Mount Hope Hospital, there is a good chance that you will have to wait for two years before you are given that surgery. Medications which are available in the public pharmacy, may be available or not available, but if you have to buy it outside, it is expensive.

I am, therefore, proposing to the Government that we give consideration to this additional facility, and that is, that if, or when a judge becomes ill, and that particular judge has need to access private health care facilities, the Government will consider defraying a half at least of the expenses of the private health care institution, up to a maximum of one month of their salary, their new salary that we are proposing. Basically we are simply giving a facility recognizing that there is going to be some kind of health care facility for judges, in the absence of private health care insurance which is expensive. So it may be that we are looking at health care needs, and that we have to accept the reality that health care is not always readily available in the public institutions, and if they are available privately, they can be expensive. We need to consider that.

I have circulated an amendment in which I capped the figure at \$20,000, but I think capping a figure at \$20,000 maximum that you will compensate, is not, I think, as far-reaching as if you can cap it as equivalent to a month's salary, whatever that is in the future.

But there is a second proposal, Mr. President, and that proposal is that for 10 years judges cannot practice, this is the rule under which they operate. And being in the Senate now for coming close to a year, I have seen what occurs in committee stage here.

11.30 a.m.

In committee stage, we spend hours and hours and hours wrangling on whether this particular clause will be struck down by a court of law; whether we have drafted it well. We have colleagues, my two lawyer Senators on the Independent Bench and Sen. Al-Rawi and Sen. Young, very active in committee stage.

I am one of the more silent participants. I will say a word here and there to indicate to the Chair that I am in the Chamber, but, really, when we come to committee stage, I am putting as a proposal now, I think a lot of what we wrangle over in committee stage can be sorted out prior to when the Bills reach here.

And so I am proposing to the Government to consider utilizing the services of these retired judges, who have spent a good portion of their professional life on the Bench. Let them create a pool so that before a Bill reaches me, a non-lawyer, it should have passed three judges.

So if we are talking about the Bail Bill, get three judges who have dealt with criminal law for a long time; let them look at the legal aspects—they are not interfering with policy—so that when that Bill reaches me here, I should not be

sitting for hours and hours in committee stage wrangling over law. Those law problems should have been sorted out.

We could retain them post retirement, pay them a stipend and provide additional employment in that way. It certainly will benefit me, so that when a Bill comes before me in committee stage and I look at the clauses, I will accept that legally it has passed the test of the Judiciary and I can simply look at the policy implications.

If we do that, make use of our retirees, 65 at which they retire is the new 45. These judges would be productive mentally, up to when they are in their '80s. It is only if they are tired and do not like this job any more, we will say, "Okay, you can drop out of the roster". But it is going to be making good, efficient, economic use of a resource that is there and to provide a service.

I do not know if other Senators in this honourable House need it, but I certainly think that I would like to see those Bills pass through the judges, for which we pay them, before they come here. But my fear, Mr. President, is once that happens, the Bills that come before us will be so scrutinized that there will be little room for lawyers to win cases on legal loopholes in the court of law. That is going to be a risk, but that is a risk that, as a non-lawyer, I am quite willing to bear.

Mr. President, I have heard much in the public domain about the cost and the charge on the public purse and how expensive this is going to be. I want, again, to raise this to how I prefaced my contribution, and that is the notion of an institution that we are building.

When the hon. Leader of Government Business, Sen. Singh, piloted the Bill here, I think he indicated that there are some—what?—35 retired judges? I do not remember the number, but let us use 35 retired judges. Is that—*[Interruption]*

Hon. Senator: Thirty.

Sen. Dr. D. Mahabir: Oh, it is even less; 30 retired judges in Trinidad and Tobago. I thought the number was more, but okay, 30. Let us assume, Mr. President, that we pay each of them a pension of \$30,000. What happens? Well, let us see. A short while ago, in this Senate document in my possession, tabled in Parliament, the hon. Minister of Finance and the Economy, in the Finance (Supplementation and Variation of Appropriation) (Financial Year 2014) Bill, 2014, circulated a document in which he outlined, quite clearly and succinctly, why he was seeking the permission of the Parliament to appropriate an approximate \$4 billion extra to spend in the current fiscal year.

And on page 18, under “Community Action for Revival and Empowerment”, I will quote. Now, we have 30 judges, I say, let us see if we could afford a pension \$30,000 a month for a judge and, according to my proposal, an extra \$30,000 if they have health care issues and they need to pay a private institution. So we are giving them \$30,000 a month and a little \$30,000 if they need to get a cataract surgery or some kind of blood test or need to purchase any kind of medication.

It says that:

“Cabinet agreed to the provision of support for Carnival 2014 by the payment of prize monies in respect of the undermentioned competitions in the sum of \$11.95Mn”—and I will round \$11.95 million to \$12 million—“as follows:

- The Chutney Soca Monarch - \$4.5Mn
- The International Soca Monarch - \$7.5Mn”

So, Government has approved \$12 million in prize money to promote the culture of the Republic of Trinidad and Tobago, the Chutney Soca Monarch and the International Soca Monarch, together, \$12 million.

If we are, Mr. President, to pay each of the 30 judges \$30,000 a month, it comes up to \$900,000 a month, 30 x 30, \$900,000; \$900,000 x 12 months, that is approximately \$11 million. We are paying more to support chutney soca than to pay the retired judges. That is the order of magnitude that we are talking about when we are dealing with this particular matter.

And so I say, in respect of promoting the sacred, sacrosanct Judiciary of Trinidad and Tobago, I think we can do more than what we pay for the Chutney Soca Monarch and the International Soca Monarch and I would appeal to the Government that since you are paying more to these two prizes, consider my amendment, so you can give them an extra month of salary, so that they can pay for their health care.

Mr. President, I thank you and this honourable House for the courtesy of the attention. [*Desk thumping*]

Sen. H. R. Ian Roach: Thank you. Thank you very much, Mr. President. [*Desk thumping*] I rise in spirit and devotion to country to participate in yet another momentous debate concerning the Judges Salaries and Pensions (Amdt.) Bill, 2013 and the Retiring Allowances (Legislative Service) (Amdt.) Bill, 2014.

I must admit immediately, given the loud outcry of the public at large in reaction to the passage of these two Bills, it would be wise, as has been done, to debate them separately; but debate we must, in the final analysis, both Bills.

I believe the public is owed an explanation that is cogent, that is clear, that is informative as to the reasons giving rise by the Government proposing these Bills at this time. We, as legislators, are now dealing with a public that has become distrustful, dissatisfied and vociferous and is rightfully demanding accountability, transparency and fairness in all spheres of governance. Therefore, we are obligated as servants of the people to treat urgently with their concerns about the passage of these two Bills as well as several other matters currently arousing public interest.

I have had the good fortune to be engaged by a very motivated cross-section of the public regarding these Bills, some of whom are directly affected while others are taxpayers, all of whom consider it their right to communicate their concerns; in some cases, strong resentment, and to appeal to the good sense and morality of us Senators in whom much trust has been placed.

One newspaper vendor told me, "Senator, you just have to do what is right by all manners of men, and if you do so, no way can you support the Bill to pay that kind of extravagant pension to Members of Parliament". Faced with that type of fervent passion, I did what I do best as an attorney-at-law and listened with discernment, appreciating that it is more than a debate on the Bills. It is about the public being infuriated as being duped by politicians and expressing its frustration.

The emotions and concerns of the public cannot be ignored, for these two Bills raise bread-and-butter issues for not only the judges and Members of Parliament, but all members of the working public in both private and public sector, as well as those who have made their working contribution and are now retired.

Most people that I have spoken to seem not to have a problem, in principle, with the revision of the pension for judges, present and retired. What is vexing to them is the method of calculation and procedure adopted. I must say, at this point, I embrace these sentiments and will urge the Government to return to the table of negotiations with the SRC, stating clear objectives to be attached or to be attained in a specified period of time of an outer limit of six months upon its referral.

I must also say that in my consideration of these two Bills and in particular the Bill dealing with compensation for judges and pension, that I have been ably and readily assisted by a number of my colleagues in the legal profession and I must give special thanks to Senior Counsel Reginald Amour, who did give me a lot of his time and his legal expertise in going through the merits and objectivity of the legislation that is being proposed.

I must say, in the final analysis, the comment that keeps coming through from all whom I have been speaking with is that there is, in principle, no problem whatsoever in the fact that people must be properly paid, be it judges, be it Members of Parliament, be it members in the public service, that they must be paid properly. What we do have a problem in Trinidad with, however, is a perception—I do not know when it arose, but it is there—that public servants are not deserving of proper compensation because they are, by and large, inefficient, lazy and non-productive.

This cannot be just willy-nilly dismissed like that because there are instances where a number of, according to the public, various sectors of the public for service, you would have encountered such neglect or such inefficiencies. But be that as it may, there is also the other side. I have also been privileged to have encountered in different parts of the public service, efficient, well-trained, sensitive and productive members of the public service and people in public service.

For instance, a good example is here in Parliament. Until I entered the halls of these honourable Chambers, I never really fully appreciated the work that goes on behind the scenes by members of staff, from the ushers, the drivers, the Clerks, the speakers, the waiters, [*Desk thumping*] day after day, time after time in a very willing and professional way that is admirable and I do not know if the general public has that awareness to really appreciate what goes on to make these Chambers operate as efficiently as it does.

What one sees here in terms of these debates is just a small reflection of what actually goes on in making our Government and passing laws and making this an efficient Chamber to pass laws that affect each and everybody's existence in the country. I think that they, too, also must be given some consideration in terms of being properly remunerated.

We cannot single out errant public servants, errant judges and errant politicians to determine whether or not people should be properly paid. One has to assess the functions; one has to assess the office; take away the personalities involved; take away the parties' affiliation from the occupants of the office in determining what exactly is an appropriate remuneration in order that people can effectively and efficiently operate.

And if that is done, it will be easy. One would not be offended in terms of coming to a proper conclusion based on proper analysis, economic information and a realistic assessment of what is required and what is a decent salary to offer office bearers.

11.45 a.m.

No one that I have spoken to has any problem with judges as it stands right now being better remunerated. Yes, the judges are special in the sense that they are basically almost like the sentinels of our Constitution, of our society, our democracy, and yes they are one of the members that provide a public service that are not unionized. They cannot take strikes; they cannot do a number of things that are available to the average public servant or worker who can advocate for better conditions in payment.

What has created this apparent outcry and outburst in the attempt to pass these two pieces of legislation, is the fact that people are incensed that this particular group is being identified and being dealt with in a special way that is not deserving, which is not true. I think that if people understand and are given the information to understand what is being sought to be done, what is being sought to be corrected, much more, I believe, would be appreciated at hand in accepting the passage and the motivation of these Bills becoming a reality.

And that is, first of all, I think there has been a dropping of the ball by the SRC. The SRC is a constitutional institution which was created by Parliament in order to bring about some sort of objectivity and some sort of impartiality and non-political intervention in terms of service office bearers, in particular, we are dealing now with the judges. But what has happened—it seems probably over a decade—is that the SRC has been falling short in carrying out their mandate in a timely way and in an efficient way, which has created the opportunity for Parliament, the Government, to step in and try to bring some sort of remedy to address this situation. In doing so, certainly, the way in which it was done it seemed to have sort of bypassed the SRC and undermined the institutional functioning and constitutionality of its function which is unfortunate, but this is not something that cannot be rectified.

I think that it is quite clear that the judges, in terms of their compensation, ought to be addressed. I think what is being attempted by the Government is understandable. I think what ought to be done is the fact that it ought to be probably even sent back to the SRC with clear directions with what ought to be considered and engage their participation so it would not be looked at as though your functions, as constitutionally mandated, are being undermined so as to avoid any possible constitutional challenge should these two Bills become law eventually.

I sincerely also believe, Mr. President, that public servants, past and present, should have their pensions reviewed under realistic economic conditions, so as to

bring a reasonable level of comfort to them. Pensions granted have to be paid for by somebody, if not by individual contributions, then by employers or raising taxes or surplus revenue from a sustainable stream of money-generated activities. If not, pension payments would not be sustainable, and might very well end up being a future burden on our younger folks—that is what we would not want to happen. Therefore, it is my respectful submission that the issue of the rates and methods of revising pensions of present and former judges should be sent back to the SRC, as I said before, and be given a stipulated time period for it to be reviewed and brought back before the Cabinet for presentation to Parliament.

I also do believe, Mr. President, that the attitude that I said that exists about how public servants are viewed as being inefficient ought to change, and we have to start to bring about that change from in Parliament. We all know that without a proper functioning public service what goes on in terms of our society, in terms of a number of areas, would not take place and, therefore, I think it is high time that as legislators—who are very much in the forefront in terms of directing policies, influencing policies and so forth—that we must set an example and put an end to this belief that public servants, starting with us, and people in the public service should be paid less.

I think the time has come where, I mean, it should be a challenge to get into the public service, or the private sector should be challenged to keep people from getting into the public service, because they are being adequately remunerated and given attractive conditions and terms of conditions of service. Until that day, we will continue to fight this misunderstanding or this impression that once you are in public service you ought not to be properly remunerated. That is just not right. That is not something that should be continued at all.

When I was asked to be in the Senate as an Independent Senator, it never crossed my mind what salary I would have been receiving, because it was not a condition of my accepting the position. But having been here for just about a year, I have seen the quality of work that goes on behind the scene; the preparation that is necessary to produce the quality of work and debate that takes place in the Chambers, here and in the other place, and for that, if nothing else, it is probably a situation where there is ignorance. Right? Ignorance in the sense that people are not fully aware and informed of what it takes to operate and function effectively and efficiently as Senators and Members of Parliament. We go about and we see in a very personalized way, politicians—we see them as members of parties and we ascribe our likes and dislikes and our prejudices and preferences for different reasons, and we associate the behaviour or the entitlement with the individuals or with the parties, and this has to change.

What we have to look at, as I said earlier on, we have to look at the office: what is required, who we are hoping to attract and what is required to keep the best at all times. And so, in the case of the judges, they should also be understood. They live a very cloistered life. They have a very onerous responsibility that requires all the time, integrity, hard work, diligence and commitment. I do not think that money, in any form, can really justly compensate them for the sacrifice of service which they give to our country over the years, many years, and continue to do so.

It is sad that a debate like this has caused so much negative outcry in certain quarters, but I believe that once the proper explanation and information is made available to the public at large, that what is being sought is not to enrich public servants or to enrich the judges, but rather to provide for them in a reasonable way, that the public will be more understanding and accepting of what is being proposed here as meeting their needs.

There is a lot more to be said. I mean, there is a lot of material I have here. I do not think initiating it, going on to the debate at this stage—I do not know if, as recommended by the Prime Minister, that they are supposed to go to a special select committee of the Senate where it could be revisited, certainly, in terms of not necessarily dealing with the issue, but in how the issue is to be dealt with in terms of the calculation, in terms of getting the appropriate experts, in terms of an actuary, economists, all those persons who are trained and experienced in developing proper remuneration packages as well as pensions could be engaged to bring about some sort of reasonable resolve that will sit well with the public.

But, certainly, we cannot just dismiss it or seem to act as though we are “running shod” over them. They are entitled to an explanation, after all, and we are here as trustees or acting on their behalf, so we have a fiduciary duty to make sure that we are able to account for the money that we are now looking to ascribe—be it judges or whoever—through our actions in this Chamber.

So, should this debate on these two Bills be referred to a special select committee, I think more could be said then which could be taken on board, and I think an outcome that is pleasing to all can be realized. With that, Mr. President, I thank you. [*Desk thumping*]

Sen. Anthony Vieira: Mr. President, thank you. [*Desk thumping*] Mr. President, one of the pillars of our parliamentary democratic framework is the notion of debate. Democracy is a system of reaching political decisions by open discussion. It assumes that people are willing to listen to the arguments of opposing views, weigh them using standards of fairness and change views

accordingly. Today, I wish to offer a differing view to what was expressed in this debate previously, and I would ask that it be given fair consideration in the spirit of exchange of rational ideas in discussion and debate.

Mr. President, as a practising attorney-at-law, I have a legal and ethical obligation to support our judges. It is important that we are able to attract the best legal minds to the Judiciary, and that they are properly remunerated for the very important function they perform. [*Desk thumping*]

I am aware that our judges have not had a significant increase in salaries for some time now. I recognize that the office they hold requires dedication, hard work and sacrifice. They live as cloistered monks. I am also aware of some of the difficulties faced by our retired judges, and I am very sympathetic of their situation.

As a Senator, I have become acutely, indeed, painfully aware of the long hours, the hard work and sacrifice we must endure in order to do our jobs properly and efficiently. We speak on policy, we draft laws, we carry out important oversight functions; matters the public seem not to fully appreciate and for which, I agree, we are less than adequately paid in commercial terms. [*Desk thumping*]

I agree with, and I support the call for a review of the salaries and other conditions of service for Members of Parliament and the non-executive Members of Parliament as well. Let me make it quite clear from the outset, I have absolutely no problem with the principle of improving the pensions of judges and parliamentarians; where I have a problem, is with the process. My reading of sections 140, 141 and 136 of the Constitution is that the Salaries Review Commission is the body responsible for the review of salaries and all other terms and conditions for Members of Parliament and judges.

12.00 noon

Pensions are an important part of compensation. Yes, they are deferred payments but they are paid in recognition of services provided. It therefore seems to me, if only as a matter of logic, that the remit of the SRC must include pensions. Even if one accepts the notion, the opinion, that legislative action is not precluded or that there will be no constitutional impropriety in passing these proposals without the SRC, I believe there are ethical and public policy arguments against proceeding with the proposed pensions in this fashion.

In the event, I wish to put on record my concerns in no particular order of importance. The first one is what I consider a departure from prescribed process.

As any industrial relations practitioner will tell you, an employer who fires a worker for all the right reasons, but goes about it in the wrong way, will find himself on the wrong side of the law. Process is as important as substance. Process is a pillar of our constitutional system. Similarly, it behoves us therefore to have regard to the process prescribed under section 141(2) of the Constitution.

In my respectful view, it is not sufficient to do good or to try to do good by a regular means. Circumventing the Salaries Review Commission, a constitutionally appointed body, even with the noblest of motives, is, in my respectful view, improper. The SRC has been much criticized in this House of late, and many have expressed very strong feelings to the effect that the commission is out of touch with the needs and circumstances of our time. I agree. [*Desk thumping*] I can understand why Government may feel that it has to move in this way because of the SRC's tardiness, disconnectedness, and what appears to be a general lack of concern about how their decisions, or the lack thereof, is affecting the livelihood of our country's key office holders, starting from the President, Members of Parliament, judges, Auditor General, Director of Public Prosecutions, Chief Parliamentary Counsel and Solicitor General.

I really do not know what the problem with the SRC is. Is it that they lack sufficient staff and support, and the necessary resources for them to perform their functions in an efficient and timely manner? Is it they feel that they are untouchable and they do not have to perform? I cannot say, but whatever the reason, it is apparent to everyone, except the members of the SRC, how their inefficiency and tardiness is adversely affecting the well-being of our institutions [*Desk thumping*] and our key office holders. Having said that, it is nonetheless clear to me that the framers of the Constitution obviously wished to remove from legislators, the ability to determine and approve their own compensation, as well as the compensation of the Judiciary.

So for better or for worse, we are saddled with the SRC and we should not be seen as going against the spirit of the Constitution. As far as I am concerned, we must deal with SRC's shortcomings frontally. Avoidance and circumvention is not the solution. The proper response is—I agree with Sen. Roach—the proper response is to insist that the SRC carries out its duties and functions in a timely and proper fashion. Pensions are essentially an actuarial activity. Are there any actuaries in the SRC? I think not. Does the SRC have the necessary wherewithal to retain the services of consultants and experts who can assist them in the performance of their duties? I suspect not.

So complaining about the tardiness and the inefficiencies of the SRC, if they do not have the necessary resources, remonstrating all of this noise about their

lack of ability, is like trying to push a car sideways, it is an exercise in futility. Mr. President, it seems to me, therefore, that the first order of business must be to ensure that the SRC is equipped with the necessary resources. Having done that, we hold them to account, and if they still fail to measure up, then I think the President should be invited to consider removing and replacing them.

I wholeheartedly agree with those who say that the time has come for a rethink and a retooling of this constitutional body. However, any attempt to circumvent the SRC is only going to enable them to take the high moral ground. It lets them off the hook and we will end up being blamed for not having complied with the spirit and the concepts enshrined in the Constitution. So in the premises, I strongly urge that these proposals should be sent back to the SRC for their consideration and recommendations. Passing these Bills without their independent review, even if technically permissible, will generally be regarded as improper. Sen. Roach said it and I agree with him, as parliamentarians we must set the right example. We must respect the spirit of the Constitution and adhere to prescribed process.

We must guard against any blurring or any perception of blurring of the separation of powers. In any event, technical constitutional points aside, it cannot be disputed that where persons seek to approve a significant increase in their personal benefits, a conflict of interest arises. It is one thing if you work for yourself or you own your own business, but it is an entirely different situation where the public purse is involved. I am uncomfortable with the notion of any high public official determining his or her own compensation. That must be reviewed and approved independently. In the absence of independent support, it will be very hard to convince citizens that these Bills are not biased, self-serving and a misuse of position.

My other concern is the formula used. Now I recognize that judges and parliamentarians may require a different pension scheme because the persons who take up these appointments usually start late in life and they serve for a lesser period of time than the typical employment situation. There are also restraints on their employment after retirement, as we have heard earlier.

So while I accept that these pensions may have to be designed in a separate way, I still cannot see why a judge's contact allowance, housing allowance and transport allowance should be pensionable. One of the purposes of pension is to replace income earned prior to retirement. These allowances are paid to compensate for additional expenses incurred in the performance of duty, but after retirement those expenses are no longer incurred and, as such, there is no need for a pension element to replace them.

Again, if these allowances are to be pensionable, then I think the beneficiaries should pay contributions towards them. As it stands, contribution levels remain 6 per cent of basic salary, but the pensions earned will be 100 per cent of salary, plus allowances. Now this contradicts a fundamental principle that contributions and benefits should be based on the same pensionable emoluments. So, accordingly, and at the very least, the contribution should be 6 per cent of all pensionable pay, including the pensionable allowances.

Further, and in any event, the proposed arrangements seem to be going against the global trend, which is towards defined compensation plans. While the linking of judges' pensions to current judges' salaries may seem to be a simple formula, I think it is the beginning of pension indexation in the public service, and I really wonder if we as a country are ready for this type of initiative. The desire to insulate judges and parliamentarians against inflation is a grand idea, but we ought not to lose sight of certain realities. One reality is, most retirees in Trinidad and Tobago are suffering as a result of pensions not being adjusted for changes in the cost of living.

Another reality is that automatic inflation protection is not a feature of either private sector or public sector pensions in Trinidad and Tobago. Granting the proposed automatic inflation adjustment also seems, in my respectful view, arbitrary and inconsistent with Government's past and current refusal to grant inflation increases to public servants. We must be mindful of the precedent that is being established and the knock-on effect this is going to have with the trade unions, the public service and the private sector, especially in a year when several major state employee salary negotiations are due and will soon commence in earnest. Have no doubt about it, Members, if we pass these measures, in the face of publicly voiced concerns and objections, we are sowing the seeds of discontent. This will yield a harvest of unfavourable comparisons and it is going to provoke feelings of inequity and general dissatisfaction amongst citizens.

Further, in the quest to do good for our retired judges, are we failing to give due consideration? Are we failing to consider the ambassadors and high commissioners, the Masters of the court, the Registrars and the other legal officers—our magistrates, the DPP, Solicitor General, Chief Parliamentary Counsel, our permanent secretaries, the judges of our Industrial Court? The record will show that for over 25 years, the judges of the Industrial Court have also been trying to get an improvement of their pensionable entitlements. They enjoy the lowest pension entitlement among all persons employed in any legal or judicial capacity in the services of Trinidad and Tobago.

There is a maximum of two-thirds, 66 per cent of pensionable emoluments and the minimum of one-fifth, 20 per cent. No other comparable office receives a minimum pension as low as that. Mr. Addison Khan, who served the Industrial Court for over 20 years and who retired as the president of the court, gets a low monthly pension. Mr. Vernon Ashby, island scholar, who recently retired after 25 years of distinguished unbroken service in the Industrial Court and who served as the chairman of the Essential Services Division, also will get a low monthly pension. I quoted Mr. Khan because he has the same qualifications as the judges in the Supreme Court.

Mr. Khan and Mr. Ashby are equally situated with the retired judges because the Industrial Court is also a superior court of record. So with all due respect to our retired judges, is Mr. Khan, is Mr. Ashby, and are the other key office holders any less worthy or deserving to have an increase in pension? [*Desk thumping*] I am aware that submissions have been made with great detail and explanation to the SRC on several occasions, and I will say one thing for the SRC, they do not behave in a discriminatory manner. Everybody gets the same bad treatment. Just as how our judges and parliamentarians have been “dissed”, so too when one reads the various reports and the recommendations of the SRC, one gets the impression that these matters are never raised, no representations were ever made; the SRC simply says in one simple sentence, one paragraph, “No change”. [*Laughter*]

Let me say it again for the record, in principle, I agree there should be a pension increase for judges. There is a strong case for this, but there also needs to be pension increases for the other key office holders. I hold the view, therefore, that the matter of pension reform must be dealt with in a holistic and in a strategic way, not in an ad hoc way, and certainly not in silos.

12.15 p.m.

I will not be surprised if these measures give rise to significant upward pressure on public service pensions. I fully expect that these measures, if they are passed, they are going to have a domino effect throughout the economy. Effecting these measures will establish a precedent that everybody is going to cite.

Our long-term commitments, the knock-on effect this legislation is likely to generate also dovetails with another concern I have about the far-reaching implications for the future. We are considering long-term commitments with no indications as to how these figures were arrived at, what comparisons were used, and what the ultimate costs are likely to be.

Pensions require actuarial involvement and careful handling. You cannot treat with pensions like salary. Our State pensions are not pre-funded. They are in fact recurrent expenditure. If you check section 136(5) of the Constitution, it is clear that the salaries and allowances payable to the holders of the various constitutional offices is a charge on the Consolidated Fund. So the actual long-term actuarial cost to the country will significantly exceed the immediate current cost, and if there is a downturn may well prove to be unsustainable.

If we are determined to help the retired judges, I suggest why not consider giving them a cash transfer or a grant or some sort of social assistance, rather than instituting what may be an ill-conceived and flawed pension regime. If inflation protection is the aim, then it might be preferable to adjust pensions periodically for movements in the Retail Price Index and not to link it to current office holder remuneration. It might be better to make inflation protection a target rather than as a guarantee. So in this way when the SRC reviews current office holder remuneration, it can make adjustments to pensions in payment.

Worldwide, countries are carefully and painstakingly reviewing their pension systems and their approaches they will have to pensions. It is unclear what comparative benefits have been benchmarked, and there is a paucity of data as to what the current and future cost of these measures will be. Yet we are being asked to support proposals which will bind the country to objectives and obligations which have not been clearly identified or fully explained when there are serious long-term implications, and I have a problem with that. All in all, it seems to me that the prescribed process is being perverted and should be brought back on track.

With respect, I strongly suggest that Parliament should send these Bills back to the SRC for its vetting and recommendation. The SRC has a wide remit and is best able to gauge the far-reaching implications of the proposed provisions. Give them a time frame, as Sen. Roach has suggested, give them six months to get back to us. If the SRC declines jurisdiction or they lend their support to these measures, it will take the wind out of the sails of the naysayers. However, if the SRC drops the ball, if they drop the ball this time, then we consider amending the Constitution to either get rid of what is a clearly unachieving body or we seek to refashion the commission so that it may usefully and better serve its purpose.

While I appreciate the urgent need for pension reform, we cannot, we cannot disregard the concerns of civil society or be seen as being clever with the Constitution. While I appreciate that there may be gaps in the chain and areas of

demarcation of responsibility, they may seem a little bit unclear, I do not think this is the way to reform the process. I am not persuaded that the proposed measures are constitutionally in order, but even if that proves to be the case, it does not make it right.

On this point, let me quote the honourable Chief Justice in his speech at the opening of the 2012/2013 law term. He says:

“For too long, we have tended to view and interpret written constitutions as instruments for the distribution and separation of powers. That is, of course one of the functions, but to what end?”

What is it for? The constitution is also the embodiment of a value system and a philosophy about the way in which we wish to be organized and governed. The objective of that organization cannot be the maintenance of power in the hands of a ruling clique. Instead, it is to provide a platform for the social and economic development of our people.”

So in summary, one good thing about this debate is that it has finally given us the opportunity to highlight the role, the failings and the inadequacies of the SRC. It has afforded us the opportunity to consider the need for constitutional reform, and the need to improve our commissions so that they may better discharge their functions effectively.

I think it also touches on the need for financial and institutional independence of the Judiciary, but that is a talk for another day. Proper packages for judges—proper packages for judges is only one aspect of judicial independence. I think these proposals seem to be against the concepts enshrined in the Constitution, and with all due respect to learned counsel, both here and abroad, you can call a cat a fish, but it will not swim.

Hon. Senator: Unless it is a catfish. [*Laughter*]

Sen. A. Vieira: Good idea. These proposals seem contrary to pension plan principles, and in any event they are inconsistent with public and private sector pensions practice in Trinidad and Tobago, in particular, as regards inclusion of allowances and mandatory inflation adjustments. For parliamentarians to determine their own pension arrangements, represents in my view, a fundamental conflict of interest. We must remain true to constitutional principles and comply with the institutional mechanism for independent review and support.

The determination of pensions must be done on a scientific basis. Implementing pension reform in the absence of proper actuarial analysis will have

adverse consequences. The long-term actuarial costs to the country are likely to be significant, and they may well be unsustainable if there is a downturn in the future. Bear in mind Government has in the past refused to grant inflation increases to public servants on the ground of cost and not wanting to build inflationary expectations into the economy. Well, these proposals seem inconsistent with that position. Further and in any event, I think it is unseemly for us to be seen as feathering our own nest, while the rest of the population is required to expect a different standard of living in retirement. The matter of pension reform is urgent, but the orderly and just development of our society and economy requires that this should be undertaken in a holistic, transparent and strategic way, not in an ad hoc fashion.

Brothers and sisters, I urge you to step back and look at the bigger picture. If we persist with this course of action, there is likely to be public resentment and anger, and the legislation will be criticized as a misuse of power.

On the other hand, if we follow the process as contemplated by the Constitution, it will only serve to reinforce our bona fides and restore trust and confidence in Parliament. The question we have to ask ourselves in this honourable Chamber today is, whether the time has come for the good men and the good women in this honourable House to rise above principle. Mr. President, I thank you. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Thank you, Mr. President, for allowing me to rise on a Bill entitled an Act to amend the Judges Salaries and Pensions Act, Chap. 6:02.

Mr. President, I do not propose to be very long. I think a number of the issues have been alluded to. I will speak to some of them just to tease out some of the ideas, but I come into this debate mindful of what has been said in the public domain on this matter. Indeed, it would have been hard not to be aware of the very many opinions, objections, or, you know, very strongly held views that have been expressed, using every media outlet imaginable; none have escaped.

All of us have been accosted, I am sure, by members of the public, by people we know asking us what are we doing with this? Are we supporting it? Are we not, and so on. And, as is so often the case in Trinidad, I find some critical aspects of what we should be thinking about when we look at legislation like this appear to have been missed entirely. Where they have been picked up, they have been glossed over or treated superficially or perhaps spoken of in sensational terms. And so I would like to frame what I have to say in three broad categories: Is there

a need? Do we have the appropriate mechanisms to address that need? And finally, should we do this?

In terms of need, I do not think that anyone can argue that a case can be very easily made, and not just for judges, current or retired. There are many examples of very poor pay. A random search tells you that the Chief Fire Officer gets somewhere around \$28,720 a month. The Commissioner of Prisons who keeps charge of all those people we are afraid of, \$28,720 a month. The Commissioner of Police, \$31,080 a month. The Solicitor General, DPP, CPC, \$32,700 a month, more than the Commissioner of Police. The Prime Minister, \$59,000 a month. The Ombudsman, \$37,000 a month.

What is interesting about many of these job titles that I have called is that they are in charge of hundreds of millions if not billions of dollars, but we pay pennies; we underpay, we undervalue. The growth of our economy, the growth of our budget has overtaken our governance arrangements where salaries are concerned. And therefore, it really causes you to wonder, how are we to attract talent to the public sector, to public service, when we keep discounting it? Why would talent gravitate to a place that you are so very obviously and explicitly discounting?

Okay. So perhaps there is a need. Judges are in a very difficult situation; retired judges especially so. And so it leads one to consider, is this a critical case? Why do we need a law just to deal with this particular set of people? Well, Eric Williams addressed that as far back as 1985. He addressed the question of whether there is a “me too” justification; he said—no. There are specific needs and requirements of this group because judges must live a solitary life, a very solitary life. They cannot simply revert to common life on retirement. And while they performed their duties, they must hold the democracy up on their shoulders, and so, you must treat with them. And if you wish to treat with them separately, then so be it; there is enough justification for it.

12.30 p.m.

We are also aware that judges live in poverty, in some cases upon retirement. I have here, a number of examples of correspondence dated as far back as 2003, of members of the Judiciary, then retired, begging, begging for help. They are writing the Prime Minister, President, Prime Minister, anybody they can find, begging for help. The Judges Salaries and Pensions Act, section 5, makes provision for a calculation for pension at last rate of earnings and, of course, this model has been overtaken by inflation. And we have just heard from my colleague, Sen. Vieira, there is really no cost of living adjustment that is being

made in these or in any pension arrangements, anywhere, in fact. So you are really looking at a benefit that is of declining value over time.

So we are aware that there is the need for proper salaries. Okay, there is a case. Do we have the mechanisms to address this need? And here, of course, we get to bring the Salaries Review Commission into sharp focus, but if I look at the institutional framework of commissions, what do I find? No commission does good work, none. They are all in trouble, they are all flat on their backs or resting on their posterior. They do not have the leg strength to get up, to stand tall, to hold the democracy up, none. The Police Service Commission, four years after a change of Government, cannot appoint a Commissioner of Police.

The Public Service Commission, well, you know, one does not have to say much, except that our inability to manage the public service is now causing citizens tremendous grief, heartache, pain, suffering and frustration. And it is the Service Commission that must carry a great burden of responsibility. It is not just the Executive. The Teaching Service Commission, unfilled positions galore, all manner and sorts of problems. None of our service commissions has a stellar record. I wonder why?

We have a crisis of crime here and we cannot find the money to appoint a Commissioner of Police. Hopefully we will have one before the next election. Where has the political leadership of the country been for these last decades when these service commissions were falling into ruin? Why have we not pushed for the performance of the SRC?—I wonder? It is very easy for us to come here and pummel them, verbally. They are not here to defend themselves. Of course, their record speaks or in this case, does not speak, because there is no record. They have not done much of anything.

Where are the appropriate resources for the SRC to work? My view is, each commission perhaps needs its own vote, the same way that the Integrity Commission has its own vote in the budget so that they can access their money more directly instead of through the DPA, for a start. But, more importantly for me, Mr. President, is that section 141 of the Constitution says that the Salaries Review Commission has a constitutional obligation in this matter. It must bring its recommendations to the Parliament.

Now, from a conscience perspective, the SRC cannot deny its responsibility to judges or even to retired judges given the onerous restrictions imposed by the Legal Profession Act, not to practise for 10 years afterwards. But guess what?—we have had a number of people retired, the SRC did not do what it was supposed to do and these people are now living with an outdated formulation.

You have correspondence going back 8, 9, 10, 11 years, where the SRC has failed to review these arrangements. They have failed, they have failed. I cannot imagine, has anyone resigned from the SRC? I cannot imagine how they could sit there with all of the things being said about them and they are still there. What do they get, I wonder? I must find out the salary of an SRC, a commissioner. Is it more than mine? Well excellent. That is great. I have here an Integrity Commissioner gets \$28,720. Is that what a Salaries Review Commissioner gets? Because that is fantastic. I applaud them. That is good employment there given the output. It is like paying a taxi driver who does not drive. [*Sen. Robinson-Regis passes a list to Sen. Dr. Balgobin*] Oh, is this the number? What is it? Ahh, \$8,000, thank God. It is \$8,000 and the chairman gets \$15,000. So at least they get a little less for doing very little.

The *Ninety-Eight Report of the Salaries Review Commission*, section 63(iii) demonstrates clearly that the SRC was aware of the plight of the judges, and said, wait. And if I refer to it, it says:

“With regard to pension benefits, we have been made aware of an undertaking to improve the benefits for which the office holders are currently eligible. We are of the view, also, that improvements in such benefits should be treated with holistically, taking account of factors such as”—blah, blah, blah.

“We continue to hold that any review of existing arrangements should be undertaken in the context of the outcome of the comprehensive review...”

Well, okay, I could agree with that, well finish your review. Why have they not finished their review? Why have they put this entire country in a position where the Executive must bring something to the Parliament that basically bypasses these people altogether? This is the constitutionally created body that is meant to deal with specifically this issue. And what have they done? Well, as it turns out, nothing.

It is a nonsense—well, someone popped their head up very briefly, like a periscope, to look around, from the commission, and in doing that, in blowing some air or water through whatever would pass for a blow hole, managed to say, “we are waiting on consultants to do a job evaluation.” [*Laughs*] Well, you know, it is an absolute nonsense, Mr. President, to say that you need consultants to do job evaluations, when section 141 of the Constitution says clearly that the review of salaries and other conditions is the only thing you have to do.

So how is it here?—because this is what it says, section 141(1) says:

“The Salaries Review Commission shall...review the salaries and

other conditions of service of...holders of offices referred to in section 136..."

And section 136(13) says, shall:

"...apply to the office of Judge."

If that is all you have to do, how is it that you conspire not to have the internal competence to do that?

Sen. Ramlogan SC: They are appointed with some presumed competence to the job as well.

Sen. Dr. R. Balgobin: If I buy a crocodile and the crocodile cannot bite, I think I would be surprised. That is what a crocodile does. If I buy a milking cow and the cow cannot give me any milk, I will be surprised. It does not have another purpose really. So, I have created this Salaries Review Commission, I have put it there, and I have said the only thing I want you to do is review people's packages. And you do not have the internal competence to do that? And you have not managed to prevail on the Executive, the importance of investing sufficient funds to develop that internal competence? Are the Commissioners so appointed, not endowed with those competences, anyway? And they from Mars? Do they not know what pertains?

You do not have to walk far in Trinidad and Tobago without stumbling over a compensation report. You could get that from anybody. If they would like, please, anyone from the Salaries Review Commission who is listening, I am very happy to send you a copy. I am sure I can find one from somewhere. How could they not know, and how could they say that they are waiting on something like that? And this job evaluation is taking upwards of a decade. Wow! They have failed to prosecute the duties that have been set out to them in the Constitution.

And, Mr. President, the SRC appears not to understand that its inaction endangers the separation of powers by placing the Executive in a position where it feels it must act, [*Desk thumping*] and the Legislature in a place where it feels it must respond. That is why I am here. That is why I am standing now, speaking. The SRC has me standing up here now. I do not like people to have that kind of power over my life, especially if they did not do what they were supposed to do, and that is why I have to be standing here. [*Desk thumping*]

So they are—by their failure to act, they are allowing the separation of powers to become less separate. They are interfering with that crossover. Should we do this? Well, if I look at the way the thing is calculated, if we agree to it, it would precipitate an industrial relations crisis. You cannot roll allowances into pension calculation. You just cannot. [*Desk thumping*] Allowances are there to help you

with the cost of doing the work. When you stop doing the work, you do not get the allowances. Whoever wrote this, I do not know if they were writing it for themselves. You cannot do it. An actuarial crisis of significant proportions awaits, it awaits. These proposals are not grounded in any sensible pension management arrangements. The defined benefits scenario for pensions is a logic that has been thrown out long ago, in plenty other places. Everyone is trying to move towards defined contribution.

Hon. Senator: Absolutely. [*Desk thumping*]

Sen. Dr. R. Balgobin: And here we come and say, well, you know, we are going to define your benefit, and we are going to define it in a way that it keeps escalating, because it is indexed to the current salary of judges.

So, the SRC failure, if I were to step back and look at this in context, to me the SRC's failure now sees us trying to adjust pensions to make up for what salaries could not do. But the simple fix is, change the base salary. Change the base salaries, they are too low. The economy is too large. The country is too wealthy. You cannot have people working for those kinds of salaries anymore and in charge of the things that they are in charge of. Even the cost of education for people to be qualified enough to take these positions, why would you take them? The salary does not justify the investment. Raise base salaries and pay the retired judges—well, the judges who are retired now—an ex gratia payment or some other sort of thing like that. Pay them something separate.

12.45 p.m.

A more intelligent formula is needed. The one that we have that is proffered here cannot work. I think that for the judges who are currently retired, put a sum of money in the budget or address a specific programme to address this specific problem. I do not think that they should be bundled together, judges who are currently retired and judges who are currently serving. It does not make sense to me.

Long ago in the early days of the computer revolution, you would get what came to be known as the “blue screen of death” when your computer, you know, it “hands up”. The computer cannot compute what you are putting in it, and that is what I got here—does not compute. I cannot figure it out. I cannot figure out a way to make it work. But I want to sound a caution as well and I want to say that the law is for everyone and not only for lawyers. It is for everybody. The Integrity in Public Life Act, section 29(1) and (2) says that we should tread carefully. That is, we should be mindful of our conflict for those of us who are in support of this.

We must be careful not to be seen to be making laws to fix up friends and colleagues. We must be mindful that some of us who are in vociferous support today, may have to appear before some of these people tomorrow. We must be mindful because if we are not, I can tell you the rest of the country is. It has not escaped me that this is being addressed at a time when the country is led by a lawyer, because I have enough letters here to professors and geologists and the matter was not addressed at all. So I could understand that there is a sense of what?—relatedness, kindred spirits as it were.

Sen. Ramlogan SC: Panday was a lawyer too man, what happen to you?

Sen. Dr. R. Balgobin: Okay, but there were no letters to him, funny enough. Oh well, I do not have them then. They have not seen it fit to furnish me with those. Well, not all lawyers have the same degree of sensitivity and emotional range. *[Laughter]*

Sen. Young: Robinson did not have it.

Sen. Dr. R. Balgobin: I have no letters to him either. *[Laughter]* But, you know, Mr. President, law is a closed profession. Law is a closed profession and we must be mindful. Sitting right there where Sen. Dr. Henry is now, a few weeks ago in a moment of exhaustion, my colleague, Sen. Al-Rawi, snapped at somebody in the back here, “Let the officers of the court talk nah” and forgot he was in the Parliament when he said it. It is a closed profession. We cannot be seen to be making laws and fixing up our friends. We cannot do it. We have to be mindful, because if we do it we will bring the people we are seeking to help into what? Contempt. That is a word that the courts like, “contempt”—odium, distaste, disfavour, dislike, public embarrassment. We must be mindful.

So, it is right for us to pass legislation, but it really must be that we should act on the recommendations of the SRC if only to preserve some sense of distance. The SRC cannot simply abdicate their responsibilities and capsize the Constitution. They cannot. *[Desk thumping]* They must be compelled to act. They must, and not just protect turf and say, “Well, you know, we are aware of things that are happening elsewhere. You all should wait until we finish with our never-ending exercise”. Well, what are you telling the people?

It is totally ridiculous. We cannot, however, bypass instruments like the SRC. We must fix them or we must get rid of them. Those are our options. We cannot do the wrong thing to achieve the right result, and we cannot be party to a constitutional capsize. When we come here and—all of us stood there, held our respective books of worship and said:

“We swear to uphold the Constitution and the law.”

We did not swear to judge it, we did not swear to uphold the parts that made sense to us, we swore to uphold it. That is what we swore to do and the Constitution is clear.

And so, if there is an element of it that is not working or in this case there is a bunch of people who are not working, then we need to address that too. I am—with the greatest of respect to many of my colleagues who are legal luminaries and for legal opinions got locally and abroad, I would differ. I am not persuaded by legal opinions. I could get a legal opinion to say anything. They are for sale. I know the Law Association will write something about me tomorrow. Let me apologize in advance for that. [*Crosstalk*] “I find all yuh encouraging meh, but all yuh doh say anything when all yuh stand up here. So I not taking that basket”. [*Laughter*]

Hon. Senator: “Doh take basket.”

Sen. Dr. R. Balgobin: Your advice is well heeded.

Mr. President, we ought to unpack the issues. I thought that the Government did a fantastic thing to remedy the situation with the footballers. I mean, how tremendous is that? [*Desk thumping*] You know, there is not a man, woman or child in Trinidad that did not feel proud when we made it to the World Cup, and it is such a tremendous step for us to have remedied what was obviously a grave wrong. We righted a wrong, and that is what we should be doing, righting wrongs. We should be fixing things that are wrong.

Well okay, we have a situation where there are some retired judges who are living in circumstances that we know they should not be living in. It is a wrong and we should right it. The question is how, and this is not the way. So we should unpack it. Let us right the wrongs that have been done to the judges who are already retired and leave the existing judges to the SRC and, well by now, the SRC should be aware that they have a huge target painted on their back, their chest, everywhere else, and so hopefully that spurs them to action.

It is unlikely, I suspect, given past record; and therefore, we probably have the need to do something about that—either its membership or the organ itself, but let us unpack the issue. For me, the mischief that we are trying to address, first and foremost, is what are the benefits that we should try to get to the retired judges, and we can give them an ex gratia payment. We do not have to do all of this other stuff. We should delink them.

Truck and trailer is not required here. We are allowed to delink the issues and I think we should because as I come to a close, I am minded to note that there are

elements of this that look, to me, like a profound miscalculation and we must be careful because there is tremendous heat in the society, and I feel sometimes when we put on our nice clothes, some would say “court clothes”, and we come into environments like these it is easy for us to forget that outside there is boiling. Outside there is boiling and these are things that provide, what?—a source of ignition. We should all here know where the society is, and they are holding this up in some circles as an example of elite capture where we fix our friends up. We must be careful.

We have to unpack these proposals and define and measure the problem, and for me the core problem is a small group of judges who are already retired. The bigger problem is the salaries for public service, and I think the SRC needs to rid itself of that outdated—the Jurassic assumption that public duty should attract a discount. It is a nonsense and it cannot survive in this century. It simply cannot but, okay, that is a bigger problem. This legislation cannot deal with that. I think that this legislation, or any legislation brought before us here, needs to really address a specific issue of retired judges, and then the questions are: do you need legislation to deal with it? Can you not just put it in the budget? Give them a payment; be done with it. Let us define and measure the problem and solve that problem.

I applaud what the Government has tried to do here. It is clearly something that has needed to be ventilated and I think that we have ventilated it. The public has ventilated it too, but now all that ventilation is done, what has bubbled down and been left there, I think it is something that we ought to go away and look at. We ought not to continue forward.

I thank you, Mr. President. [*Desk thumping*]

Mr. President: Hon. Senators, it is now 12.55 p.m., I propose to take the lunch break at this point, in which case we will return at 1.55 p.m.?

Sen. Ramlogan SC: Make it 2.00 p.m.

Mr. President: 2.00 p.m. for round purposes. I will concede. So this Senate now stands suspended until 2.00 p.m.

12.55 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed.*

Mr. President: For us to continue the debate, Sen. Prescott, were you next in line?

Sen. Prescott SC: I prefer Sen. Mohan.

Mr. President: I see. Sen. Rev. Joy Mohan. [*Desk thumping*]

Sen. Rev. Joy Abdul-Mohan: Thank you very much, Mr. President, and, of course, my colleague, Sen. Prescott. Mr. President, let me first say thank you for the opportunity to join the debate on this very important but sensitive topic. I rise in support of the intention of the Bill or Bills, because it was my opinion that we will speak on both today, together, but also the principle upon which the Government has moved to correct a deficiency.

Mr. President, notwithstanding my concern that it appears in haste, some basic tenets of democracy may have been violated, as well as the welfare of the State, and that is my humble opinion. Now since this matter surfaced, the whole discussion regarding judges' salaries and pensions, there has been public outcry, as mentioned by several of my colleagues. I have heard and read some strong adjectives describing the amendments to the Judges Salaries and Pensions (Amdt.) Bill, 2013, and these adjectives, you know, keep coming at me every day until today, such as unmitigated greed, rapacious proposals, obscene pension increases, convoluted formula, scant attention, legalized corruption, fiduciary madness in extreme, and unconsolable—unconscionable, sorry.

There is no doubt that this matter has caused a lot of acrimony in our society and country. Consequently, I agreed with the hon. Prime Minister's call to put this matter on hold until all perspectives and opinions are ventilated. Mr. President, I was in attendance at a Women Parliamentarians' Conference in Mexico when I heard of her decision, and I was very pleased with that decision. I would not be standing here today if the decision was otherwise. As I visit homes and institutions on a daily basis, as a religious leader, this matter has now become a household discussion, and whether or not the matter has been reported accurately or inaccurately in the media, it is cause for great concern to all and sundry, so to speak.

Mr. President, I want to believe that one of the main reasons for this kind of response to this Bill, and one of the main reasons a wide cross section of the population has opposed the amendments to the Judges Salaries and Pensions Bill, 2013, is essentially because of the quantity of money involved. Now both Bills radically alter the pension arrangements of judges and Members of Parliament, which would lead to former, current and future judges and parliamentarians receiving substantially enhanced pensions, and I know we will talk a little more about that later. In principle, I am in support of an increased pension or salary for

those who serve the nation, especially those who do so conscientiously toward nation building and those who give a hard day's work for a hard day's pay, but more so, those who go the extra mile and those who go beyond the call of duty as it were.

Mr. President, I agree that there is need to address the inadequate and unacceptable pensions of judges and retirees, who had no increase over the years, as a matter of urgency. But I do believe there is a proper way in handling such matters. It is obvious that such financial matters should be decided under the guidance of an actuarial expert based on best practice and within a reasonable time frame. However, my concerns with this Bill are raised in the context of democracy, in particular, protection of the human rights of all citizens and the rule of law and procedures that apply equally to all citizens.

2.05 p.m.

The first concern I would like to raise relates to the concept of universality. I always remember when I attended a conference in Brazil about eight years ago. Bishop Desmond Tutu said at that conference—it was the World Council of Churches Conference. He said, we shall be free only together, black and white; we shall survive only together, black and white; we can be human only together, black and white. Now, granted Bishop Tutu was talking about something else, but the principle is the same, that is, the opportunity for citizens from all walks of life to have equal and unfettered access to all the benefits and features of the State.

Now in this matter of salaries and pensions, we have chosen to address one subset of the working population to correct a deficiency. Ironically, if we go back to the rule of law aspect of democracy I mentioned a few minutes ago, it is the judges who preside over interpretation of the law and procedures and it is, in fact, the judges whom we are singling out. Ironic, indeed; the question is why. It has been asked by other speakers, why have we chosen to make a reformed pension available to just one section of the population? I ask: what makes judges and legislators more deserving of a reformed pension? What entitles us—and I say us—to an earlier correction than the rest of the population? I dare ask if this is a slippery slope. Who is to say that judges and legislators will be recipients to other corrections and reforms before anyone else? Even if we stand to benefit, we must never do so at the mercy of the nation.

The second concern I would like to raise relates to sustainability. Sustainability has been raised in policies from more than one administration and sustainability is a crucial component of developed countries. It is said, of

developed nations, that the country is judged by its treatment of its weakest members. Also, in terms of sustainability, the age profile of Trinidad and Tobago does not appear to be able to support generous pensions. As one of my colleagues indicated earlier, some will have to bear a greater burden than others, especially the younger generation.

Thirdly, we need to take a serious look at pension reform which must reflect equity and justice. Increases in pensions must be looked at in totality and not in a piecemeal fashion. For instance, a question that can be explored—and I think that has been asked already—is whether the increase in pensions should be tied to the cost of living, but also, the contributory approach to pensions must be explored.

Mr. President, maybe it will be unreasonable or nonsensical of me to refer to what happens in the institution to which I belong, but I dare still mention it, humbly. I cannot depend on the widow's mite, so to speak, to sustain me. Even though my employers contribute twice as much as I do to a group pension plan, I still have to seek my interest outside of the institution in which I serve to provide for my future. On the other hand, my colleagues who have larger families must go the extra mile to provide for their families. Thus, I believe that all citizens, in their own context, must be able to manage or prepare for their retirement and future which, I am sure, at times, involves great risks, but it must be done. It has to be done. That is the only way we can survive. I think about all citizens, especially the working poor, who serve our nation on small salaries and who must look after their own pension and manage their future.

Mr. President, my contribution definitely would not be long. It is my fourth contribution in the Senate, thus far, and I always try to bring a different dimension, a new dimension, but also to be very brief. I agree that the national interest must be served when decisions of this nature are made.

It is a noble attempt to correct legislative deficiencies regarding remuneration for those who have unstintingly served the nation, but until all views, perspectives and opinions are ventilated and further professional guidance is sought regarding this matter—especially in identifying an appropriate formula which will determine the relevant and reasonable pension increase—as a servant leader to the grassroots I cannot support any legislative framework wholesale that may and could possibly breed inequality or threaten the values of equity and the common good of all citizens. That is just who I am and from my vantage point. You see, if I do, I would not be able to honestly face my congregations on a daily basis—the very simple people, the rank and file of the community.

Finally, Mr. President, I want to suggest that the safer way to deal with this matter of increased salaries and pensions of judges, in my opinion—with due respect to all other opinions—is to appoint an independent body, separate and apart from any Senate select committee, or even the Salaries Review Commission (SRC) that has seemingly lost some credibility.

There are several examples we can refer to regarding this matter, Canada, Australia and many others, but in Trinidad we must create a formula unique to our situation ensuring that that formula used for these increases is just and equitable. I am not comfortable going back to the SRC or even a Senate select committee because we can be accused of looking after just our own needs. So, I will suggest that a separate committee—that committee independent, separate, and apart from all others—can be appointed to look after this matter. You see, in the long run, the national interest is what must be served.

With these few words, I thank you very much. [*Desk thumping*]

Sen. Elton Prescott SC: Thank you very much, Mr. President. Thank you colleagues.

Mr. President, I am pleased to join in this debate. I am pleased that the matter of the pension arrangements for judicial officers under this Judges Salaries and Pensions (Amdt.) Bill has been separated from consideration of any other of the superior offices of this country so that we can focus entirely on something that appears to be fair to those who serve us and, certainly, more fair than what had been proposed in an earlier time.

I want to read into the record, some of the legislative provisions that are pertinent to this matter. Firstly, I should read from section 141 of the Constitution.

- “(1) The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15)”—which includes judges—“members of Parliament including, Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed.
- (2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying, as soon as possible thereafter, on the table of each House.”

I started with section 141 to set the background to what I am going to say

because I share the view of those who have spoken so far, both here and in the public, that there is a constitutional provision which already tells us how to determine, from time to time, the terms and conditions of service of judicial officers.

It does not sit well for the Parliament to be saying that, because they are not prevented by precise words from doing so, they can simply legislate terms and conditions for judicial officers, or anybody, who comes within the purview of the Salaries Review Commission, and I shall address that further.

Mr. President, I also want to bring to the attention of the senators that the Constitution makes another provision which is of importance to us. It says in section 53—I will read that too, into the record.

“Parliament may make laws for the peace, order and good government of Trinidad and Tobago, so however that the provisions of this Constitution...may not be altered except in accordance...”

—with certain sections thereafter. What is the significance of that?

It makes two points which concern me. One of them is that when we come to the Senate to debate proposed legislation, we should be mindful of the fact that section 53 says that such legislation should be for the good government of Trinidad and Tobago. It behoves those who present such legislation, therefore, to seek to persuade us that there is that benefit to be had in the legislation. I am not satisfied that we have heard anything that points us to the benefit of good government flowing from passing this piece of legislation.

I am assuming that good government would take account of the separation of powers that the Constitution upholds. I am assuming that good government would tell us that in light of what section 141 of the Constitution provides as the SRC’s function, that one ought to stand aside and permit the SRC to function; not only to stand aside but to fuel the activities of the SRC so that they have no excuse for their non-functioning. It appears—it may well be so—that the SRC has not been functioning, at least in this regard, in regard to the terms and conditions of judicial officers. Those terms and conditions appear to have been languishing for some time although there have been periodic enhancements. A proper functioning SRC, one has to assume, could maintain a standard of providing for increases where such increases are necessary, having regard to changes in the cost of living, how the economy is going, volume of work and those kinds of things.

Indeed, if we look at the reports coming out of the SRC over the years we will find that they themselves have been concerned from time to time to refer to the

criteria which they take into account when they make proposals for changes in the terms and conditions of our judicial officers.

2.20 p.m.

May I just refer the House first to the Salaries Review Commission Report, the Ninety-Eighth Report in November 2013? I have some extracts of it here and you will note that they say in paragraphs 12 and 13 that they take into account—when determining on salaries, that is:

“...current levels of remuneration paid within the private sector for broadly comparable jobs...

...appropriate levels of remuneration...”—which will—“attract, recruit and retain persons of suitable competence, experience, knowledge, skills and personal attributes to fill positions of very high responsibility and trust;

...appropriate differentials in compensation, to take into account significant differences in the levels of responsibility between one office and another; and...”

—they give—

“Consideration...to:-

current remuneration trends...

the general levels of adjustments that were made to compensation packages in the wider local economy since”—their—“last review;...

economic and financial developments in the country;

the fact that...”

And I quote from it:

“the fact that unlike other public sector employees, office holders within our purview have been in receipt of the same salaries”—from since—“2005.”

This report was in November 2013.

And then in the paragraph 51 in relation to pensions and gratuity, they say the following:

“In their submissions”—these are submissions coming to them—“some office holders requested improvements in their existing superannuation benefits. Others requested that the allowances which they receive be incorporated into salary so that they would be included in the computation of pension benefits. We examined the latter proposal since we are of the view that in some instances, the

compensation packages contain allowances which may be considered a fundamental part of salary. While we sought to identify and consolidate those allowances which could be considered part of salary, this proved untenable since it would have created significant distortions in existing relationships, particularly among offices which are currently remunerated in the same salary grouping. This would necessitate an overhaul of the groupings and consequently, we are of the view that the issue of the relationship of salary to allowances provided would best be reviewed during the Job Evaluation Exercise and Compensation Survey.”

And in paragraph 53, they speak of there being:

“...a comprehensive review”—in superannuation arrangements which had been—“highlighted in the Budget Statement 2008/2009.”

And they took the view that:

“...any review of”—the current—“arrangements should be undertaken in the context of the outcome of that exercise.”

Now, the sceptics and the other commentators have said that these are mere words coming out of the Salaries Review Commission. Some have gone so far as to say that they are not functioning at all, and they certainly do not wish to take on board the responsibility for providing for pensions. But, I am putting forward the view that it is the business of the Cabinet and of the Government of Trinidad and Tobago to ensure that the Salaries Review Commission is not furnished with excuses of this sort if, indeed, these are excuses. If you provide them with the funding to get the actuarial review, then presumably you have removed the carpet from under them and they cannot then be heard to say, “We are awaiting this comprehensive review”.

I recall reading in the newspapers, sometime within the last two weeks, that delegates representing the Salaries Review Commission, if not all of them, appeared before His Excellency and made the point that there were outstanding to them the means by which to acquire certain expertise to assist them to make recommendations in respect of compensation. So that we are probably shooting the messenger, not acknowledging that the failure may well lie with those who hold the purse strings, and that is the view that I want to put forward.

I am not going to join on the bandwagon and say, “fire them” or cause them sufficient embarrassment for them to leave office, because the Constitution does not speak to the individuals who populate the Salaries Review Commission. It says there shall be a Salaries Review Commission and it gives the functions that the Salaries Review Commission must perform. So that to embarrass the current

officeholders to leave office, whether they do or not, could not be important, but only provide us with a hiatus between the appointment of this and the other, and one hopes that that is not what is being sought to be achieved, because Salaries Review Commission clearly was thought of when it was introduced as being the means by which we would draw a curtain—and a very opaque one at that—between the Executive and, let us say, the people; between those who hold the purse strings, those who are in Parliament legislating and those who conduct the business of the State.

My contention is that that is still an important function and we must be very careful to preserve the institutions of the State, the institutions created by the Constitution, and not to seek to circumvent them as we have been hearing people say in this Parliament.

In 1981, the then Prime Minister, some people would remember, introduced a sort of judge's allowance as he called it. I recalled him waving his hand in the Parliament and saying that he would introduce it, by way of acknowledging that judicial salaries were at best inadequate and were not consonant with the current economic conditions. I have here a copy of the *Hansard* of September 04, 1981; the Fourth Report of the Salaries Review Commission had been presented in the Parliament by the then Attorney General and Minister of Legal Affairs, and it had addressed the offices of Master and Deputy Chief Magistrate. The next speaker was one Basdeo Panday of Couva North and he said the following:

“Mr. Deputy Speaker, this amendment arises out of the 1981 Budget Speech delivered by the late Dr. Eric Williams the then Prime Minister. On page 64, what he had said in speaking about the judges was:

‘In this symbolic role, the Judges stand apart from all other groups in the society. They are, in addition, the only group whose salaries are enshrined in law, whose privileges are contained in regulations...’

That is the word I wish to underscore”—said Mr. Panday—“regulations.”

I quote again:

“...regulations which specify that all allowances, whatever their nature, are tax free.

The Cabinet has therefore agreed on the following measures now that the relativities in salary remain undisturbed, as measures applicable to Judges only, in respect of which no other group can say ‘me too’...”

“Me too” has been around for much longer than telephones. [*Laughter*] And then he spoke of:

“a personal allowance...a sort of Judge’s allowance”—he said—“of \$2,000 per month;”.

What we have been hearing here today is not far removed from that. It appears that the then Prime Minister foresaw that a day will come, or there may be many days like that, when it might be necessary to make a direct intervention to ensure that the position of judges, their salaries in particular, the privileges they should enjoy by reason of their status, are maintained and maintained at a steady level so that they are never required to become mendicants in the society. It appears that that is what concerned the Prime Minister then. One would not be surprised that for all the power that was in the hands of the Prime Minister in those days, and it remains the same today, that Prime Minister did not say, “Let us, by legislation, bring about a change in the terms and conditions of judges or high judicial officers”. He created an allowance to meet their needs, and we have heard it here today.

If, as appears to be the case, there is a situation of indigence affecting our judicial officers after they have left office, then we can address such position by a temporary measure—it may take some time—while we attend to the needs of the Salaries Review Commission in order to bring them into line so that they may carry out their constitutional purpose. Provide an allowance, it will make those retired judges as happy as they are today if what is paid to them, by way of allowance, raises their level of income to an acceptable standard.

I doubt that retired judges are saying put us at the highest levels, align us with chief executive officers in the private place or align us with judges who are currently sitting on the bench. It might be regarded as an absurdity for a judge to look towards his pension to keep him at the same level as people who are currently serving. It seems as though in our case, it has never been so and I do not think that we should now start doing so.

So that, insofar as this Bill appears to make it possible for retired judges to have their terms and conditions so enhanced that one may well feel I can retire immediately after I attain the age of 55, and in some cases, that may be soon after they come onto the bench, and live as well as a serving judge. Let us not place ourselves in that position, let not the population think that we can corrupt the intendment of the Constitution by allowing that to happen.

One wonders—I think our current Chief Justice is rapidly closing in on 55. Could it be that somebody thought that he could be persuaded by the promise of the same money he is getting today to leave as soon as he gets there? [*Laughter and crosstalk*] I have not been fearful of expressing cynicism in this Parliament. It

appears to me that sometimes you have to look for the long ball and sometimes you have to look for the yorker. What is the thinking?

Sen. Dr. Henry: That is a bouncer.

Sen. E. Prescott SC: “Dah one is ah bouncer?” Look for the yorker, because somebody somewhere must be thinking, well if you give a judge the same money he is going to get when he retires, then what is the incentive for him staying on? Perhaps we might be able to persuade him to go. Okay, so that is the extreme of cynicism and it could be treated as such.

But here is another view. It has been said that a Member of Parliament has said that the Salaries Review Commission was not doing their work so the Parliament has to do it for them. Now, that, as expedient as it sounds in the saying of it, could lead to a disruption in the society. Just think of it again. If the Judicial and Legal Service Commission was seen not to be doing its work, you mean we can have a Chief Justice appointed by the Parliament or by the Prime Minister without consulting anyone?—because all that has to be said is, “Well, the Judicial and Legal Service Commission is playing the fool, they would not get on with an appointment, so let us appoint “X” whom we favour”. Call it cynicism if you will, but—and this one is a bouncer, Sen. Henry—if that was bowled at us, the chances that we would not see it, perhaps we should outlaw it from the beginning. That we must return to what the Constitution has provided that the Salaries Review Commission shall do—and let me use the language of the Constitution, once again, I have it here:

“...shall from time to time with the approval of the President review the salaries and other conditions of service...”

I do not share the view that pensions for judges are outside of the purview of the Salaries Review Commission. If it is, then perhaps we should seek to interpret terms and conditions as it appears in the Constitution such that it would embrace pensions or superannuation benefits or what have you.

2.35 p.m.

Mr. President, I want to move forward to that other aspect of section 53 of the Constitution to which I referred earlier. It says that the Parliament must make laws for peace and good order. And while today, we may regard what is happening as the appearance of good order, that peace and good order can be exploded if this Parliament should dare to pass this Bill unamended. The peace and good order that appears to exist outside in our society today, it is a facade. It is really a chimera. It is nothing of substance and it would not take very much to

cause our people to stand up and say enough is enough, and we know now—as our history tells us, July is a good month for that—people can get really riled up to the point where they will wish to make their own decisions, even in the Parliament.

Parliament does not have to act with fear, or because of fear, but it ought to take into account what is transpiring outside in the environment. And the climate in Trinidad and Tobago today suggests it reeks of a sort of tinderbox atmosphere, that people are waiting for that one final straw to break, if I may mix the metaphors.

I am almost certain that until we can satisfy the population that this particular recommendation, this particular Bill, if it is passed into law, will address peace and good order and seek to maintain it or sustain it, we are looking for trouble down the road. It would be an irresponsible Parliament if we chose simply to accept it wholesale.

Now, am I suggesting that we should go to a Senate select committee? I once thought it was an attractive idea, but having looked at it again, I am of a wholly different view now, Mr. President. It is not good enough to provide that the Senate will go away in select committee. The members will make some adjustments, whether substantial or otherwise, and then come back to the Parliament and the population and say we have decided to give ourselves a great amount of money.

I am now jumping, of course, into another Bill. But equally, we cannot be allowed to come back here and make that determination as to the judges, because the initial linkage of the judicial pensions, with the retiring allowances for legislators, was not by coincidence. It was clearly meant to put into the minds of people and parliamentarians in particular, fix the judges and make it easy to fix others, namely ourselves. I am not inclined to that. If it were possible to go off the record, I would say I do not want the money but I cannot say something here and it does not go on the record, so I am not going to say that. [*Laughter*] But, what is it we are doing?

Mr. President, I am not opposed to judicial officers being taken care of by legislation. I am prepared to say that such legislation must be the product of the work of the Salaries Review Commission and it must address all of the judicial officers. No one has yet sought to satisfy me that, accepting that there is a higher Judiciary and a lower Judiciary, that the lower Judiciary is not entitled to have increases themselves. This piece of legislation does not seem to address them at all.

So, let us first ask ourselves, the Masters of the High Court, who are acknowledged by the Constitution and in the Supreme Court of Judicature Act, I think it is section 65, as being members of the Judiciary—to be treated in the same way as members of the High Court, that is—how can one justify excluding them from this consideration? They function in the High Court at the level of judges. There are some distinctions. We acknowledge that. Their work includes matters dealing with workmen's compensation. They are appointed by the Judicial and Legal Service Commission in the same way that other judicial officers are, and there really ought to be no differences in the remuneration for such officers, accepting, as the Salaries Review Commission pointed out in the 98th report, that there are different levels of responsibility and so each grouping might be treated differently. But what of their pensions? What justifies maintaining them in a state of mendicancy?

We have not heard from those who propose this legislation that there is any good ground for so doing. And then, when you look across the board, are the judges of the Industrial Court, a superior court of record, any less deserving of consideration in the legislation to enhance the remuneration of judicial officers? Are the offices of the Director of Public Prosecutions, the Solicitor General, the Chief Parliamentary Counsel, the Chief State Solicitor, are they not carrying the burden of great responsibility in the society for law and for order? Are they not deserving of the same consideration as those who are recommended in the Bill before us?

What about retired diplomats? There are provisions in the law for the retired diplomats; Retiring Allowances (Diplomatic Service) Act. It speaks to provisions being made for them, but they do not have an eligibility to pension, and, perhaps, they are worthy of consideration at this time also. Their work and their representation may not be at the level of the judges of the High Court or the judges in the Court of Appeal, but these are our brothers and sisters who represent us at the highest levels and are expected, in the same way as judges are, to maintain a certain level of decorum and dignity.

They may shop in—what is the name of the new store?—Massy, like everybody else, but they cannot always go on the discount shelves because people are looking at them. So that they probably have to send other people to do their work for them. They too have pride in themselves. You cannot really expect a retired diplomat to be going to the bargain counter all the time because he cannot afford to maintain himself in a certain way.

What about their optical and dental treatment and there are other medical expenses that tend to collapse upon us as we go into retirement? Can we not look

at those areas and enhance those areas? Those are allowances that can be legislated from here. We can do that and keep them in good order. So that what comes in by way of pension is utilized in the best way that they think possible, so we could relieve them of all those expenses. In the long run, what we have been doing is maintaining a distance between certain judicial officers, certain persons who hold high office and others. And the difference has not been explained to us. It does not appear to have any justification and until I hear it, I am not satisfied that this Bill deserves the support of this Senate. [*Desk thumping*]

Mr. President, it creates a very wide gap. It protects an elite in our society, but I rush to say that I am not against elitism. I favour it considerably if the society is to get anywhere, but we must take measured steps to protect those who offer themselves for public service, knowing full well that they give up many advantages, which can come their way in private life.

There are those who would make the comparisons between judges and their colleagues who remain at the private bar and make large sums of money. I am unable to speak for either of them, either the judges or the well-paid lawyers myself. But there must be those outside there, and if truth be told, those who go onto the judicial benches make the choice and one may assume that they make the choice fully aware of what comes their way after retirement. It may sometimes require us to say very callously: And so what? They have made the choice. But a good government, a good administration, takes into account that there are changes in the cost of living. It never goes down. It seems to go up all the time and there are people who are going to suffer great losses. There are people who would have made decisions in 1980, who, today, are reeling under the weight of inflation and so on. So we must take account of those things.

Mr. President, the things that concern me about the Bill itself, in the event that we go any further with it today, I think I must address those. The very first and very startling change, one which I regard as an absurdity, is the introduction, by way of clause 3, of a definition of, “pensionable emoluments” that takes into account new pensionable allowances, in particular the judicial contact allowance and the transport allowance. I think we have—I have heard more than one of my colleagues speak to that.

The judicial contact allowance, justified as it may have been, speaks from its name, to what it is meant to do. It is meant to provide that judges could meet with fellow judges from other Commonwealth countries and share their experiences, their knowledge. That is good for comity between our countries and for the improvement of our judges, generally, in their wider experiences. But when you

have left the bench I imagine—and I have read it, it does not seem as though they can continue to have judicial contact—why would anybody wish to include the judicial contact allowance among pensionable allowances or pensionable emoluments?

Why the transport allowance? Until we hear a justification for it, it does not appear to me that this was really meant to address the pensions of these judges but really to provide them with the equivalent of salary as though they were still serving on the bench. And there can be no justification for that.

In the Pensions Act, Chap. 23:52, I concede that that contains a definition of “pensionable emoluments” that includes personal allowances, inducement allowances and house allowance. So that I suppose one could say over the years, we have now grown accustomed to including those in pensions. But it skewers the pension arrangements when you are through. And those who know better in the wider society, the economists and so, do not like the inclusion of more and more of these allowances into pension because pensions have a specific purpose and they are not meant to continue to provide for you, as though you have continued to serve in office.

Secondly, Mr. President, doing my mathematics, that is, there are some increases, which are proposed. Clause 4, for example, appears to recommend an increase which, in some cases, could be as high as 100 per cent.

Hon. Senator: Yep.

Sen. E. Prescott SC: I was correct?

Hon. Senators: Correct.

Sen. E. Prescott SC: Oh, I am so pleased with myself, 100 per cent. Why? To move from $1/360^{\text{th}}$ to $1/300^{\text{th}}$ sounds like a small increase. One over 300 to one over 360. Richard Thompson could do that without breathing. But it is not that. It is money we are talking about and my own mathematics tells me that could equate in the hands of some people to as much as 100 per cent increase on what he or she is entitled to and I am not happy about that. I am not happy that no one has taken the time to tell us: here are the data which have led us to say that this is a reasonable and justifiable increase. Once again, I continue to maintain my cynical view that this really was not intended for the judges.

2:50 p.m.

You know, in *Macbeth* the bard put into the mouth of Portia, when she told

Shylock in her judgment that he may have his pound of flesh but he must not spill one drop of blood.

Sen. G. Singh: *The Merchant of Venice*.

Sen. E. Prescott SC: Oh, pardon me, *The Merchant of Venice*. Thank you. How could I have made that error? Thank you Sen. Ganga Singh. Spill not one drop of blood. Had we kept these two pieces of legislation together, one could not miss the linkage. If you spill one—the judicial allowances—well, nobody gets. But in order for the judges to get something, we must go along with the other. And I am happy, I think I started off by saying, that they have been separated, but I still get the feeling that deep inside all of this is a preparation for something later on that we are all going to regret.

And so, I am inclined to say, let us not proceed with this Bill at all, until we have had the benefit of sound expert advice, sound actuarial advice and the economists will look across the wider spectrum. I know one of my colleagues, an economist here, is already in support of it and he probably has good reason; but people like him should tell us, how is it going to impact on the lives of our children in later years?

What if the economy continues in the way it has continued? How are we going to deal with the irregularities that are bound to flow from pensions given today? Because there is an appearance that we have access to money. The day may come when we do not, and somebody will regret it, no doubt, long after most of us have gone.

Mr. President, I want to end by making a reference, for those who care to check, that in the Pensions Act, in the Second Schedule, there is a provision that says judges' pension computation, you may add 10 years to the actual service of the judge, up to 35 years. After he has served 10 years, you may add 10 more years to his service in computing his pension.

So that, insofar as this Bill does not address that, I would like to be told by the Minister, in his wrapping-up, how does he propose to address that? Would that still be the case, that a judge who has served 10 years, and is at age 45, may walk away from the bench with all of these benefits coming to him or her? And it might make him or her happy, but his children and ours may not find the same relief in it.

So, Mr. President, at the end of the day, I am recommending that we revisit this Bill, in the quiet of the period between July and when we return in September, or thereabouts, and if we can find justification for it, maybe it can find

its way back here. If, indeed, the Senate was inclined to go towards a vote on this Bill, I am unlikely to support it, unless I hear of a justification on the points that I have raised in the interim.

Thank you very much, Mr. President.

Mr. President: Sen. Small.

Sen. David Small: Mr. President, I thank you for the opportunity to join in on the debate on this, the Judges Salaries and Pensions (Amdt.) Bill. I have listened intently to—I have had the benefit of listening to many of the contributions that have gone before, and I have also spent quite a bit of time reading all of the various commentaries and looking at the *Hansard* and just trying to understand all the various views.

Perhaps, before I begin to talk, probably just to help frame what I plan to say, and I may be a little while, is that my perspective is, I am not legally trained. My best commercial law and business law at my MBA class is to the extent of my legal training. So I perceive these things a bit differently, and I would be guided—I am happy to be corrected by the more legal luminaries. And, perhaps, also because, Mr. President, I spent 23 years in the civil service, several of those years at the highest levels, having to take things, prepare things and take things to Ministers and the Cabinet.

I have a different perception, so I, myself, got a copy of the Constitution, and section 141, where it speaks to the SRC, and I will deal with the SRC issues comprehensively in my contribution on the Retiring Allowances (Legislative Service) (Amdt.) Bill.

Here is my general thesis, and I will be happy to be corrected. It says that the SRC will review terms and conditions and provide a report to His Excellency. And then the next stage, in that a report is sent to the Cabinet—presented to the Cabinet—and then copies, henceforth, have to come to both Houses of the Parliament.

Is it that when it is presented to the Cabinet, that the Cabinet is fettered to just accept what the SRC recommends? If that is not the case, is there something that prevents the Cabinet from saying: “I have read your report, I have looked at your recommendations and I wish to propose something else?”

Now, as a layperson, understanding how the governmental system—and I am a student of the Westminster style of government, and I will deal with several examples of what happens in other places. I am struggling internally. I am hearing

the legal arguments and I have heard the words “circumvent” and “avoidance”, all sorts of words. In my mind, Mr. President, if I am sitting on the Cabinet, we receive a report with recommendations from a constitutional body, but the Cabinet decides, in its own right, that we wish to do something else, is it that in doing that something else, they are circumventing the body? Someone needs to help me with that, because that is not the sense that I have. I am willing to be corrected, but in my layman thinking, I do not get that. [*Desk thumping*]

So that is the frame, Mr. President, that I want to start with, and I have a substantive—but I want to make some other introductory comments. I agree with Sen. Dr. Balgobin that the reason I am here on World Cup semi-final day, talking about this, is because the SRC—and I am not going to call—I am saying the SRC process has failed and it has failed miserably. I am not dealing with the people. The process has failed. It has not delivered. [*Desk thumping*]

And the reason we are here is because salaries have not been adjusted properly over the years. If salaries had been adjusted properly over the years, the issue that we are dealing with now may not necessarily have been such a large issue.

And, Mr. President, if you would permit me, a couple more introductory remarks. Unfortunately for me, I did not go to a prestige school. I went to government school, as they call it, Tranquility Government Secondary.

Hon. Senator: That is good. Do not ever apologize.

Sen. D. Small: I am a regular guy. And because I was a regular guy, I did not go to the—currently what is now rebranded “Massy”, or whatever. I am not used to going to the bargain counter. I am used to going to the bargain supermarket. That is what I am used to. So, I interface with people, and that is my framework. My regular Saturday morning, I go to the market in Arima and walk around with my basket and pick up my things.

So, I have a—I just have a different view, and from where I sit, I think that for me, the differences between the job profiles of a legislator and a judge are so far and away different from any other type of civil service or government type of employment, that for me, it is obvious. I will detail what I consider to be the differences. I will not just say it. I will detail it. Because those things are fundamentally different, and because they are fundamentally different, I posit that they require a different level of treatment. [*Desk thumping*]

I also want to talk about—because I spent many years and I continue to be a student of analysis, I have all sorts of numbers and graphs and charts that I have

done. I have done a lot of work preparing for this. And I have said that if, let us just say for the sake of argument, there are 300 persons in the country that are being paid—300 legislators—a total of 300 legislators and judges, every year, are being paid \$60,000 a month in pension—let us just assume that—that works out to \$216 million a year.

In the context of a \$61-billion budget, that works out to three one thousandths of 1 per cent. So that, I accept that there is a financial impact for pensions and I am not suggesting that everyone be paid \$60,000 a year, but I think it is also important to understand the scale of what we are talking about. In the context of the budget, I think that the numbers that are being put forward, the argument should really focus around the calculation rather than anything else. I have some points to make. I do not agree with all elements of the calculation.

Mr. President, one of my underlying processes, internally, is that we are here to serve the national interest. And I am very firm in that. Having done national service in many respects for many years, I understand serving the national interest. But I also believe the national interest is also best served by placing the fullest information and the widest range of views.

In my humble opinion, I think a lot of the information and viewpoints placed out there have misled people and, in some cases, in my mind, the information that has been put out there is incorrect and I will deal with some of those. [*Desk thumping*]

I will deal with this other issue, also, when I speak in my discourse on the legislative pensions. The issue of conflict of interest and determining one's own compensation—perhaps because I have researched the issue intently, there are so many legislatures around the world where parliamentarians simply bring an amendment to the Act and that is it. It is just passed. In one place, in particular, it is enshrined in the Constitution that legislators set their own pay.

I am not arguing that there may be a view that it may seem a conflict of interest. All I am willing to say right now is that in several other very modern economies, very modern democracies, the population does not seem to have a challenge with the legislators setting their own pay. And I like to possess myself of information. I like to share information, so that we have the best information to make decisions.

Mr. President, thank you for allowing me those few introductory remarks. [*Laughter*]

Sen. Lambert: Remember the World Cup. [*Laughter*]

Sen. D. Small: Mr. President, I am mindful of the World Cup but I have to finish before that because I do not have enough time.

Sen. Hadeed: The World Cup players are well paid.

Sen. D. Small: I am not going to go there. I have no information to support that. And, again, this is my thesis, Mr. President. I believe that when we talk about things, it is useful for the man in the street and the public person to understand that I may have a view, but what is that view supported by? What supports it?

I looked at the SRC report and I will deal with that report comprehensively in my other submission but my initial review, the document cannot stand any level of analysis. When someone spoke to, “Okay, where is the data?” - I have the same question. The SRC report details a whole set of things that they say they looked at. I am not seeing the supporting data. I am not seeing it. And I looked at it with a hard eye. It cannot stand any rigour. If rigour has been applied, forgive me—
[*Interruption*]

Sen. Hadeed: Good common sense.

Sen. D. Small: I had an unfortunate experience studying in London, and my strategy lecturer was a guy named Valeriano Lencioni. He used to say, “I need to see the rigour in your analysis, otherwise you fail”. You fail.

So that was beaten into my brain for many years. You cannot put out a report and give recommendations and then I cannot find the underlying assumptions and I cannot see the link between the assumptions and your recommendations. Because you can do assumptions and say, “This is what we did. We looked at this, we looked at that”. I looked at the recommendation and there is no link, no obvious link and then no data to support.

In several of the other parliamentary systems that I have looked at, where they have organizations doing this job, I can go on their website, download reports, look at all the data sets, and I am saying okay. So I can understand the basis upon which—I can look at the recommendations, look at the data, and there is a clear link that allows me to say there is some veracity in the recommendations. So, I am not saying the SRC process is not working, I am saying has completely failed.

Mr. President, judges are the final line in the pre-custodial portion of the justice system. They come directly into daily contact with all manner of accused persons, both civil and criminal. The courts and the judges are opened to the public and the media and are regularly subject to criticism. The judges accept that

criticism of the judicial system and its performance must be expected as part of how our society works.

The extraordinary power vested in the judicial office demands a high standard of behaviour from them, but also places a tremendous burden upon the system to provide terms and conditions that will allow them to wield that power in a level manner with as little opportunity as possible for interference.

One of the burdens of being a judge is that he is expected to dispense justice with an almost pure objectivity, to the extent that such is possible. The element of objectivity clearly distinguishes the Judiciary from other branches of Government. Judges are looked upon for their impartiality and willingness to listen to all sides of an argument with an open mind. Allegations of bias or partiality would be fatal to public confidence in the Judiciary, so cautious restraint is seen as the best road to neutrality.

Mr. President, given the high expectations that we have for judges, the matter of appropriate remuneration and pension arrangements should not require much convincing as to their necessity. For some reason, you know, this whole issue of proper remuneration and pensions has raised a whole firestorm in the public domain, and I have read many and several articles, and several of those have suggested, or even veiled or otherwise, that the Judiciary is, in some way, softly, whether retired or otherwise, lobbying the Government, and that could cause—the attendant challenges that would raise.

On that note, Mr. President, I came across a paper entitled “Judicial Ethics: Exploring Misconduct and Accountability for Judges” by Mr. A. Wayne MacKay; Professor of Law at Dalhousie University. It is June 1995. Mr. President, I want to enter this quote into the record.

“When members of the press were impertinent enough to suggest that the Supreme Court of Canada, headed by the late Chief Justice Laskin, favoured the Federal Government in relation to the constitutional distribution of powers, the response was quick and to the point. Then Chief Justice Laskin responded as follows:

The allegation is reckless in its implications that we have considerable freedom to give voice to our personal predilections and thus to political preferences. We have no such freedom, and it is a disservice to the present members of this Court and the work of those who have gone before us to suggest a federal bias because of federal appointment. Do we lean? Of course we do, in the direction in which the commands of the constitution take us, according to our individual understandings.”

Mr. President, you know, this quote dealt with people, essentially in Canada at the point in time, essentially saying that the judges were taking a particular set of positions in line with what the Government wanted to do, and then there will be favours—and the Chief Justice, at the time, in Canada, dealt with that comprehensively by this quote.

Mr. President, we are in a situation where broad comparisons are being made to what is called “national service”, and a proffered commonality of treatment as it relates to pensions. The fact is, in my humble and respectful view, that judges and legislators operate in a tier where public scrutiny of their actions and decisions is very intense, and unlike any other position, or group of positions, that are recompensed by the State’s purse.

Now, Mr. President, I want to be careful. That is not to say that others who have done national service in other spheres should not be provided with appropriate pensions. I am merely suggesting that judges and legislators generate so much public attention, especially when we are dealing with something like this, purely on the basis of their high visibility, that their pension arrangements and their salary terms and conditions really warrant a different level of treatment.

Mr. President, security of remuneration is a key feature of judicial independence and appropriately exists within our Constitution to sustain this. We continue to uphold the principle of judicial independence. It enables a court to adjudicate cases in a fair and impartial manner by ascertaining the facts objectively and applying the law properly.

Mr. President, in discharging our responsibility here today, we have to ensure that judicial remuneration is sufficient to attract and retain talent in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law.

Mr. President, I posit that the Judiciary is unique in many aspects. On one hand, judges enjoy security of tenure and high esteem, which may be seen as attractions for legal practitioners joining the bench. However, another prominent feature is the prohibitions regarding their return to private practice, as has been raised in this House before. This, in my mind, is one of the key reasons why adequate pension arrangements have to be in place and they have to be supportable.

While many commentators have questioned the quantum of the adjustments, I, again, lean towards the thinking of my colleague, Sen. Dr. Balgobin, about this process that we have seemingly about applying discounts. I understand it, I abhor

it, but it seems to be prevalent in the system about—you know, my mother turned 70 a few days ago and she always used to tell me as a little boy—we never had much, but there was one thing we had lots of in our household, we had a house full of love.

There was lots of love in our household and lots of licks for falling out of line but my mother always said, let us make do with what we have. Let us not compare what we have with what other people have and that you should not necessarily be watching what somebody else is getting, and say, “Well, if I can get by on this, why do they need this?”

And for me, there is a lot of that going on in the commentary, that people are looking at how they are living and then ascribing and saying, “Well, if I can get by with this, why should somebody get by with more? They should be able to get by with less”. And it is a human failing and I understand it; but it concerns me when learned people put it out there and then the public grabs on to it.

It is not wrong. It is just what has happened. And that, for me, is part of the challenge why we are having this discussion. It is part of the failure of the SRC process. Because it has failed over so many years to adjust salaries along the way, we have a situation now when we are doing an adjustment, it appears to be this huge adjustment. Everyone is like, “Wow. Is this really deserved?” Everyone seems to have a problem with it. I, personally, do not necessarily have a huge problem with the quantum. I may have a challenge with the formula, and I will come to that, but I think that we have to get out of that mindset.

Mr. President, just for information, I did one or two checks, one or two other places, and tried to understand, at the current salary proposed by the SRC for judges, what would you think is the salary of a judge or of the Chief Justice of the United States Supreme Court? On a normalized basis, using yesterday’s exchange rate, the average monthly salary, in Trinidad and Tobago dollars, for the Chief Justice is TT \$136,000 per month. For a district judge, it is TT \$106,000 per month, in the US system. And this information was gotten from the Office of Personnel Management and is current to January 2014.

If you looked at England, the Lord Chief Justice earns a salary—purely on an exchange rate basis—of TT \$224,000 per month, and a High Court judge, in the UK system—on purely conversion basis—earns TT \$165,000 per month. So, I understand the AG’s challenge when attorneys come here and they bill in pounds because it is a whole different reality. And I want to say that the information on this was taken from the UK Review Body on Senior Salaries 5th Annual Report (2013):

When I looked at the Australian system, the Chief Justice of the High Court of Australia earns a TT-dollar equivalent of \$267,000 per month and a justice of the High Court in Australia earns a salary of TT \$242,000 per month, just for comparison. That information was given from the Australia Remuneration Tribunal Determination 2014/09.

In Canada, the Chief Justice of the Supreme Court there earns a TT-dollar equivalent of \$193,000 per month, and a justice—a regular justice of the Supreme Court earns TT \$179,000 per month. And this information was taken from the Canada website that deals with Indemnities, Salaries and Allowances for Members of Parliament. I can give the full website reference to the recorders after. I can give them a copy of this.

For me, Mr. President, it is important to understand what you are talking about. And I did not choose these countries randomly. Each of these countries that I called are members of the Commonwealth—except for the USA—but, more importantly, they are all significant producers of oil and gas.

And that, for me, is—while we may want to look at the Caribbean and want to compare what happens in the Caribbean, the economic base in the Caribbean is significantly different from Trinidad and Tobago, and the economic base in Trinidad and Tobago is driven by oil and gas. Some may want to argue that. They will never convince me. We live and die by oil and gas.

The economic base of this country is based on oil and gas production and sales. In all of these other countries, oil and gas production is a huge contributor to the national purse, and the salaries reflected in their Judiciary. While we will probably never be able to pay the Chief Justice two hundred- and something thousand dollars a month, okay, fine, all I am doing is sharing information, just for comparative purposes, in places where they have a similar economic profile. There is a high worth placed on judges and I am trying to understand why we seem to have a challenge with placing a reasonably high worth on our judges. I really do not understand that. [*Desk thumping*]

Mr. President, the issue that is very much overlooked is that the roles, duties and responsibilities of a judge are onerous and life-altering. I think someone mentioned that, you know, the judges live a sheltered life. Yeah? And in no way can a surface—what I consider to be a surface comparison determine in any shape, form or fashion, the worth that is attributed to a judge.

It is a pillar of the society. It is somebody in which reposes the confidence of every citizen of this country, and we should not be here tipping and tabbing.

Everything I have read, “Oh yes, we agree with judges. We have no problem with them getting, but, but, but, but.” There is always a statement, “We agree that, yes, they should get more, but, but, but.” A whole series of buts, that when you add up all the buts, it is like, “Okay, well.”

Luckily for us, we live in a democracy and everybody is free to express their view, and I acknowledge those views.

Sen. Hadeed: Well said. [*Desk thumping*]

Sen. D. Small: I will talk about that. Mr. President, by way of background—and I am done with the background. Mr. President, it is very easy to look at the proposed increased salaries and pensions and take the view that the increases are simply too large. And it is very easy to do that because what we do, it is a mental process, we immediately start to compare.

It is like if you sit online and you look at the price of something in North America, and you say, “Wow, a 60-inch.” This July 4th weekend, you can get a 60-inch flat screen for US \$499. So, in your mind, you are saying, US \$500 by six, \$3,000. How come it is \$14,000 in Trinidad? That is what you immediately—it is a normal thing to do.

So everybody is looking at, “Wow, Chief Justice is going to earn \$60-something thousand? I am barely making eight.” It is a normal thing to do; and how we deal with that is present facts and data to the public to demonstrate that, “Listen, you cannot, in any way or shape compare a regular civil service job with the job of a judge”. It is just different. We have to accept that. And the way you do that is to present information to support that.

The other factor in this, the SRC process has completely failed. And because there have been so many years of non-action, or inaction, or whatever action you want to call it, it has led to a lag in the salaries, and that lag, in trying to make up that lag, it appears now that there is this huge increase, and that is all it is. People have that perception, and it is not a wrong perception, but it is upon us to try, in our way, to give to people the best and fullest information that we have.

So, Mr. President, I think that firstly, one must consider that before 2014, the last increase was nine years ago, and that based on Central Bank data, in that time, the purchasing power of \$100, TT \$100, has been eroded by more than 50 per cent, owing to the inflation rate alone.

Secondly, the risk of being a member of the Judiciary has increased significantly, owing to the existing crime situation in the country. I do not think

anyone has said that, and the Minister of National Security is well aware of the security arrangements he has in place for High Court judges. I have done jury service in another life and I remember sitting in the court and I am tense because these are guys across from me, citizens of Trinidad and Tobago, accused of crimes, ostensibly innocent until proven guilty, and I am tense.

I am tense to serve as a juror, because, you know, you sit in the jury pool and they are looking at you, and you almost feel as if their eyes are locked on you and you feel tense. Now, if, as a judge, you have to deal with that every single day, I suppose at some point in time, you may become immune and you just tune it out but it doesn't change the fact that that is something you have to deal with every day.

It is not mentioned that, as a judge, you have to recognize that, "I am here to do my job, but this is a pressure. It is a cauldron. It is a cauldron." And then, because of the revolving door bail system that we have, guys are brought before, get bail, recommit; get bail, recommit and so it goes. So that, that is part of the judge's dilemma, or facts of life of being a judge, that we have not addressed, and there has to be a premium attached to that, has to be.

Mr. President, thirdly, the base salary of senior legal personnel in the local business sector has risen massively in the period under review, from 2005 to now. I looked at the HRC Associates salary survey 2005, and then I looked at the 2005 to 2011 and 2012 report. When you look at the position of what they describe as "Head of Legal" and the Senior Legal Officer across all industries, the average base salary of those positions has increased by over 100 per cent in that time frame. A 100 per cent in the private sector.

Some may say that that is not a relevant number, but at least, to me, it is a number that I can go and look at and say, someone has done a survey based on actual market information and said that senior legal personnel, there has been a relatively large change in salary and remuneration. I am only dealing with base salaries, because if I start to talk about allowances and other things, it skews even further.

Fourthly, Mr. President, the increased workload of judges and magistrates has further added to the pressure of the position. Just recently it was widely reported that there were over 500 murder cases at various stages in the local courts. So that you are in a situation where you are under tremendous daily pressure because of all these various actions that are under way.

Fifth, Mr. President, the inability of the Judicial and Legal Service Commission to attract the needed numbers of new judges and magistrates is

directly correlated to the reduced attractiveness of the positions. You are in a space, in an environment, in a position; it is unattractive to new people, and you are in it, but you are stuck.

Sixth, the working conditions in many courts outside of Port of Spain, and probably even in Port of Spain, have deteriorated markedly over the years, adding further to the lack of excitement by legal professionals to join the bench.

Mr. President, on the basis of my basic analysis of these factors, and if one were to place these factors into a salary determination matrix, apply the relative weightings to these factors, to the proposed range of salaries and pensions, the proposed range of salaries and pensions increases may not necessarily be out of whack because, for me, this is a process that is very deterministic.

I looked at the SRC document. I heard and I read all the things that they have said they have done. They have looked at it. And I cannot relate what has come out to what they said they have done. I am not saying they did not do it. I, probably, am missing the data, and until I see the data, it is just words on paper. It does not mean anything to me. Okay?

Of course, Mr. President, the debate in the public domain relates to how palatable they are, as opposed to my purely deterministic approach. Something completely different. So, I have tried to separate and be dispassionate about this, and tried to address what I consider to be the hard things that we can measure.

Mr. President, if I looked at the SRC report and saw this matrix, supported by relevant independent data, I would have much more confidence in what has been proposed. My confidence is very low, in that document, especially when it is a document that clearly has a cookie cutter approach.

There is a lot of repeating of information, so that, I do not know if that is how it is normally done, but because of the work that I have had to do, I have had to find ways, you are repeating the same thing every year. I have written enough budget statements in another life. You are repeating the same thing, but you have to find different words. In some of the reports—I have gone back as far as the 1980 report—some things are almost repeated. So there is a lack of rigour.

Mr. President, just for information again, looking at the latest report that I have from the HRC Associates National Survey of 2011/2012, the average median-based salary for what is called “Head of Legal” is \$63,000 per month, base salary. So that, we need to just possess ourselves of what is going on in the market, and I understand that the SRC has said that they have looked at all of these various things.

If the value of a dollar in 2005 has depreciated by 50 per cent; if salaries and wages in the field have increased by 100 per cent, what has been proposed is nowhere—it is not there. It is not in the game. So that some work needs to be done. And, Mr. President, I do not wish to malign the SRC process. I have specific recommendations for how we can treat with and fix that process, but I will detail those in my contribution on the Retiring Allowances (Legislative Service) (Amdt.) Bill, because I will further—to use my colleague, Sen. Henry’s comment—debunk several of the other things that have come out of them.

Mr. President, it will be remiss of me if I did not attempt to address the public comments about the need for upward adjustment to other public sector workers’ salaries and pensions on the basis of what is being said here today. And, perhaps, again, just to refresh, I spent 23 years as a civil servant. I am actually due a civil service reduced pension in a couple of years, when I start to have less hair. I might probably be completely bald, like my colleague, Minister George. It is a civil service thing. [*Laughter*]

Sen. George: Work hard. It takes its toll.

Sen. D. Small: It takes its toll. And, I mean, I understand the challenges, Mr. President, of civil service pension. It is what it is. Mr. President, to be truthful, this morning, three years and three months to the day since I vacated public office, I was told that the documents from the Ministry that I worked at, that needed to go to pensions branch, they have just completed it.

Three years and three months after I resigned and I walked away, the documents to leave to go to Pensions Branch to begin processing—and I sense that the person I was dealing with at the Ministry—the Minister does not know anything, but I am dealing with my regular colleagues, and I know people. It took three years and three months for them to do, and if I had worked at, you know, several other Ministries, I might say, okay, they needed to get information, but I worked in one place for 23 years. All my files are there but it took three years and three months.

Sen. Hadeed: To find your file?

Sen. D. Small: To finalize everything to send to pensions. So, there is another issue in that, because I feel the pain of my civil service colleagues, or my former colleagues, who are pensioners and have to deal—have to deal with this. I did not roll this up to anywhere. I continue to maintain my conversations because, unfortunately for me, the trappings of office; I hate wearing business suits but it is required for the job. So, it is what it is, but I like to deal with the lowest possible

level in any system to get things done. There is no point for me in demonstrating any power. That is just not my style. I am apolitical with that. That doesn't work for me.

So, I empathize with the calls for increases, as I am well aware of what my pension is going to be after 20-odd years in the service. And, bear in mind, I worked up and I got to the director level. The only persons above me in salary terms were the Deputy PS and the PS. So I was pretty much at one of the highest levels in the system.

Unfortunately for me, I am possessed of a more resilient and analytical approach to all matters. I like to disaggregate things and I try not to get too emotional about things and try to understand and possess myself of information. And that continues to serve me in good stead and allows me to grasp the systemic realities of many, many situations.

Thus, I can say without doubt, Mr. President—I can say without doubt that the time and professional capabilities demands placed upon me in this current role are quite a bit more complex than many I had experienced in my civil service career and which, for the record, saw me rise to one of the highest levels.

In addition, the scrutiny and visibility of being a legislator leaves me exposed in a manner quite unlike the civil service, where anonymity is assured, given just the size of the beast. I will deal comprehensively with these factors in my contribution to the Retiring Allowances (Legislative Service) (Amdt.) Bill.

Of course, Mr. President, these factors may mean nothing to those who are seeing an opportunity and seeking to leave with it, nor do they necessarily reduce what many may see as a legitimate expectation. There is no easy way of dealing with that. However, I beg the understanding of all, as I believe it is incumbent upon me, in this role, to try to be dispassionate, and present factual and defensible arguments.

So, as much as I understand the positions being taken regarding broad-based pension increases for all public sector workers, I respectfully and humbly defer to the sitting administration, as I believe that to be a public policy position that has to be taken in much the same way that a policy position has been taken regarding the judges and legislators.

Mr. President, we are also witnessing a situation where we have a troubling—for me, it is a bit troubling. You have senior members at practice, coming up with all sorts of butts about the judges' salaries and for me, I probably—because I am in a professional system, and you understand that we try to support one another and

try to support measures that benefit one another, it is struggling for me, mentally, that senior members of the legal profession seem to have several challenges with making sure that their seniors are able to keep pace with the changes of life and live comfortably. My mental process, it is skewed for me. I am not saying that people are not entitled to their view. They are fully entitled to it. But I struggle with it. I really struggle with it.

Now, Mr. President, in looking at the basis of the calculations, I know that the proposed pensions range from—at least based on what I saw, range from 45 per cent to 85 per cent of what is called the “pensionable emoluments”. I have a challenge with the pensionable emoluments, because I believe that for the judges, the judicial contact needs to be rethought, because this is not required after retirement or, at the very least, not in the way in which, or the frequency when a judge was active.

I do not agree in any way that judicial contact should be included. All right? And given the position of a judge within our society and the fact that a pension is intended to provide someone with an appropriate standard of living for himself and possible dependants, I think that we need to find a middle road that covers that.

Mr. President, I have spoken for a few minutes here, and I want to make my position very clear. I have one or two butts, like everybody else. Everybody else has butts. No, it is what it is. My butts, I define my butts. My butts are to do with the calculations. This is long overdue. This is not something—I have heard a view that we should send it back to the SRC for them to treat with. I am sorry. If in 15 years, they have not done it, sending it back to them for six years or a month, or a year, nothing will happen. [*Desk thumping*]

I can take my bank account and they will give you nothing. It is just my understanding of the administrative process. If we say here today, send it back to the SRC, there is a process administratively to go through. The President has to activate it. They need to hire a consultant. By the time they do the pre-qualification, it is a year.

I mean, I understand where the thinking is, for those who are legally trained and feel that the SRC should be part of the process and we should go back to them. Administratively, it will not happen. It will not happen. This is just understanding the system we have.

Let us say we need to strengthen the SRC, which is part of my recommendations that will come forward, in my humble best estimation, it is

going to take three years to get that done; three, minimum. Because the SRC is a body, as I understand it—and I will be happy to be corrected—they do not have a physical permanent operating office; they do not have physical permanent staff. So, you operate with co-opted staff.

There is no way you could do a proper evaluation of all of these jobs across all of these many and varied jobs. It, perhaps, explains why we get the cookie cutter report that we are getting, that can stand no rigour. It cannot stand any level of analysis. And for me, a lot of the commentators have started from a position unstated, but assumed that there is rigour; that the SRC document is an excellent document and that the recommendations in there are recommendations that are strong.

You know, it is not being said, but there is an unstated assumption, in my view, that what comes out of the SRC is good, so that whatever the Government is trying to do here, “should really go back to the SRC for them to do”. But I am questioning that initial assumption; and that initial assumption is that what they have done is not good, and if that is not good, sending it back to them is a waste of time. It is a waste of time.

As legislators, it is in the national interest for us to deal with this issue now. [*Desk thumping*] I am not saying what is in front of us here is perfect. I agree, I have several—a couple of things that I think need to change, but I believe that going back—you know, my colleagues of the Rastafarian, they say, “Forward ever; backward never.”

You know, we have to move this discussion a little forward, a little bit. And going back, for me, is not the solution. They have not been able to do it over the past years. I am unconvinced, and I will remain unconvinced that they can get it done in six months, much less a year. We will be wasting time and have so many judges—and I do not agree with this cookie cutter thing about, “Well okay, let us pay a set of money and keep them.” No, no, no.

The SRC process needs complete revamping. It probably needs some amendment to the Constitution, and whenever that is done, then you need to staff it up and get it working; three years, minimum. You try to establish any new entity—and this is the benefit of working in a system for a number of years and understanding how government systems work, and the levels of approval to make things happen. We might want to think it is extremely efficient, but we have to understand the operational realities.

The Minister of Finance and the Economy is not here. When you request money from the Minister of Finance and the Economy and then you do not get

releases on time, everybody understands how the process works. So that these things take time, but in the meantime, I cannot, in good conscience, say that what we have here—what we should do here is stop what we are doing and then let us try to see how we could get a 60/70 per cent solution out of this, and if in times coming forward, once—and it should be running parallel with fixing the SRC. The SRC needs to be fixed, the entire process. And I am not dealing with the people, I am dealing with the process; the process. And the process has failed.

So that, Mr. President, in closing, I think that this Bill deals with a long - outstanding matter and the Government should be recognized for their efforts in bringing some definitive action on this. I mean, we probably have short—I always say this—[*Desk thumping*]*—*we have short memories. How many other administrations have said, “I am going to grab this tiger and try to get something done”. What is in front of us has many arguments for it, but no one is saying that for the past how many years, which administration has said, “Listen, let us try to fix this”. Rather than share taps for trying to fix it, let us say, “Okay, we applaud you for trying to bring it. There are some things that we want to get fixed, and let us try to see if we could fix those things to get it in the best shape possible”.

I prefer that more positive mental approach, rather than just crying about the problems. Let us not cry about it. Let us say, “Listen, it has not happened for 15 years, we have some fundamental systemic failures in the SRC process, let us try to see how we can work together as a group to get it in the best shape that we can, so that the judges can get their own peace of mind, about understanding what their pension entitlements are going to be”.

Given the broad intent of these provisions, Mr. President, I believe that the Bill before us is taking us a step in the right direction. It is a brave move. The cynics amongst us will say, well, you know a particular clock is ticking and people are doing things. I reject that level of cynicism; otherwise, if I accept that, I would not be here. I reject it.

I am here to do a job for the people of Trinidad and Tobago, and I believe that it is something long overdue. We need to make sure that the public understands the role of the judges, the pressures that they are under, the distinctive nature of the positions and that special treatment is required. I am not saying that others do not require treatment. I am just saying these people require special treatment.

That is all I am humbly saying to this House on this matter and thank you very much, Mr. President, for the opportunity. [*Desk thumping*]

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, what we have seen with respect to this debate is what I consider to be politics at its best. It is the kind of politics that I signed on to, as a young man. The level of debate, conflict, deliberation, and compromise that we see taking place is really politics at its best, and I am really happy to participate in this process here this evening. [*Desk thumping*]

What we have seen is really an exemplary democratic process taking place and, for me, and on behalf of the Government, we looked at this exercise, framed by the Prime Minister's statement on the last occasion, in which she indicated that the decision, how to proceed, will be based on the outcome of the debate here in the Senate.

Before I come to that area, Mr. President, I wish to really engage all those who have made their contribution, and to show how those contributions will influence the ultimate outcome and the decision of the Government. Sen. Drayton led off the debate for the Independent Bench and my colleague, Sen. Camille Robinson-Regis, led off the debate for the Opposition, as the minority leader.

Senator Robinson-Regis indicated that there is—suggested a different formula for the computation of the pension, in both instances of the judges and, also, subsequently, with the parliamentarians. Senator Drayton, in her views, indicated that pensions—her interpretation was part of current employment. She also indicated that she had some concerns about the qualifying period before a judge could receive this pension and the third issue, she had a problem with the calculation of the formula.

Sen. Dr. Dhanayshar Mahabir, in his contribution earlier this morning, really was a lament for the early years when institutions worked and, to a large extent, I think it was reflected by, I think Sen. Dr. Balgobin, indicating that our economy has grown to such an extent that the very institutions could not carry out their duties under the weight of this large economy.

But, Sen. Dr. Mahabir also made certain recommendations that he has incorporated in two amendments. One dealing with the capacity to access private medical facilities, and that healthcare ought to have a certain cap; and that we should also utilize the services of retired judges in order to filter legislation before they come into the legislative process. And he also made a 30 and 30 proposal: thirty thousand, plus a cap of \$30,000 for medical treatment.

Sen. Roach dealt with the whole question of calculation and procedure, and he also indicated that there should be a return to the SRC for a period of six months,

but he was also supportive of the Special Select Committee, indicated by the Prime Minister.

Sen. Vieira indicated that he had no problem with the principle in the improvement of the compensation of pension, but he had certain problems with the process. For him, process was equal to the substantive issue. He also raised points about ethical and public policy considerations, but he also pointed out the tardiness and the disconnectedness of the SRC, but even in the face of that, he indicated that this Bill should go back to the SRC.

Sen. Dr. Balgobin sought to define his contribution in three categories. Is there a need? Is this a critical case? And the mechanisms to address that need. Whilst he was scathing on the performance of the SRC, he too suggested that we could not bypass the SRC, and that if we intended to remedy the wrong, this is not the way we should be doing it.

Sen. Joy Abdul-Mohan indicated that it was a convoluted formula, and that there is need for us to look at that; that it has generated significant acrimony. But, the honourable Senator indicated she was pleased with the prime ministerial decision to recommend to the Senate, in post-debate, for a Senate Select Committee.

Senator Prescott dealt with the areas of section 141 and section 53 of the Constitution and, using Shakespearean quotations, indicated that—from *The Merchant of Venice*—that notwithstanding the abdication of responsibility by the SRC, that we should still revert the Bill to the SRC.

He also raised, which is a very interesting issue, the whole question of the pensions for the lower Judiciary and that has, I would say, merit in it; the level of the Industrial Court, magistracy, Office of the DPP, Chief Parliamentary Counsel, and so on—and also diplomats. And then he questioned whether the allowances, judicial contact and transport allowances should be part of the pensionable emoluments.

He said something about—I did not catch it, really—about whether a judge can retire at age 45. I am advised that the earliest possible age of retirement is 55. When I listened to Sen. Prescott, I remembered a quotation from Macbeth:

“Stars, hide your fires;

Let not light see my black and deep desires.” [*Desk thumping*]

Sen. Small, in his contribution, and throughout his contribution, spoke about the need to confront the reality before us and that we ought not to be abdicating

that responsibility which is placed before us by seeking to direct it to the SRC once more, because they have, historically, and in the present reality, failed to deal with the reality. [*Desk thumping*] And that, he could not find comfort, where you agree in principle, but you do not—you abdicate the responsibility, to use my words, to deal with the reality. Throughout his contribution, I got the impression he was saying, if you do that, it is really a recipe for inaction and it is really a maintenance of the status quo; and that in order to deal with the systemic failure of the SRC, we ought to be dealing with this matter frontally.

Mr. President, I want to really point to an area in which Members seem to have gone in a certain direction with respect to the SRC. The SRC, in its contribution over the years in its various reports, I will demonstrate, that if I were to go as far back as the 45th report to the 98th report, you would see that the SRC did not deal with this whole issue of judicial pension. I would demonstrate that by going through each report over the period of time.

Mr. President, the SRC maintained that there is no provision in the Judges Salaries and Pensions Act, or in any other legislation, that deals with increases of judges' pensions, once they are initially determined upon retirement. By that, it is clear that the judge is to receive that pension which is calculated upon his retirement and no more than this initial amount for the rest of his life.

Sen. Ramlogan SC: Terrible.

Sen. The Hon. G. Singh: So, under judicial—by the Judges Salaries and Pensions Act, Chap. 6:02, provision is made for judges' pensions and increase of salaries and allowances, from time to time, by the SRC, from which the judges' pension is calculated. But there is no provision in this Act to adjust that.

Since there are no statutory provisions relating to the visiting or revisiting of judges' pensions, then many judges and their families live in a penurious state, a ruinous state, after some time in retirement. And, as indicated, and it was brought to our attention, Justices Maurice Corbin, Clement Phillips, Justice Achong and McMillan, all fall within that kind of category.

In support of the non-visiting of the pension, the SRC has never made any recommendation for increasing such pensions because they have repeatedly said that they have no jurisdiction to deal with any matter of a retired judge.

Sen. Ramlogan SC: Quite so. That is what they say.

Sen. The Hon. G. Singh: No matter of a retired judge. So, in that kind of situation, Mr. President, that they have no jurisdiction to deal with retired judges,

so that it is the role of the Legislature. It is the role of the Legislature. [*Desk thumping*]

3.50 p.m.

The SRC, Mr. President, was always aware of the inadequacies of the pension level of retired judges. In their report of 1984, for example, the SRC considered the issue of pension and superannuation benefits and deferred the matter to a special committee. Ten years later in 1991, the matter came up again before the SRC, and again it was deferred. If on the other hand the SRC had the jurisdiction to deal with or address the pension of retired judges, they have declined to do so since 1980—34 years, 34 years!

The SRC has never indicated that they do not have the resources to properly carry out their mandate. But if they have insufficient resources, why did they not address that in the report that they make to Cabinet and to the Parliament, [*Desk thumping*] on an annual basis? Yet not once in their annual reports was I able to find an example of where the SRC has asked for more resources to be better able to perform their job, you know.

So when you go back—and I want to go through, you know—I do not want to go through all the reports, but I would just merely indicate that if you start from the 45th report 1997, on to the 98th report in 2013, you would see that throughout this period, there is no request, no request whatsoever by the SRC for additional resources in order to deal with this matter.

So when you say refer it back to the SRC, I say to myself, is this the way that we deliberate, we discuss and we find solutions, we have desired outcomes? Or is this the way we leg-glance the ball back to the SRC, and we really bury our heads, and say, look, we are not an institutional failure as a Parliament, because we have sent the report to the SRC which has demonstrated systemically that they are an institutional failure. [*Desk thumping*] [*Crosstalk*]

So, Mr. President, what are we to do in those circumstances? How can we bring about and help build the requirement for us to frontally deal with this problem? There is a mechanism in the Senate, there is a mechanism in the Parliament that allows for a further deliberation to deal with the question of computation, to deal with question of the other avenues, the other categories, and we find that mechanism in a Senate Select Committee. [*Desk thumping*]

Our hon. Prime Minister, Mr. President, in dealing with this question at the commencement of the debate pointed out that it is the intention, in the event that there is not that kind of consensus with respect to this legislation, to appoint a Special Select Committee of the Senate in order to continue the democratic

process of dealing with this issue of the pension—Judges Salaries and Pensions (Amdt.) Bill, 2013.

So, Mr. President, in accordance with Standing Order 51(1), I beg to move that a Bill entitled: “An Act to amend the Judges Salaries and Pensions Act, Chap. 6:02”, be referred to a Special Select Committee of the Senate, for consideration of its details and this committee be required to report to the Senate by July 30, 2014.

Mr. President: Leader of Government Business, I take it that is the end of your contribution, and you are begging to move? [*Laughter*]

Sen. The Hon. G. Singh: Mr. President, I thought I had brought an end to my contribution. So, Mr. President, it is our intention, as I indicated, but I was a bit ahead of my time, that it is the intention of the Government to place this Bill before a Select Committee of the Senate.

I thank you. I beg to move. [*Desk thumping*]

Question put and agreed to.

Sen. The Hon. G. Singh: Mr. President, we now move on to the second Bill that we are scheduled to deal with today. [*Crosstalk*]

**SPECIAL SELECT COMMITTEE
(APPOINTMENT OF)**

Sen. The Hon. G. Singh: The members of the committee are:

Sen. Emmanuel George

Sen. Fazal Karim

Sen. Marlene Coudray

Sen. Camille Robinson-Regis

Sen. Faris Al-Rawi

Sen. Small has indicated his intention, and I have to have discussions with Sen. Drayton. Well, that will be the committee, Mr. President.

Mr. President: I did not quite catch all the names. I heard Sen. George and I did not hear the next names.

Sen. The Hon. G. Singh: Mr. President, I further beg to move that the following Senators be appointed to serve on this Special Select Committee:

Sen. Camille Robinson-Regis

Sen. Faris Al-Rawi
 Sen. Emmanuel George
 Sen. Fazal Karim
 Sen. Marlene Coudray
 Sen. Ganga Singh, Chairman; and
 Sen. David Small.

Mr. President: Leader of Government Business, can you move your Motion again, so that we could get all the names on the record?

Sen. The Hon. G. Singh: Mr. President, I beg to move that the following Senators be appointed to serve on this Special Select Committee:

Sen. Camille Robinson-Regis
 Sen. Faris Al-Rawi
 Sen. David Small
 Sen. Dr. Dhanayshar Mahabir
 Sen. Emmanuel George
 Sen. Fazal Karim
 Sen. Kevin Ramnarine
 Sen. Marlene Coudray; and
 Sen. Ganga Singh, Chairman

Question put and agreed to.

Mr. President: Hon. Senators, it is now 4.02, so that I propose to take the tea break at this point and we will resume at 5.00 p.m.

4.02 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. President: Hon. Senators, before we took the break, I did say we would return at 5.00. I did not realize I was being prophetic. [*Desk thumping and laughter*]

JUDGES SALARIES AND PENSIONS (AMDT.) BILL, 2014

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President, first class, first class.

Mr. President, we have to correct a procedural defect. With respect to the Judges Salaries and Pensions (Amdt.) Bill, 2013, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Sen. The Hon. G. Singh: Mr. President, in accordance with Standing Order 51(1), beg to move:

That a Bill entitled “An Act to amend the Judges Salaries and Pensions Act, Chap. 6:02” be referred of a Special Select Committee of the Senate for consideration of its details and that this committee be required to report to the Senate by July 30, 2014.

Question put and agreed to.

Sen. The Hon. G. Singh: Mr. President, I further beg to move that the following Senators be appointed to serve on the Special Select Committee:

Mr. Ganga Singh, Chairman

Miss Marlene Coudray

Mr. Emmanuel George

Mr. Fazal Karim

Mr. Kevin Ramnarine

Mrs. Camille Robinson-Regis

Mr. Faris Al-Rawi

Dr. Dhanayshar Mahabir, and

Mr. David Small

Question put and agreed to.

RETIRING ALLOWANCES (LEGISLATIVE SERVICE) (AMDT) BILL, 2014

Order for second reading read.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, it is an honour and privilege to move:

That a Bill to amend the Retiring Allowances (Legislative Service) Act, Chap. 2:03, be now read a second time.

This is an Act to provide for the retiring allowances, on a contributory basis,

to persons who have served as Members of the House of Representatives or, in certain parliamentary offices, to provide allowances for the widows and children of such persons and to provide for related matters.

This Act provides for a contributory scheme. It is noted that this Act does not apply to Senators. The Act also does not apply to a Prime Minister because there is separate legislation which provides for the pension of a Prime Minister. This Act came into force on January 01, 1969.

Section 4 of the Act provides how contributions are to be made by each legislator. Section 4(1):

“Contributions are payable under this Act by every person who becomes a contributor and such contributions shall:

(a) be at the rate of six per cent of basic salary payable to the contributor;

Clause 4(1)(b):

“be payable in respect of the basic salary of the contributor from the commencement of this Act, or from any later date on which the person concerned becomes a contributor, until he ceases to be a legislator;”

And section 4(1)(c):

“accrue daily and be deducted monthly from the salary of each contributor and be paid to the Comptroller of Accounts.”

Section 5 provides the circumstances in which retiring allowances shall be paid. Section 5(1):

“Subject to the provisions of this Act, a retiring allowance shall be paid to any person who:

(a) has served as a legislator for periods amounting in the aggregate to not less than five years; and

(b) has ceased to be a legislator; and

(c) either:

(i) has attained the age of fifty-five years; or

(ii) not having attained the age of fifty-five years, has produced medical evidence to the satisfaction of the appropriate Minister, that he is incapable by reason of infirmity of mind or body of discharging the duties of a legislator and that such infirmity is likely to be permanent.”

Section 6 of the Act provides the rates to calculate the retiring allowances.
Section 6:

- “(1) The retiring allowances payable to any person shall:
- (a) in the case of person who has served as a legislator for periods amounting in the aggregate to not less than five years, be at an annual rate equal to one-sixth of one year’s salary of that person or a monthly pension in the sum of three thousand dollars, whichever is the greater;
 - (b) in the case of a person who has served as a legislator for two consecutive full parliamentary terms, extending over a period of not less than nine years or for periods amounting in the aggregate to not less than ten years, be at an annual rate equal to one-third of one year’s salary of that person or a monthly pension in the sum of three thousand dollars, whichever is the greater;
 - (c) in the case of a person who has served as a legislator for three full parliamentary terms extending over a period of not less than thirteen and a half years or for periods amounting in the aggregate to not less than fifteen years, be at an annual rate equal to one-half of one year’s salary of that person or a monthly pension in the sum of three thousand dollars, whichever is the greater;
 - (d) in the case of a person who has served as a legislator for four full parliamentary terms extending over a period of not less than eighteen years or for periods amounting in the aggregate to not less than twenty years, be at an annual rate equal to two-thirds of one year’s salary of that person or a monthly pension in the sum of three thousand dollars, whichever is the greater.”

Mr. President, since then, these benefits for MPs have been periodically revised. The Act has been amended five times in respect of the matter of retiring allowances—in 1976, twice in 2007, 2008 and 2012.

In the Finance Act, 2007 and the Finance (Amdt) Act, 2007, these Acts were amended by section 6(1)(a) of the parent Act, but the amended provisions were subsequently deleted and substituted by the provisions of the Retiring Allowances (Legislative Service) (Amdt.) Act, 2008 and the Finance Act, 2012.

The two most recent amendments, the Finance Act, 2012 and the Retiring Allowances (Legislative Service) (Amdt) Act, 2008 treated with the rate of a retiring allowance for legislators.

Section 6(1) of the parent Act was amended by the Finance Act, 2012 to increase the monthly pension to \$3,000. The Retiring Allowances (Legislative Service) (Amdt) Act, 2008 amended the Act by deleting section 6(1)(a) and substituting the following:

In the case of a person who has served as a legislator for periods amounting in the aggregate to not less than five years, be at an annual rate equal to one-sixth of one year's salary of that person or a monthly pension in the sum of three thousand dollars, whichever is the greater.

Mr. President, the Retiring Allowances (Legislative Service) (Amdt.) Bill, 2014 makes the following proposals:

To provide for an increase in the retiring allowances to persons who have served as legislators for various periods;

Secondly, with effect from August 01, 1976, to provide for the retiring allowances of legislators to be increased simultaneously with increases in the pensionable emoluments of legislators;

Thirdly, to provide that the pensionable emoluments of a legislator shall include his housing and transport allowances;

Fourthly, to extend the application of the Act to all Senators;

Fifthly, to reduce the qualifying period of service as a legislator from an aggregate of not less than five years to an aggregate of not less than four years; and

Sixthly, to change the annual rates for calculating the retiring allowances for legislators from a fraction of their salary to a fraction of their pensionable emoluments.

Mr. President, when you look at the retirement allowances for Members of Parliament, it is clear that there have been several commentaries since this legislation was passed in the Lower House and there are three commentaries written by former legislators. These are Mr. Trevor Sudama, Ralph Maraj and Prof. Harold Ramkissoon.

Mr. President, since these are the views of former legislators, I think it is very fitting that their views should be considered in our deliberations on these proposals. I first start with Mr. Trevor Sudama and it is written in the *Newsday* of Monday, July 07 and I quote.

“Increasing the emoluments and retiring benefits of MPs will never be a popular course of action whatever the amounts involved. Esteemed columnists and letter writers in the Press merely reflect the thinking of the general public that current and former MPs do not deserve even what they receive at present let alone any increase. Since they have pledged to do public service, they should work for a mere financial pittance. The consequence of this line of reasoning is that filling the position of MP may be restricted to the wealthy or well to do who do not need any financial reward for service.

Such a view avoids the question of the value and worth of the resources of time, energy, skills and financial outlay required to do the job of an MP bearing in mind the lack of security of tenure and the demands of the public.”

Mr. Sudama, former Member of Parliament and former Minister of Government, goes on to state in this article.

“The question whether the job is a full time or part time one is irrelevant. The position requires certain inescapable functions to be performed with respect to constituency representation and travel, party mobilisation, attendance in Parliament and participation in debates and committee sessions and the research associated with it, giving account to the constituency on performance and engaging in consultation. It is on the execution of these functions that a monetary value has to be put. Whether they are performed on a full time or part time basis is immaterial. There is need to neutralise the emotionalism and inject some degree of rationality in discussing the issue of what is fair and equitable.”

Mr. Sudama goes on to say:

“I am not aware that in recent years any proper evaluation has been made in this country in respect of MP duties and responsibilities and the emoluments that go with them.

It appears that the institution charged with this responsibility, The Salaries Review Commission, is unable to arrive at such an evaluation. Some have argued that it is virtually non-functional and unaccountable. Furthermore, the question arises as to how independent is the Commission in terms of the objectivity of its members and their freedom from popular biases.”

He goes on to question:

“Is the SRC unduly influenced by the general view that MPs do not deserve any increase or do they adopt a more detached perspective?”

Mr. Sudama goes on to say in this article:

“I myself have found the SRC to be unresponsive. In the last few years, I wrote the Chairman on three occasions on the need to increase the pensions of former MPs and there was no response. I pointed out that for the last 13 years I have not had an increase in my pension, which was contributory while there has been an escalation in the cost of living and medical expenses over these years. In the same period, Old Age pensions, which is non-contributory was raised three times.”

5.15 p.m.

Mr. Ralph Maraj in the newspaper of June 25—the *Express* newspaper, I think, and I will quote:

“Having had direct experience of the challenging condition of being a former minister or MP, I can attest to the acute insecurity and vulnerability one feels in such a position, ’...

Maraj said entering politics was an extremely risky undertaking in this country. ‘You are only of value to anyone outside your immediate family when you are in the Cabinet or Parliament. If you lose your seat, resign or are fired, you are in real trouble, socially and financially. People shun you and you are unemployable. It is an acute struggle to make yourself viable once more. Many former parliamentarians end up on the edge of poverty, humiliated and forgotten, ’...

Maraj said this move by the Parliament will serve the country well ‘for it will make a political career more attractive and less daunting to the talented who wish to serve our nation’.”

Reflecting that point of view also with respect to the isolation that takes place once you are politically aligned, Mr. Trevor Sudama, in the *Express* of July 04, had this to say, and I quote:

“As regards obtaining suitable or any employment after parliamentary service, it is easier to see the face of God. There is ostracisation by both private and public sectors. Many with independent professions have had to abandon them after parliamentary life or to operate with drastically reduced clienteles and incomes.”

Mr. President, Prof. Harold Ramkissoon in his letter in the *Daily Express* of Tuesday, July 08, today, indicated that—and I quote part of the article:

“Given the nature of the job of an MP, in some cases short term and not full-time, should they not be receiving a gratuity instead of a pension? And even if it is a pension, in keeping with the times and an aging society, should it not be a contributed pension scheme in which both employer and employee contribute at the end of service the total contribution with an accrued interest being given to the individual?”

And then he provides a recommendation on the way forward and I quote:

“My recommendation on the way forward for what it is worth, is to introduce interim measures to deal with the hardships of retired judges... provide the SRC with the wherewithal and request that they deal with the issues as a matter of urgency.”

So he, too, makes a recommendation for the SRC to do their work.

So it is clear, Mr. President, that something has to be done with respect to the pension of the Members of Parliament, and also to include within the ambit of legislators, Senators. It is indeed a relic of colonialism that Senators are not included within the ambit of legislators, notwithstanding they make law on a daily basis and a weekly basis in this country. So with these few words, Mr. President, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Camille Robinson-Regis: Thank you very kindly, Mr. President. I repeat, I thank you for affording me the opportunity to contribute to this debate, and let me begin by referring to my contribution on the Judges Salaries and Pensions (Amdt.) Bill, and the inelegant remarks which have carried over to the public concerns with regard to what I stated in that debate.

Mr. President, Beth Revis said that “I’m sorry” are the two most inadequate words in the English language. I would like to state for the record that it was never my intention to cause pain or disturbance to the equilibrium of so many people in our society. Whether you feel strongly or very little, that does not excuse thoughtless behaviour. My apology, I stand and I ask that my apology be accepted as profound, and I repeat, Mr. President, I am sorry. I was offensive. I understand that some persons are still upset, and consequently, I, again, ask for forgiveness. There was no predetermination to offend the public.

Mr. President, I am trusting that that forgiveness will be forthcoming, and that even though “I’m sorry” are, perhaps, the two most inadequate words, I am in fact truly sorry for the offense that I caused. I would hope that the desk thumping I

received on the last occasion I can get—[*Desk thumping*]*—on this occasion, which will, perhaps, help to indicate to the public that, at least, in this House, my apology is accepted, and I hope it is. Thank you very much. [Desk thumping]*

Mr. President, I take this opportunity to place that apology on record to the members of the public, and I and the People’s National Movement, who, those of us on this side have the honour to represent, not as elected representatives but selected by the party which we represent, we view it as an honour to represent our party and the people of Trinidad and Tobago at this level.

Sen. Baldeo-Chadeesingh: Yes, we do.

Sen. C. Robinson-Regis: And, indeed, we take public opinion very seriously. Mr. President, we do in fact support the intention of the legislation which is before this House, as it seeks to ensure that those persons who served this country honourably are treated fairly and equitably.

Mr. President, we all know of the real hardships which have befallen persons who gave up their careers for public service. The sacrifices unfortunately have often continued even after they leave office, and there are several testimonies of what has happened to persons who have served honourably, and after they leave office, many, if they do not have their own careers—and when I say that, Mr. President, if they are not persons who can employ themselves independently, either as an attorney-at-law or a medical doctor, or some other such profession, it is near impossible to get employment. Some of these persons have even had to leave their country in order to survive, and that is true but it is so unfortunate that that is what has befallen so many persons who have served as legislators in Trinidad and Tobago.

Mr. President, we on this side have examined this Bill and as the Opposition Leader said in the other place, we support the legislation, and I repeat, we support it. But, as was said in the other place and as was said by me even in debate on the other legislation that we have just completed, we are of the view that there are some provisions which may be deemed overly generous. And as a consequence of this, my remit is to make some suggestions to the Government as it relates to these provisions which we deem to be overly generous in many instances.

Mr. President, we would like to suggest that the same or a similar formula as is used in the definition of “pensionable emoluments” in the Pensions Act, Chap. 23:52, which has been used since 1934, may be used in the definition of “pensionable emoluments” in this legislation. In that, instead of looking at all the—[*Interruption*]

Sen. Vieira: Computations.

Sen. C. Robinson-Regis: Well, the allowances, that an attempt be made to look at specific allowances which could be used to compute the eventual pension. So allowances, perhaps, not as generous with regard to the housing and the travelling, a re-examination needs to be made to ensure that the eventual computation is carefully examined to really take into account what are the allowances, if any, that need to be examined to determine the eventual pension.

Mr. President, we are also of the view that the pension should be indexed to the annual increase year on year as noted in the Index of Retail Prices as published by the Central Bank of Trinidad and Tobago. So we are asking the Government to examine this possibility rather than what was suggested in the legislation. We are also of the view that the payment of what I call a resettlement allowance may also be re-examined, and to move that payment from the six months that is suggested, to, perhaps, maybe three months or even four months. So that we feel that where it is suggested that six months' salary be paid, that the number of months be reduced and that may be a little fairer. We would also like to suggest that the reduction—the proposed reduction in the period of service for computation be kept as it is now, and that is five years, rather than reducing it to four years.

Mr. President, we are of the view that persons who have served must be fairly compensated, and we are also of the view that at the end of their service, they must be comfortable in their retirement. We reiterate that retirement for legislators occurs at the age of 55; that is when you get your retiring allowances. And, also, we want to reiterate, which seems to have been lost, that the pension is a contributory pension. I think it is important for the public to understand that it is contributory—that every month legislators pay a contribution of 6 per cent towards this allowance, and I think that needs to be stated for the record.

Mr. President, we want to make it clear that for us it is important that persons at all levels are properly compensated for the work that they have done at all levels. We are very clear in our thinking on that. That compensation must be fair, and should reflect the work that has been done. So where persons have been saying that an examination needs to be made of compensation in different professions and pension in different professions, we are of a similar view, that that is important for this society. The issue of portability of pensions is also an important issue that must be discussed, generally, in Trinidad and Tobago.

And, Mr. President, I have said before and I repeat, that for us to ensure that we have persons who serve the public in a way that there are no concerns as to

whether there will be distrust or mistrust, it is important not only to give proper compensation, but it is important, at the end of service, that the kind of pension one receives is commensurate with maintaining an adequate standard of living.

Mr. President, we on this side are therefore requesting of the Government that a proper re-examination be made of the suggested clauses in this legislation. We, on this side, would also like to suggest that a proper examination be made not only of the clauses, but of the mechanism for assessing the pensions which legislators must be allowed to access. It is imperative not only for those who have been legislators and now are in receipt of allowances which they find are limited, but it is also important to ensure that persons who may be coming forward to become legislators, come forward in such a way that they feel comforted by the fact that, at the end of their service, they can, in fact, live adequately and that the country has been fair to them in the service that they have given to the country that they love.

Mr. President, with these few words and these suggestions, I ask the Government to examine the suggestions that we have made and I thank you for the opportunity to speak on this legislation. Thank you. [*Desk thumping*]

Mr. President: Sen. Drayton.

Sen. Helen Drayton: Thank you, Mr. President. I will try to be as short as possible. I want to deal with this Bill in a slightly different way to how I dealt with the Judges Bill. I want to take the opportunity to go through the contents, and the reason for that, I will say upfront, which is to demonstrate exactly why parliamentarians should not set about trying to establish their own pensions.

The constitutionality of this Bill, as well as the other one, has been commented upon by several speakers today and also last week. I will not go into that again. Suffice it to say that it is clear to me that the Salaries Review Commission is the body that should be developing pension schemes and recommending.

It is also clear that Cabinet can exercise a certain amount of influence with respect to the SRC and that Cabinet can accept or reject the proposals of the SRC and come to Parliament with recommendations. The Cabinet has done this as recently as 2013, by way of the Finance Bill, which brought a certain amount of relief to retirees. However, the Constitution never intended that Parliament should arbitrarily amend the governing arrangements relating to pensions of parliamentarians. So while I certainly will not dispute Parliament's right to legislate, I am of the firm view that in exercising that right, Parliament must not wilfully offend the Constitution. [*Desk thumping*]

About the contents of this Bill—now, since it was debated in the House, there has been a preponderance of negative commentary from members of the public generally. And we should be mindful of the fact that any Bill, on any occasion, any time, that seeks to increase the remuneration of parliamentarians, is bound to attract negative comment, not only in Trinidad and Tobago but everywhere else. The public views, the negative views, you know, have to do with a mixed bag of issues, with respect to the overall state of governance as they see it, and I certainly empathize to a great extent with those views.

I think it is useful to quote what the independent tribunal that determines the compensation and pensions for Australian parliamentarians had to say in their 2012 report. I quote:

“We have always taken the view that the public interest and public confidence should be paramount in our minds as we conduct our work on MPs expenses and costs and now on pay and pensions. We believe that if MPs’ are seen to be protected from the wider reforms to public service pensions and restraint on pay, public confidence in MPs in Parliament and in the principles of independent regulation would be undermined.”

The same tribunal went on to state that:

“It is unfortunate that a lot of commentary about parliamentarians and their work proceeds with a cynicism which, must not be allowed to define debate about the institution of Parliament, which is, after all, fundamental to our democracy and all we hold dear. If we are to demand more and more from our parliamentarians, and if our expectations of the quality of their work are to keep increasing, then we need to remunerate them sufficiently so as to attract and retain men and women of appropriate capacity.”

My interpretation of these statements is that public confidence in our institution of democracy is critical and as parliamentarians we have to be objective and responsible in how we approach our mandates, in order to preserve the integrity of Parliament, and leave strong institutions of democracy for future generations. I think there is cause and effect, and it is wise for us to take this opportunity as we debate these Bills to reflect, in order to appreciate that the public cynicism is due to behaviours in this very institution of which the citizens are not very proud.

Members of Parliament have a primary constitutional duty of passing legislation for the purposes of good governance, not to undermine it, and we must be mindful that no other person may discharge or has the responsibility to

discharge that duty. And once a Bill is brought properly before the Houses of Parliament, it is the duty of legislators in Parliament of necessity to debate, make decisions on that Bill. But, of course, the question arises, has this Bill been properly brought to Parliament?

Now, the Bill seeks to amend pensions for parliamentarians in a manner, to my mind, that is not consistent with coherent and professional standards that are usually applied to pensions. Not only are the provisions overly generous as stated, these provisions may appear to be self-serving. The Bill therefore confirms to me that while Parliament must properly legislate, it is not wise for parliamentarians, however well-intentioned, to develop their own pensions and then attempt to approve same. [*Desk thumping*] As I said, the Constitution to my mind is clear about the role of the SRC, but I am not going to go over all that has been said about the SRC. Suffice it to say, that apart from everything else, it seems to lack a great deal of initiative. And I see that in some of the statements in the ninety-eighth review of 2013.

But, notwithstanding that, I will come to some of those statements in a while. I think we have a duty to build institutions, not pull them down. There are institutions of democracy that are designed to preserve democracy, and I think the SRC should be mindful of its role in that regard. And to my mind, I think its recalcitrant attitude, especially with respect to the retired judges, as not being under their purview, to me, it is a bit short-sighted. Because while retired judges may not have the force of sitting judges, their needs in retirement represent the needs of judges who are to, you know, retire. So, I think there is some relevance with respect to the views of these distinguished minds.

Now, here is how the SRC described the role of parliamentarians viz a viz Senators. Yes, they have made a distinction between parliamentarians and Senators. They said that parliamentarians assist in making laws for the good governance of Trinidad and Tobago. They serve on joint select committees, research, prepare and file Motions in Parliament for debate, and when necessary, they represent Trinidad and Tobago. This, of course, is apart from their role as representatives of their constituencies. Now, I do not know what the word “assisting” means. However, it describes the role of parliamentarians in the Senate as follows:

These office holders participate in debates and serve on standing committees of the Senate and joint committees of both Houses.

So, am I to deduce that the SRC does not have a clue as to the role and function of the Senate? [*Desk thumping*] Do they believe we do not make laws,

we do not research, we do not prepare, we do not file Motions, we do not represent the country?

Hon. Senator: We do not get to sleep.

Sen. H. Drayton: Now, if that is their view, then, you see, it begs the question: are you competent to handle the mandate given to you in the Constitution? So what did Eastlyn McKenzie do in the Senate for two terms? What did Michael de la Bastide do? What did Winston Joseph, Ken Ramchand, Sen. Diana Mahabir-Wyatt, Hochoy Charles, Amrika Tiwary—what did they all do?

Sen. Vieira: Dana Seetahal.

Sen. H. Drayton: The SRC did not recognize their role as parliamentarians for reasons of pension, and if that was something that was perpetuated over the years, surely, as people who are mandated to make recommendations with respect to salaries and pensions of senior public officers, surely they ought to have taken the initiative to address that. So that whilst there might be resource issues, whilst Cabinet could do something about resource, we cannot expect Cabinet to give them a brain, and it comes down to that.

Now, if the commissioners are listening to this debate, they would now understand the value of the Senate because these Bills were approved in the House of Representatives, and were it not for the Senate, they would be on their way to implementation. So, it stands to reason that we have every right to express a lack of confidence in the SRC as it is now. That does not mean to say that we want to tear it down. There are opportunities, if they are listening, for them to address their mistakes of the past.

5.45 p.m.

Now, on balance, I am aware that the SRC does not have a dedicated office with competent compensation and benefit expertise. I am aware that they do not have the ability to hire staff from time to time or to hire consultants. They are wholly dependent on the Chief Personnel Officer who is constrained in her own way with respect to time and resources, but the CEO has to approve everything.

So, for about 15 years the job evaluation exercise that was to be done was never done. That does not absolve the delinquent SRC. But, as I said, in my contribution on the Judges Bill, we cannot only blame the SRC because successive Governments are culpable in their failures of not only the SRC, but all these commissions that are enshrined in the Constitution.

We blame the Constitution, but what has really happened? The Constitution in many ways is a masterful document, but the laws which were developed and approved by the very Parliament to operationalize all these bodies that are enshrined in the Constitution, they fall short of giving these institutions the power, the authority, to exercise their mandate.

If you look at all of them—if you look at the Public Service Commission, if you look at the Police Complaints Authority, if you look at the FIU, if you look at all the anti-corruption and crime agencies—they all fall short of the power that they need to carry out their functions. They all have to rely—they all come back to a central body, a Cabinet or a public service, where I keep saying there are these archaic systems. It is not just the Constitution, it is systemic and it is people. You could have any constitution you want, as long as people fail in their duty to exercise their mandates, once they have the power to do it, and as long as the systems are not modernized to keep it in tandem with progress, then there will be problems.

So, the question has to be asked, you know: why was something not done about the SRC? Now, there is a school of thought, which I do not think it is only cynical people would cite, that the bureaucracy and the inefficiency in the public service facilitate the exploitation of these weaknesses to advance goals other than the people's goals. In other words, it facilitates corruption.

That is a major reason why for 60 years, the very politicians who are elected to serve the people on the platform would talk about the issues of the public service or they would use that as an excuse in performance, but in 60 years, I keep saying: what efforts were made to change them? Who has the power to change them? The SRC cannot move the CPO; the SRC cannot bypass the CPO. It cannot even undertake a job evaluation in its own right without having to go to somebody to do its works, and that is the reality, but I want to deal solely with the merits of this Bill now.

Let me say this Bill is extreme and unprecedented in content. The principle of using allowances with salaries to establish a pensionable allowance is not a precedent, but the aggregation of 100 per cent is a precedent. It distorts retired parliamentarians' pensions in relation to sitting parliamentarians, and I will demonstrate that in a short while.

It is not equitable in relation to other senior public sector jobs. It was just mentioned that a person would normally serve for five years before qualifying for a pension. That has been reduced to four years, without any consideration. This is,

as far as I am aware, a pension fund, because we are making a contribution, although probably the contributions are going to the Consolidated Fund.

Now, pensions usually do not exceed two-thirds of the highest basic salary earned. I think it is presumptuous to put retired parliamentarians' pension on the same basis as the Prime Minister and the President, and even more than theirs. This is why it appears to be self-serving. Now, the system as it applies to Government Ministers in this Bill, it says a parliamentarian who has served for only four years in the House or Senate and during that period, he has been made a Minister. Now, that could be for any length of time—it could be a day, it could be a week—yet his pension is going to be based on that highest paid. That cannot be right; it just cannot be right. Now, he should have served in a higher position for, at least, three years. How do I arrive at that? You will find that in section 16A of the Pensions Act, Chap. 23:52:

“Where an officer who immediately prior to—

(a)...compulsory retirement...has acted in a higher”—position—“of three continuous years...”

So, this Bill says that he could serve for a day as a Minister, which means that you have created a law for yourselves that is open to manipulation. So, what about the Prime Minister's pension vis-à-vis other parliamentarians? If this Bill becomes law, there would be several Members of Parliament, past and some present, whose pensions will also exceed that of the current Prime Minister and former Prime Minister's pension, and that is because the pensions of Prime Ministers are based solely on salary. Could that be right? Why should a Minister enjoy a higher pension than a Prime Minister, unless the plan is to bring a Bill for the Prime Minister and then the President? I would tell you that just does not look good.

So, given the Act that governs the Prime Minister's pensions, now is it appropriate for past Members of Parliament to be in receipt of a pension not only in excess of what is paid to a former Prime Minister, who may have served for longer periods than such other Members have served, but it is more than their salaries? How appropriate is it for presently serving Members based on years served in Parliament to be entitled to a pension in excess of the salary of the current Prime Minister, the President of the Republic and the Chief Justice? That is in this Bill. That is why we should not take it upon ourselves to overthrow the Constitution, because the SRC is not performing as it should perform, rather than, as I said before, write to the President and ask him to fire them. This is what these Bills are going to do. According to this Bill, the pensioner would have the benefit

of his pension remaining current, and every time Ministers and parliamentarians' salaries are reviewed, and increases in salaries and emoluments are granted, the pensioner benefits for the same increase.

So, in this Bill, a retired Minister with 18 years' service will earn more in pension, in absolute terms, than a sitting Leader of the Opposition or Speaker of the House or President of the Senate. These are constitutional offices and, in modern democracies, they are remunerated at the level of a Cabinet Minister. You see, it is important, as I said, to deal with the Bill, forget everything else. This Bill came to us from the House, and as far as I am concerned, I am duty bound to deal with it as any other Bill, and that is what I am doing, going through clause by clause.

Now, regarding the Senators, clause 8(2) which amends subsection (1) is deemed to have come in effect from November 21, 1996. Now, Senators, according to this Bill, would have to contribute 6 per cent of their salaries to a pension plan which is desirable, which is appropriate and which should be done. However, since amendments take effect from 1996, how would Parliament deal with past or current salaries retroactively? It is just not clear. I do not understand what that means perhaps, I am reading it wrongly.

And, let me say, before I close, it is true that given the size of the country and the nature of politics, Government and Opposition parliamentarians find themselves and their families in dire financial circumstances whenever a Government changes. Nobody wants to hire them unless they have a profession where they could be self-employed, and that is not right. We ought to address that.

We cannot treat people who have served, you know, based on our likes and our dislikes. They have served. When a Government changes, that is it, they are out on the streets. When I say "on the streets", I do not mean literally, but unless they are a lawyer, a doctor or a teacher, you know, or some sort of profession where they are self-employed, it is difficult for them to get a job in Trinidad and Tobago. I think we need to appreciate that, and not deal in personalities and make all sorts of assumptions about people who, because they serve and because they are politicians, "they thief". That is not right and, therefore, who are they to be considered for any sort of remuneration thereafter? That is not right.

I am a strong advocate for fair salaries and pensions for all parliamentarians, but the anomalies are reasons why such fundamental pension reform cannot be approached in an ad hoc manner no matter how noble the intention. Pension reform for MPs must be handled independently. As for the judges, Cabinet has the

power—this is the retired judges, like retired parliamentarians—to apply remedies to alleviate hardship to these persons who have served this country with dedication and commitment, and they can do so without tampering with these laws in a manner that is unwise.

A Cabinet Note can mandate the Minister of Health to facilitate the health services at any local medical facility. They do not need to come here for that. The Minister of Finance and the Economy can be authorized, by way of Cabinet Note, as my colleague Sen. Balgobin recommended, to make ex gratia payments, just as we have just done for footballers. I hear all the commendation for that, and I am happy for the footballers, but why the taxpayer must always pick up a bill for somebody who was dishonest? We did it for HCU; we did it for Clico. Why must we always pick up those bills with no consequence to the persons involved [*Desk thumping*] and then we pat ourselves on our back that we have done good for a few people?

We may have done good for them, but it is an injustice to the rest of society, unless you are going to find a way to recuperate that money from the people who owed it to those footballers. [*Desk thumping*] And this is what continues to happen. I said it last week as well: the injustices in society are so profound and the thing is, leading those injustices are the very people who we entrust with governance.

6.00 p.m.

So that I took an oath of office, and that oath of office is to uphold the Constitution and the laws of Trinidad and Tobago and so I will do. We do not like the SRC, find a remedy other than bypassing the Constitution. I do not agree with any committee to look at this Bill, for the simple reason it is still “himself looking after himself.” This Bill should die here this evening. [*Desk thumping*] I thank you, Mr. President.

Sen. Dr. Victor Wheeler: Thank you, Mr. President. I would just be very brief.

Now, just to say a few words on the Retiring Allowances (Legislative Service) (Amdt.) Bill, 2014—I do support the intent of this Bill to address the pension of parliamentarians. I believe that Members of Parliament’s compensation is inadequate and it needs to be addressed and pension, after you retire, would be part of that.

I am also aware of the changes to the Standing Orders that will be presumably coming into effect in the near future that will create an even greater demand on the time and effort that parliamentarians tend to put in.

Since I have been a Senator in 2010, I have now become intimately aware of the role of the parliamentarian, the job that the parliamentarian does—Senators and MPs—and it is very demanding. It is clear to me that many persons in the public at large are not really appreciative of this, and in some respects, do not seem too concerned about the effort that the parliamentarians have to put in. [*Desk thumping*]

However, I am actually uncomfortable in a situation where I am determining compensation for myself. I am actually quite uncomfortable with that. Now, as a doctor, I was part of the doctors' negotiating team when we met—as a member of the PSA—to negotiate for terms and conditions with the RHA. In that environment you put forward your case. Obviously, as a negotiating strategy, you ask for 2X when you are hoping to settle for 1X.

Now, I do not know if that is the intention here, where you ask for a particular amount, or suggest a particular amount, and expect to settle for a smaller amount, but right now it is really—if this Bill goes through in its current form—yourself really determining terms and conditions for yourself.

I have heard the comments put forward related to the SRC and all I say is that I, too, agree that they have been very tardy with what their—I have heard it said it is not their responsibility; I have also heard it said it is their responsibility. I actually do not believe that sending it back to the SRC is going to really make a difference because I do not know if you can just remove members of the SRC as has been suggested. I believe that the SRC has put forward recommendations for terms and conditions that have, in fact, been accepted in the past. Up to recently, most of the recommendations were accepted, except for the removal of the tax benefits for motor vehicles that parliamentarians enjoy.

However, I am mindful of the concerns regarding the separation of powers. It has been said that Parliament has made adjustments to pensions in the past, over the years, without a proposal first being put forward by the SRC. I have not seen or read of any objections that were made to those proposals in the past. I am just wondering if the plethora of objections this time is because of the quantum leap in pension because the proposals in this Bill are substantially greater than what was ever proposed in the past.

I am also uncomfortable with the quantum of the leap. It is actually quite a lot. I believe the jump is too much and I think we need to bear in mind the public's concern. We need to bear in mind the current industrial relations climate where public servants are very unhappy; other categories of workers are very unhappy with the current packages and I do not believe it is the right time for

parliamentarians to have any substantial increase in any of their terms and conditions, particularly pensions.

Mr. President, I am aware of the hardship that Members of Parliament who have demitted office, and are on the losing side, face. I agree with the comments of Sen. Drayton. I, myself, am a professional so, regardless of how long I am here, when I leave this Parliament I would be okay because I can continue to practise. In fact, as they say, doctors never retire, you die; lawyers, I believe, are in the same category. I am aware of lawyers who—there is a particular lawyer in Tobago who could barely see and he was still practising, seeing clients. [*Laughter*] Sorry, let me correct that. Clients were coming to him and he was providing a service. [*Interruption*] He could make out a figure, but he could not read, he could not write. [*Interruption*] So, there are certain professionals, if you are a Member of Parliament and you leave the Parliament, you will be okay.

So, for those in that category to be speaking as harshly as they are, I find some of those comments a little bit extreme, because there are Members of Parliament who have served the country well, with distinction, and there are actually some of them who left the Parliament, no more wealthier than when they came into Parliament. They did a good job, they served their constituents well and some of them are going through hardship now. I do not believe that parliamentarians like that should have to worry about their future, because if you have to worry about your future, then the tendency to “fix yourself” would then be something that a lesser person might find himself wanting to indulge in. So, I believe to properly compensate parliamentarians not only while they are in the job, so to speak, but afterward is important.

Having said all of that, Mr. President, I do support the intent of the Bill. I do not support the quantum leap. I am not of the view that sending it back to the SRC, as currently constituted, is really going to make much difference because from the evidence that has been presented over the years, in spite of arguments being put to them, nothing has been done. I do believe that the amount suggested here needs to be adjusted downwards.

Mr. President, I thank you for your time. Thank you.

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

RETIRING ALLOWANCES (LEGISLATIVE SERVICE) (AMDT.) BILL, 2014

Sen. Elton Prescott SC: Thank you very much, Mr. President. Mr. President, I, too, do not propose to spend a great deal of time because the atmosphere appears to be supportive of increases and there is some chance—it appears—that this matter, too, may be sent before a select committee of the Senate. If that is so, then that should cause me to pause, but there are some things that I have observed which should, hopefully, find its way before those who sit on that select committee so that they could take them into consideration.

I note, firstly, that this is titled the Retiring Allowances (Legislative Service) (Amdt.) Bill, 2014, and the labelling must be more than coincidence. It must have been the view of the Parliaments in the past that parliamentarians should qualify for allowances depending on the length of their service, and they were not pensionable in the sense that public servants and some public officials are. In a sort of revolutionary way—I expect to be corrected if I am wrong—this Bill introduces the concept of pensionable emoluments and pensionable allowances into the lexicon of legislative service provisions—provisions for the legislative service.

One ought to be concerned that it has done so because we need, once again, to be provided with sufficient information and relevant data on how is it we propose to alter the circumstances of parliamentarians so that they become pensionable, as opposed to receiving retiring allowances. There is more to it than that. The Bill really provides a startling change in the remuneration for legislators. The quantum of the many bits and pieces, that are now forming part of the Bill, is to say the least, quite a change. It is excessive, in my thinking, but then the select committee will address it.

Even so, one would have thought that the parliamentarians ought to have been concerned that one of the best ways to allow us—the public, that is—to swallow the pill of these changes would have been to allow the Salaries Review Commission to get on with its work. I have said before, on another Bill, that if you provide them with the facilities you take away from the Salaries Review Commission the opportunity for saying, “We were not resourced to do actuarial studies, to do comparative studies, to justify any changes we might like to make.”

I noted that from as early as their second report, the Salaries Review Commission has accepted that there are changes that are needed in salaries and pensions too, in subsequent reports. So that there is nothing new in providing for legislators, but there is something to be said for placing any increases on

empirical studies. So that we know that the economy can sustain those changes, we know that the population can be provided with digestible reasons why these provisions are being made. At the moment what we have before us is very difficult to digest.

6.15 p.m.

Mr. President, we have been told that a parliamentarian, having served his term in office, will find himself in difficult circumstances after because he cannot find jobs, nobody will employ him. Well, granted this is a small society so there will be difficulty, but how is that victorious candidate in the general elections any different in his circumstances from the one who was the runner-up or who lost to him? The mere association with the party which has been defeated might well result in that defeated candidate finding great difficulty to return to revenue-earning jobs. He may well have to go out there and try to find his way otherwise, or to do like some persons and go abroad.

I think we heard last week of the circumstances of a former cleric, who was once a Minister and now practises his profession somewhere in one of the other islands of the Caribbean. It is forced upon us, whether we are victors or not. So service in the Parliament does not lead to the parliamentarian alone suffering—and I am putting that badly—the parliamentarian who has served in the Parliament may be experiencing the same fate as his colleague who he has defeated in the election.

So I do not fall at all for that argument. This is a self-serving document. It is meant to be a provision for legislators. What it needs is more work, work that takes into account what are the members of society thinking when they hear what you propose for yourself, knowing their own circumstances and, in some cases, knowing that their contribution is no different from yours, and may even be superior.

Mr. President, I have checked the Standing Orders and it appears that I may read extracts from some right things merely to get it on the record, because they are views that I have myself but they are written by those much more learned than I am. One of them is Dr. Terrence Farrell, of whom we know quite a bit. He is a former deputy governor of the Central Bank and an intellectual of note, and he wrote in the *Business Express* of July 02, 2014, “Why the retirement allowances legislation is bad policy”. So may I read some parts of it into the record so that it will guide those who will come just to take a closer look at this legislation in the near future. Among the things he said, is that:

It “inflates the pensions of legislators to ‘correct’ what was perceived as inadequate base salaries recommended by the SRC.

The nature of the job of the legislator needs to be clear. It is not a permanent job. It is in fact in the nature of contract employment.”

Now, I pause to say that it has been observed that certain changes in the Standing Orders, and our current workload, predict that there are going to be long hours ahead for parliamentarians, be they in this or the other House, and that could be reflected in the changes in the base salaries, of course.

“Tenure depends on the electorate”—he says—“and on the conduct of the parliamentarian which could lead to his dismissal from the party. While tenure may be uncertain, an individual parliamentarian may end up serving for a very long time whether on the government benches or in opposition.”

And then he spoke of the less sustained stay of a Senator. He looked at some comparator positions and spoke about the position in Antigua and Barbuda, and perhaps India.

He said those were unclear but—“in all the other comparator countries the pension scheme is contributory and the scheme in some cases is funded.”

Now, I know that here we have maintained the 6 per cent contribution by parliamentarians.

“In T&T, the scheme is also contributory and structured as a defined benefit scheme so that the taxpayer bears all of the risk in meeting the pensions.” The—“pensions are not funded”—they—“are paid out of the Consolidated Fund as they arise.”

So that there is money sitting there, people like to call it taxpayers’ money, and it is going to be made available. It is not invested to make any money for later life as the others do, it simply stands there waiting to be accessed by the parliamentarian after he has left office; and when can that be? Trinidad and Tobago is now proposing that it may come as early as the end of his fourth year in office.

It used to be five. It used to be 10 at one time, but for a reason that has not yet been explained to us, the qualifying period is four years, and a parliamentarian can, through this medium, receive as much as 100 per cent of his highest salary—I think that is the word, yes—when 66 2/3 per cent is what applies in other places. Dr. Farrell goes on:

“If implemented the proposals will place the SRC in a difficult position since a significant element of what it is required to assess in the terms and conditions of those within its purview has been preempted or removed from its consideration. This will certainly influence how it then views base salaries of the positions within its purview going forward, given that the formulae for pension entitlements would have been set by these pieces of legislation.”

There must be that domino effect, we all know that, not only at the level of the SRC and those positions under its purview, but there are trade unions looking on, both concerned with the public service and outside. There are professionals looking on who will wish to maintain a certain comparative level with salaries. If the parliamentarians provide for themselves substantial increases, then one can expect that throughout the society those impacts will be similar or more grievous. Dr. Farrell goes on:

“It places the SRC in a difficult position in respect of other positions in the public sector for which it has to make recommendations and would do so based on internal comparisons with the jobs of parliamentarians and judges, which have now been distorted by the legislation as proposed. The SRC adverted to the difficulty which including allowances would present at paragraph 51 of the Report laid in Parliament.”

Well I think we pointed out that it is proposed that pensionable allowances for parliamentarians, as for judges, will include transport allowance, I think. Let me just go to the actual wording so that I would not be misquoting. It is to be found in the Bill in clause 3. There is this provision, Mr. President, for pensionable allowances and much has been said already in this House about the vast increases that these pensionable allowances, included in the salary, will—the impact that they will have on us. In clauses 3 and 5 of the Bill, the definitions are to be found. So that one has to be cautious about allowing for these revolutionary changes to take place, and to take place with a dearth of information coming to the Parliament from the Government in this matter.

May I just read one further passage before moving on? If it is necessary, I will make it available to the recording people. In his summary, Dr. Farrell made the following observation among others:

“The Legislation

Distorts the compensation management of persons within the purview of the SRC and will make the proposed job evaluation exercise even more complicated and drawn out.”

It—“Engenders inequity between MPs and other public officials who are unable to adjust their own pensions and could foment strife between these groups”

It—“May have a perverse demonstration effect on private sector pensions and even base compensation”

And then, finally, which is the point I have been making from before:

It—“Raises constitutional issues in respect of the role of the SRC vis a vis Parliament”

Mr. President, the role of magistrates has not been addressed at all. They are at the frontline of the war against crime in this country. They are the ones who no doubt require greater security of their person and their income after retirement but, as we all know, they are measured on a wholly different scale and will no doubt make it known, if this Bill becomes law, that theirs too is an inadequate provision and should be addressed. They are not given, as we know, to industrial actions and maybe we ought not to suggest that it is a possibility, but one ought to feel that they will be hard done by if some eyes are not cast on their condition, both today and in the future.

Nobody will be surprised to know that I will read next from an article attributed to Messrs Reginald Dumas and Martin Daly, one passage only. This was June 23, 2014. I think it had been shared with Senators, generally. They said:

“We feel that the approach hastily taken by the House”—and they are referring to the other House—“is likely to lead to more problems for T&T as a whole than it solves for a chosen few. We should all wonder about the precedent being set. What possible impact on our institutions, our economy and our democracy might there be as a result of this decision by persons whom we elected to serve us and who are now seen as serving themselves at our expense, and, moreover, to be doing so to the exclusion of persons similarly circumstanced?”

The list of those persons, of course, is enormous.

“Equitable salary and pension reform for the judiciary and for certain public office holders cannot sensibly be done in the piecemeal, discriminatory and hasty way adopted”—in the other place.

So, Mr. President, I am supportive of those statements which I have read into the record. I am not happy that we have taken this line of putting before the Parliament these gargantuan increases without the merest effort to satisfy the Senators, the Senate, as to the bases on which the proposals are made.

I look forward to hearing from those who know what prompts it, and I hope it is not simply reduced into one word. Thank you very much, Mr. President. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Thank you, Mr. President. I am just going to make a few comments on this. I am aware that there are several significant overlaps between what we are debating now and what we were debating not too long ago and, therefore, I propose to be as brief as possible.

I will begin by acknowledging something that I think has been largely absent from the national conversation about this particular matter, and that is that service is hard. In a developing country service is very, very hard, and I do not think that it often comes easily to the people who serve for them to say that a lot of times the people you serve are expectant, have a sense of entitlement, and can be downright ungrateful, rude, insensitive. There are many, many ways that one can describe some of the experiences a person who serves might have.

Now that, of course, is not all. There are certainly many decent citizens in Trinidad and Tobago and they certainly do express their gratitude, even if it is to say a warm thank you or to send a card. And, truly, a person who is serving from the heart ought not to be serving for gratitude in any case, but that is not to say that serving people who have a sense of entitlement is not an emotionally draining occupation, even if done for five years, or four, or three.

6.30 p.m.

It is hard, and a lot of times people do not make it any easier. And we speak here about what happens after, you know, the night before, as it were. And all of us would know that a kind of social leprosy takes you, does it not? You become a leper of sorts. In fact, to be a person in public life who has a political alignment, whose party is not in Government, is about as close to the death touch as anything, that one can describe or define in a modern democracy like ours.

And so, while people say that parliamentarians ought not to be seeking their own interest, the truth is, if one were to bring some balance to the equation, one could also counterpoint and say, no one else is seeking the interest of parliamentarians either. So it is a society that, to my mind, looks increasingly ungrateful and hostile, how we deal with each other, how we relate, and that antagonism, that angst, that rage, it comes through with everything. So, we are particularly harsh on the people who are meant to serve us. That is unfortunate, Mr. President, because most of them are well meaning. There are many people even in this august House who are caricatured outside, and who I have got to

know personally in here, and I can tell you they are nothing like the public profile. They are decent, beautiful human beings, and true sons and daughters of Trinidad and Tobago. Right in here, I cannot say—[*Crosstalk*]

It is very difficult for me, Mr. President, to leave this Chamber, go outside and say, “I know that person and he is—”and finish that sentence with something unkind because that is not my everyday experience with these people. Now, whatever the politics or the media or whatever else throws up at you, well okay, that is different, but some of my experiences have been so opposite to what people say about some of these people, I find it, you know, very disheartening to see how the local spin takes things and carries it. Even just now someone just reached out to me for help, and I turned to the Minister of National Security and he responded immediately. I do not think I ever talked to the man before. [*Crosstalk*]

And so it is disheartening to see sometimes the way that people speak about Members of Parliament. But of course, we have ourselves to blame because here and in the other place, we who are complaining also reinforce this cycle—do we not?—because of some of the things we say, how we say it, and so we continue to give life to this cycle of stigma and discrimination. And so to be certain, as we loose some of the outer parts of our intellect on each other, perhaps we say and do things that are magnified and misconstrued when they go out into the public domain. And we contribute in no small means to the continuation of, or the propagation—yes, the continuation of a route which sees Members of Parliament and people in public life held in increasing contempt.

Now, if you want to change that and you want people to value you, well change your behaviour. Change your behaviour, and it ought to start here. We ought to be setting a better example. I have heard as justification for this measure or set of measures, that it is disheartening to see Members of Parliament who, having served, are now in a position of relative difficulty; and by difficulty I mean financial difficulty.

Well, I looked at that. It is not a scientific poll, and what I found was that there is actually very little evidence to support the argument that a person who has served as a Member of Parliament is materially worse off after they have served. If they were not economically viable before they came in, they probably would not be economically viable when they go out. The difference is we will notice because they have served. On the other hand, if you are a professional like a doctor or a lawyer, well you know, you can continue to do what these professions do to people, and you will continue to earn a living. There is however,

considerable anecdotal evidence that a lot of Members of Parliament do considerably better having served as a Member of Parliament.

Hon. Senator: Anecdotal.

Sen. Dr. R. Balgobin: Anecdotal—I did say that; considerable anecdotal evidence, and I am not talking about any particular Government. I do not do that.

So, okay, what is the mischief that we are trying to fix? Are we trying to make someone who came in, who was not necessarily competitive economically, competitive afterwards? We ought to be careful in how we define this problem that we are trying to resolve.

Now, problem definition aside, Mr. President, there is a fundamental issue with us setting our own pay, and there are only two dimensions of this that I wish to mention briefly. The first is, if we do this to the SRC, we are killing it off. Between this and the one that just went before, I mean, we are killing it off. Well, we are killing it off in all but name because we are resetting its bases. We are changing some of the fundamental conditions that the SRC has to work with. So is it not better for us to just get the SRC to do its job? Now, we know that they would not. Why do we know that? Because they have not. If I drop a hammer on a high-gravity planet, I do not need to look at it to know that it has fallen. In the same way, if I send something to the SRC and expect them to do their work, I do not need to wait around outside of the SRC offices to know that they would not do anything. Unfortunately, they have become very predictable.

But what we are doing, I think, runs the risk of running afoul of modern governance standards. It is not true to say that we cannot adjudicate on this matter; we have to vote on it. We have to do that. No one else does that. However, what modern governance standards would require, normally, would be that we act on a set of objectively derived recommendations. That is what is missing in this case. That is what we do not have. That is what the SRC is meant to produce. So again, I would say that I think that the SRC has put the Executive, and by extension the Parliament, in a terrible position. Their inaction is causing us to work around them in ways that we were never meant to. They are supposed to do their work. Because in doing what we are attempting to do, the way we are attempting to do it, we are running dangerously close to breaching what anyone would hold as a modern standard of governance, and that is that we act on an objective set of recommendations.

There is no question, Mr. President, that we must pay people well who choose public life. And again, I would say that is where we should be making our amendments. I mean, we should be addressing the question of direct

compensation, not pension, not compensation for after. There are arguments for and against the pension logic. Should parliamentarians get a pension?—maybe, because they serve, and they are given the kiss of death after. Then again, maybe not because they only serve for five years; it is not considered permanent employment, and you came to serve.

Does any of this, either way you go, justify the significant jump that is captured here? Probably not. I am uncomfortable with the numbers, and we ought to be careful. Whatever the increases are, whatever the changes are, my view is that this is not the way to address it. And I do not say this just in terms of the mechanics of what is before us. There are enough holes that can be poked here, but other people have spoken and other folks will also.

But too many sections of the society are wrestling with problems of scarcity, and there are parts of this society that resemble a powder keg. Why are we—we have to be careful that we do not give people a reason to “mash up de place”? That is where we have reached. We cannot be seen to be acting in such a blatantly self-interested way. There are some who may argue that what this represents is merely bringing the terms and conditions of parliamentarians in line with what were to obtain in the private sector. Well, okay. I have no difficulty with that. I am from the private sector though and so we would agree that this needs to be modernized and professionalized. However, also from the private sector I would tell you, this is not how the private sector would do it.

So, I think that there are risks with this approach. And I want to respectfully submit, if I can prevail upon the Government and the Opposition to consider, that perhaps these risks are too significant for us to continue onward. I hold the same view as I did for the previous one. I do not think that we ought to send this to a select committee. I think the process is wrong, and we should just stop. I think that we ought to just stop right here. If the process is wrong, we have to stop.

The SRC must be prevailed upon to do its work. It must! If they do not, then we must suffer the same fate as the citizens we serve because they suffer it too. Public officials, public servants, everybody suffers when the agents and the institutions of the Constitution do not work. We alone are privileged to do something to bypass that. We ought to suffer the same way the rest of the citizens suffer. That surely gives us the impetus we need to fix things. We should be prepared to live with it therefore, or to change it by lawful means, not simply by passing a law.

So, Mr. President, I absolutely understand what we are trying to do. I caution all concerned that this is not the way to do it, and that we will probably create

some problems for ourselves going down the road, not just by hobbling, perhaps permanently the SRC, but also by the precedent we set, and by giving some elements of the population who are already very disaffected, reasons to be even more so, and perhaps to act in ways we do not want. So my suggestion would be, let us back away slowly. Let us back away slowly from this, and let us come up with something that is grounded in an objective set of recommendations, and that we can act upon. But I do not think we ought to formulate, cogitate and legislate for ourselves what is for ourselves.

I thank you, Mr. President. [*Desk thumping*]

6.45 p.m.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. President, and it is good to be coming back at this time, 6.45 p.m., to address the second phase of the subject before us. In the first instalment, I was very clear—[*Interruption*]

Sen. Prescott SC: You cannot get clearer than that.

Sen. Dr. D. Mahabir: You cannot get clearer as my colleague said on what I had to say, because in the first instalment I indicated that we do need to build the institution of the Judiciary, and I want to emphasize that. I did not mention as a failed institution, the SRC, but since much has been said about that particular institution, I will want at some time to speak to the matter.

I have spent my entire career in the field of education, and in that field we always use our abilities, limited as they are, to build the future generation. And so, I am not necessarily swayed by public opinion. I listen to public opinion, and as an educator I try to see if I can do something to perhaps sway public opinion if I see matters which perhaps people on the outside did not see.

Let me quote as I am wont to, Mr. President, from the Annals. In the year 798, so it is written, a gentleman by the name of Alcuin wrote to Charlemagne, Charles the Great, and he wrote in Latin for which a translation shall be forwarded:

“Nec audiendi qui solent dicere, Vox populi, vox Dei, quum tumultuositas vulgi semper insaniae proxima sit.”

Sen. Prescott SC: I agree.

Sen. Dr. D. Mahabir: “Ahh”, but let us, and of course Sen. Prescott who is a Latin scholar agrees with what Alcuin wrote to Charlemagne. What does it say?

“And those people shall not be listened to who keep saying the voice of the

people is the voice of God, since the riotousness of the crowd is always very close to”—insanity.

So, it is not always that in public opinion you will get wisdom. There is something like a particular feeling that may not have as much reason as we would like it to have. And let us see if we can bring some sanity into the argument—not that public opinion is insane. But what we have had during the course of today is a range of opinions, all of which seem to be very legitimate.

In fact, the arguments made are such that everyone is making a valuable point, and I remember the poem, it was, I think, eight:

“...men of Indostan

To learning much inclined,

Who went to see the Elephant”—although they—

“(...all...were blind)”.

Not that we are all blind. But when one person held the tail, he would swear that the elephant was like a snake, and he would be right. And when one held the trunk he was convinced that it was like a rope. And those who argued in favour of the snake and those who argued in favour of the rope would never come to an agreement although they were all right, and when one felt the tusk, he felt that it was a spear and you could imagine those eight wise Swamis of Indostan engaging in a debate, and I do not know if they ever reached a conclusion. What we would like to see, is try to determine if we can catch the whole picture of this elephant.

And, in this regard, we need to ask some searching questions. I have heard questions raised about the impact on the economy. Mr. President, that question ought to have been placed when the debate raged with respect to the Clico bailout which absorbed a full year, \$21 billion of all of our oil and gas money. I am waiting to see the economics which justified the bailout, because I have not been able to see any definitive economic work which says that particular conglomerate was going to pose a systemic risk. I would like to see the analysis, but there was none.

What we are asking for is an economic rationale for paying in the last instance, judges, 30 of them, what I thought was calculated to be a \$30,000 a month salary, so a sum of \$900,000 a month. There is no economic rationale there because there is no economics there. You could look at the micro, you could look at the macro, you could look at the international, you could look at every area in the economy, there is none and I would like the economists to tell me otherwise.

What we really have to be looking at, is with respect to two other areas. One is whether it is legal to do what we are doing, and the debate which ensued leaves in my mind a position which was, in my position, relatively uncertain and unsettled. And in that regard, when the law was not clear as to what can and cannot be done, we heard the SRC say that they do not have the jurisdiction, and we heard the Government say, well, if they do not have the jurisdiction we go back to the old parent legislation which, from what I see, is what the Government is attempting to do, attempting to amend legislation which already exists in the books.

So that, it seems as though the legal argument, I think, is not going to be something that will, of course, be challenged successfully in a court of law. I leave that to the lawyers. I am, of course, not legally trained and I think sometimes that may be an advantage, because we may not be caught in legal entanglements when in fact, there is a whole elephant out there that we need to see.

The problem, Mr. President, is that this matter has turned out to be a political one, unnecessarily so. And there is a fear that we will offend the electorate. Let me at the outset state one thing. With respect to judges, I have no cases pending against me. I have never been to a court of law and I have no eagerness to find myself in the Hall of Justice or even in the Magistrates' Court. So I am not currying favouring with the judges. I am not doing that, I am not currying favour or flavour with anyone in the Judiciary.

And the second, Mr. President, is that I do not have the kind of service in the legislative arm of the State to qualify for a pension, so I am not serving myself, and the reason for that is this, the legislation really contemplates someone serving four years; someone who has served four years in the Senate is a survivor. *[Laughter]* And the reason for that is this—yesterday I had cause to apply for a credit card, a second credit card for online purchases. And I did not want to use the one that I have, which has a larger balance—for fear of identity theft—so I wanted one for US \$1,000, so that I could facilitate online purchases, and if someone hijacks that card, well, I am out of pocket by TT \$6,000. And I showed the lending officer at Republic Bank, Valpark Branch, the salary slip of a Senator, and he told me, “Well, this does not qualify for the credit card.” I can give you the guy's name. They are still considering that application.

I am waiting, trembling, that they may reject that application for—and this is not fabrication. And then the gentleman said to me, “Well, the Senate is really very short-term. How long are you there for?” And I said, “Well, I do not know, it depends on the whim of he who has appointed me.” And then he said, “Well,

okay, you have a one-day contract.” [Laughter] And therefore, Mr. President, I know I have a one-day contract. By midnight tonight, I can get a call and if midnight passes, as in fact I have seen in this Senate during the course of the year in which I was here, two Senators had to demit office one minute past midnight while they were sitting here. I have seen it. So, four years in the Senate is a really long time, and that really qualifies to my mind for a pension. But I am coming back to the other points. [Laughter]

Mr. President, this is no fun, you know. Yeah, exactly, this is no joking matter. The fact of the matter is, the Senator who is currently paid a stipend in the Senate is someone who will not qualify for a US \$1,000 card. He would not. And so you have to supply to the bank, other sources of income, whether in fact you owe money or you have some assets, and then it is going to go to a lending officer. They would adjudge you and they would say, we feel this Senator can pay a credit card bill of US \$1,000 for online purchases.

This, Mr. President, is what has happened to the Senators. Not the Executive Senators, the non-executive. And let me be brave and bold, and I am trying to persuade the public, I do not have a vested interest here unless I stay here for four years, and I do not know if I will stay for a day. Every day that comes and my appointment is not revoked, I say, “whew” I am a lucky person, and so I live another day in the Senate.

So I do not prepare for Bills long in advance. I simply ask the Leader of Government Business, what are we going to do tomorrow and then on next week, and then I prepare for that. I understand his legislative agenda problem because he knows many of us may not be here, and so, therefore, we have a very, very, short contract. And given the limited-overs game that all of us play, we have to make a lot of runs in a short space of time. This is the nature of the job, and what really is the SRC but a failed institution. It has failed. It should never place the Senators in this position, but you see, Mr. President, we have come from an era where Senators were supposed to be men and women of incredible wealth. We came from that era. We came from an era and we need to educate the public and I am grateful that I am a trained educator.

Let me educate the public some more, with no interest in this Bill—though, if I stay for four years I will get a little something. [Laughter] Right, so, let us look at what has happened over the years.

Mr. President, we have had in this country a record of public service of a different sort. Outside the Parliament we have had people who possess huge tracts of land making donations in the public interest to these tracts of land. Comte Picot

de Lapeyrouse donated that area for the Lapeyrouse Cemetery. It is a gift. The Peschier family was said to have allocated that large tract of land which became the Queen's Park Savannah. The De Verteuil family gave a large portion of land so that Presentation College in Chaguanas, where I had the privilege to attend together with Sen. Singh, we are grateful to that family that gave that tract of land so that Presentation College, Chaguanas could be built. It was because of the largesse of these people to public service that people like us are now in the Senate, people like us who are not in any way privileged by having a lucrative law practice or even a law practice that is not lucrative, a private company.

7.00 p.m.

These are people who can set their own salaries. A medical doctor who is undertaking a caesarean section operation can determine from the expectant mother how much that fee for the surgery will be. So people out there do determine what their salaries are. When you have a Clico hearing, for example, and there are people who have raped, pillaged and plundered this country of millions, they are hauled before a commission of enquiry and they need to be defended. The people who defend them can say, "I want a million dollars for this brief". So they are in a position to do that. So that those who say that it is self-serving for parliamentarians to actually look after their own benefits, are missing a picture that there are many out there, including some of the commentators, who set their own wages and salaries on a daily basis. [*Desk thumping*]

We need to establish that point and educate the public, and let me comment on the SRC. The SRC has been delinquent. So delinquent, if I was trained in law I could actually charge them for criminal negligence. Let us see how. What is the SRC supposed to do? It is supposed to ensure that we have, Mr. President, fair salaries, fair compensation—compensation that is adequate so that the individuals who hold the office will not be in any way seriously disadvantaged and in order to do that, you need to be looking at the environment in which these people operate and be changing continuously. The environment in which people operate—and we have Sen. Lambert. He will understand exactly where I am going. Let us get to a little economics.

I looked at the economics figures and I looked at the inflation rate, these are actual inflation rates. In the year 2000, the inflation rate, the Consumer Price Index, 3 per cent. These are rates that have been established, Mr. President, by the IMF, the World Bank, the Central Bank, the Government of Trinidad and Tobago. There is consensus, and whenever the rate is 3.2 per cent I will call it 3 per cent. If it is 3.6 per cent, I will round it to 4 per cent. In the year 2000, the inflation rate in

this country was 3 per cent; in the year 2001, it was 6 per cent; in the year 2002, it was 4 per cent; 2003, 4 per cent; 2004, 3 per cent.

Prior to 2004, save and except for one year, 2001, the inflation rates were all under 5 per cent. So we could understand someone retiring in the year 2000 or before, enjoying a retirement income that is not deteriorating or depreciating in value at an alarming rate. But then, Mr. President, we have here, starting from 2005, a watershed year and there are many reasons for what happened in 2005. The first is, the first big Supplementary Appropriation we had moving the state budget from \$18 billion to \$32 billion—I raised that on the last occasion—but in 2004, the rate of inflation was 3 per cent.

In 2005, it jumped to 7 per cent—6.9 to be exact, but as I said, 7 per cent. In one single year the rate of inflation doubled, and then let us continue. 2006, 8 per cent; 2007, 8 per cent; 2008, 12 per cent; 2009, 7 per cent; 2010, 11 per cent; 2011, 5 per cent; 2012, 9 per cent; 2013, 6 per cent. In every single year, without exception from 2005, we have had the inflation rate in excess of 5 per cent, and in some instances it went as high as 12 per cent. What has happened with the compensation of parliamentarians during that time? What has happened to the—if I had a trade union, I would have liked for the trade union to bargain for me so that every three years from 2005, 2006 and 2007, there would have been one three-year contract; 2008, 2009 and 2010, another three-year contract; 2011, 2012 and 2013 another three-year; and from 2014 and on we would have been on our fourth three-year contracts, Sen. Lambert.

I would really like for there to be some consideration for the trade union of Sen. Lambert to be given the job. Give them the work because they deal with daily paid workers [*Desk thumping*] as we are in the Senate. I think they have expertise. They would have known, and these are all the people on the outside, all the people who are saying, we are being paid. I am not yet starting, Mr. President, and I hope someone will rise and give me half hour more because we have to get to the bottom of this point and get to where I want to go. I am still making, you know, as they say in stick fighting, “galaying”, we are still around, I am not yet in the depth. But what has happened with the SRC is that while the cost of living for everyone in the society was being adjusted for increases in the inflation rate, those in the legislative arm of the State remained frozen. So today, we are operating with 2005 salaries. [*Desk thumping*]

I do not think any trade union leader will find this to be agreeable. I have seen a trade union leader who sat in this Senate, until recent times, and I wonder, trade union leader, you know that in your trade union you will not tolerate any of your

workers not getting a salary increase in 2005. You will be pounding the pavement, you will be creating all sorts of mayhem. In fact, the Public Services Association got a salary increase and they are still causing confusion. We have not had and we have not started to rebel yet.

I think we are lucky that parliamentarians are not outside the Parliament picketing, “We wah we money now, we wah we money right now”, because we are so exploited and underpaid from the year 2005. So that the Salaries Review Commission has been delinquent in ensuring that compensation is fair. The *raison d’être*, the reason for its existence, the reason why it is enshrined in the Constitution is to ensure, Mr. President, that legislators do not compensate themselves excessively.

When I looked at my colleagues in Canada, a Senator in Canada is paid Can. \$11,000 tax free a month. That is only basic. A Senator in Canada is there for life. Check the records. He does not have a one-day contract, and he is doing work that is not as complex as the kind of work that I am doing here. And yet, we have comparisons abroad where they are looking at their legislative arm of the State and they have decided as a society, we will quarrel and we will quibble, but we need to ensure that there is compensation—fair.

There is a problem with overcompensation, but there is a greater problem with under compensation. What is the problem with under compensating people? The problem with undercompensating judges is according to what the Godfather says, they will sell themselves like every—bleep—on the street. They may. We do not want that. What is the problem with under compensating those in the Legislature? There is a problem here and the problem is, Mr. President, that it is going to exclude a great deal of people from serving in the Senate. Because, if you are going to pay people here a stipend and if you are going to be parsimonious with respect to the compensation, who will be able to participate in this august assembly? It will have to be those who are independently wealthy and we would be no different from how we were in the colonial era. We will be able to attract those who have their own businesses and thriving professions, and we will not have the potential of tapping into a large pool out there of trained, skilled people who only have human capital and not physical wealth. And we need the people of human capital. The work of the Senate now and the work of the Parliament, the Lower House too, has radically changed.

Mr. President, I have been drafted to serve on the select committee on the Insurance Bill, and having been so drafted I have seen the technical expertise that is required. This Bill is meant to be assessed by experts of all kinds, and what we

have there is this, an anomalous situation has arisen where consultants are being hired at \$8,000 an hour—World Bank rates to advise—and I think the consultation is worth that \$8,000 because of the advice given, but at the same time, you have technical experts on that committee. I am one of them. I am a technical expert, technical economist. I know the field, but you are subsidizing the State. What you get is a free lunch and I have to say, the lunches are really good. So you get a lunch for serving on the committee, but apart from that, it is as if the moment you accept the position to serve in the Senate, you have immediately indicated that the compensation for you will be the joy you receive from engaging in public service.

Mr. President, that compensation is adequate for me. I really receive joy in making these speeches. But, you see, there are members of my family who like things and the compensation I get in the good feeling does not pay for the things that they like, and that creates a little tension. [*Laughter and desk thumping*] I do not know if you have seen these designer things recently, Mr. President, \$3,000 US and \$4,000 US and so on. I have to earn another source of income. So, it would be nice if in addition to the enjoyment and the psychic sidekick delights I get from participating in the debate, there could a little bit of a fairer compensation.

Mr. President, the Bill which is an amendment really, really finally include Senators as legislators. I read the parent legislation and I really would like to know how is it possible—the legal luminaries will have to advise me because I feel I could file a constitutional Motion in the High Court and argue a successful case that we have been discriminated against in the Senate by people not considering us as legislators. [*Desk thumping*] And, Mr. President, let me quote from the Constitution. The constitution on page 36 says:

“39. There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.”

Now, there shall be a Parliament which consists of these three bodies. Without the Senate there cannot be no Parliament. It says that—I did not make it up. It is right here. It says:

“There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.”

What is the function of a Parliament? Is it that we come in the Parliament and we simply rant? Well, we do that. Do we engage in crosstalk? We do that and I hope it never stops. In fact, when the crosstalk ceases I find it that my physic income declines. So I do want to encourage the crosstalk. [*Laughter*] I mean,

there are certain Members here who engage in the best type of cross talks. We have lost one on the PNM Bench. We do have the hon. Attorney General and we have Sen. Devant and so. I mean, we have some people here, Sen. George, we have our cross talkers, and I am grateful for your contributions because whenever there is crosstalk it gets my own creative spirit going because I can see exactly what the alternatives are. [*Desk thumping*]

Sen. Vieira: It is a non-pensionable allowance.

Sen. Dr. D. Mahabir: And it is an unpaid non-pensionable allowance according to my colleague, Sen. Vieira. So, we do have some benefits in the Parliament but, Mr. President, the question is: why were Senators excluded since 1969?

7.15 p.m.

The function of the Senate is really as a component of the Parliament to engage in the making of laws and the definition of a legislator is someone who makes laws. So, for the life of me, I would like the most learned Queen's Counsel to look at the parent—[*Interruption*]

Hon. Senator: “Nah, nah, nah”, Senior Counsel.

Sen. Dr. D. Mahabir: The most learned Senior Counsel who will be—I would like Senior Counsel, I would like Queen's Counsel, because I do not know if that law came from England and they said, you know, these people are not really making laws, they are coming to sip tea, they are doing nothing of the sort. So the fact that we are in the Legislature and that we are not considered as legislators since 1969, in my mind, constitutes one of the biggest discriminatory acts, it has to be unconstitutional. I would like to see some lawyer tell me otherwise, and the Government is rectifying an old wrong, and I am coming to that. [*Desk thumping*] We are rectifying that old wrong.

We could not be serious, Mr. President, and it had to be that this wrong occurred because the Senate was considered to be part-time, it was considered to be for people of wealth who got a little bit bored. I understand in 1969, you did not have cable TV or anything to entertain you so coming to Port of Spain in the Red House was entertainment, and so these people really came to meet their cronies, talk a little bit about the law, engage in some socializing and they went home. [*Crosstalk*] That is the only reason.

You see, I read the Standing Orders and it says in the Standing Orders, page 7: “Days and hours of sittings”

Standing Order 9:

“Except as otherwise provided in this Standing Order, the Senate shall meet on Tuesdays at 1.30 o’clock in the afternoon and unless previously adjourned, shall sit until 6.30 o’clock in the afternoon.”

It says that; this is a law. I cannot recall the last occasion the Senate met at 1.30—we met today, on a Tuesday, at 10.30. I understand the Leader of Government Business is slyly looking forward to asking us to come back tomorrow. This particular Standing Order, which no wonder, I think, it guides to what the compensation package is, takes the view that we are going to come in for an afternoon and then we are going to return at 6.30. It is the same Standing Order which sets the rules and so on under which we will operate.

There is a rule which says that if you live within a 16-kilometre radius of Port of Spain, you cannot get accommodation in Port of Spain if the Senate goes beyond midnight. The problem is some of us get tired at around ten o’clock especially if we have been here ten o’clock, and that particular rule of the SRC, I do not know how they derived it, what was the scientific basis for determining that people could drive safely after midnight for 16 kilometres but the moment you go to 16.1 kilometres, you could get into a crash. [*Laughter*] I would like to see the scientific evidence.

Sen. Small: There is none.

Sen. Dr. D. Mahabir: Yes. But fortunately—and I did make a request. One night I asked and the Senate Clerk said to me that I live within 14 kilometres of Port of Spain and therefore, if we go up to three o’clock or four o’clock in the morning, you have to find yourself home.

I think this SRC is putting my life at risk. [*Desk thumping*] That is not what the SRC is supposed to do. It is supposed to protect me. It is injurious to my health and it is deleterious to my bank balance. [*Desk thumping and laughter*] This SRC is a failed institution. They should resign out of a sense of honour and dignity. I do not make such strong statements, but never before have I seen a more incompetent organization. I railed against, this morning, the Integrity Commission because they cannot legislate and against the SEC, and I let them go. I give them, as they say in local parlance “ah bligh”, but really when I pin it down, I see that they, I think, do not understand what their mission is and that failure has resulted in a big problem.

Let me come to the elephant. I am trying to persuade the public that when we look askance at the salaries of 30—the retirement benefits of 30 judges and you

want to save pennies there, I want to place it again in the perspective, the Pension Bill annually for 30 judges at \$30,000 a month is going to come to \$11 million. We paid \$12 million in prize money to the soca monarch and international soca competition. That is the kind of relationship. What is our priority?

I am trying to persuade the public because the politicians seem to be terrified of the public. I am very fortunate, I do not need the vote of the public so I can actually tell the public exactly what I think. I am going to tell them that you should consider the following: consider that you need a strengthened Judiciary and you need to attract the best in the legal field in that particular profession. I do not think anyone out there holds the view that we need to get judges who are very, very unhappy or dissatisfied with their terms and conditions. I think we need judges who are very satisfied with their conditions and we should pay them the pittance, and my own recommendation is to pay them more.

Let me come to the next phase. The next phase is the Legislature. What kind of individual do we want in our Parliament, Lower House and Upper House? We want people who understand—and this is my opinion now that I am telling the Parliament and others as to the type of people—after a year of service, the type of people that we would like to get and attract into the Parliament. The laws are becoming increasingly complex. Over the last month, we have seen the hon. Minister of Planning and Sustainable Development pilot two pieces of legislation: the procurement Bill and the facilitation of development Bill. Those were complex pieces, those were large pieces of legislation. They required a tremendous amount of time, intellectual time, creative time, in order to be able to make contributions as to how we could improve the law.

You do not need necessarily moneyed people or people with their own businesses only, though there is a place for that. You need the professional class now, that professional class in the country who have nothing to sell but their intellectual stock of capital, and it has to be worth the while of these individuals to leave their professions and to take a hiatus, so that they can sit in the Senate and perform a five-year term knowing that they are going to devote themselves to the public service and to give back something because we have inherited things from people in the past. That is the nature of civilization. It is the nature of civil behaviour.

We need to encourage people who feel that they would like to contribute to society, the opportunity to so do. They may not be the moneyed class. In fact, it would be ideal to have people who understand exactly what it is like to come from the depths of poverty so that they can legislate for the underclass in Trinidad and Tobago. [*Desk thumping*]

But when you do that, it must be not at the personal expense of their mortgage and of their credit cards, their family expense and their profession. And so, the type of individual that we absolutely need—and I want to persuade the people out there—we want to get the high-flying professionals in our society, people who have technical skills in a range of areas, who have a range of experience, for whom there is a high cost to come into the Senate because they are leaving much behind, and we want to get them on board so that we would be able to deliberate in a much more effective manner.

As I said, the laws before us are complex. I speak now with some measure of experience. We have a Securities Bill, we have an Insurance Bill. Reading those pieces of legislation requires, again, a level of expertise and a range of skills, and this is the type of individual. What will be the benefit for the population of having these people? The benefit would be, and paying them fairly, is that we would really get laws that can be amended and passed so that the general welfare is going to be preserved.

When we get only a select group, we run the risk—individuals who are not concerned about money, we get a risk here that these individuals, the moneyed interest, will be looking at the type of legislation and not having the interest out there, not necessarily having the interest out there of the people without money. We therefore need a wide representation in the Parliament and that means we need to ensure that the service that we are provided is recognized and is compensated.

There is, unfortunately, a position out there that everyone in the Parliament is dishonest. I want to disabuse people of that notion. [*Desk thumping*] There is a perception that everyone out there, out in this Chamber is dishonest and is involved in, what my colleague will call “bobol” and corruption. It is simply not so. I want to indicate that the level of corruption in the private sector, the level of—because they are the ones who pay; those are the same ones who want to deny people their salaries, they are the ones who pay. There should be a crime against offering bribes, not only those who receive, but those who offer should also carry some penalties, but we have dishonest behaviour in the entire society.

Sen. Small: FCB IPO.

Sen. Dr. D. Mahabir: Yes, my colleague said there is an FCB IPO out there that really has dishonesty. It is wrong for people who come into the Parliament and these are individuals who will come from 10.00 in the morning and go home at 12.00 and come back tomorrow at 10.00 and go home at what time, and to give their professionalism to community service and to serve in the Lower House their

constituents, and for people on the outside to say, “Well, they are not entitled to any more money because they already make the money from “bobol” and corruption. I think we need to set the record straight.

A lot of work happens in this Parliament and in the Parliament, we need to indicate to the people that the work that is done is in their interest. The laws that are passed are laws which are passed in the public’s interest. Where the public services are not supplied, it no fault of the parliamentarians. Where, in fact, there is inefficiency, it is not because of the delinquency of the parliamentarians. In fact, it is may be in spite of all the efforts which are being placed out there. So that this issue of people paying themselves is something that has a different point of view.

The only reason that we are having this debate today is that another organization did not really keep up with the times, did not build up its institutional capacity, according to the hon. Leader of Government Business. If they had built up their institutional capacity, we would have seen these changes gradually along the way, and the issues raised today of quantum leap and gargantuan increases simply will not arise. You see, if someone has not had a salary increase since 2005 and you want to bring him up to the 2005 level, you have to compensate him at a level that took three rounds of collective bargaining to achieve. Today, we are trying to rectify an old wrong and it is going to appear to be gargantuan. That does not mean that I do not have any major—some concerns with respect to the formula itself.

The good thing is this, the parent legislation gave us a valuable guide. The guide in the parent legislation told us already, there shall be a minimum pension and there shall be a maximum pension.

7.30 p.m.

The Government is doing nothing untoward, nothing draconian, nothing drastic. What is it doing? It is changing the base so that the pension payments of a legislator can be kept up with inflation. There is another way to do it.

Mr. President: Before we get to the other way, Senator.

Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. D. Small*]

Question put and agreed to.

Sen. Dr. D. Mahabir: Thank you very much, Sen. Small. Thank you very much, Mr. President. Thank you very much, Members of this honourable Senate, for indulging me for another 15 minutes. Yes, I might take more and I may even ask for extra time and injury time. I would not be like Brazil today. I intend to use up all my time.

Sen. Robinson-Regis: Do not say it.

Sen. Dr. D. Mahabir: Okay, I would not say it.

The objective, really, is to provide a pension payment that is going to be something that is consistent with current conditions, and I think it is a very novel approach/economic approach, on the part of Government, for adopting a position where they are going to do the following: add certain allowances to the base so that your actual base increases and, therefore, the percentage that you get as your pension will rise.

And second, if in fact the salaries were to increase, subsequently, then you would get a percentage of that higher salary. What that does is that it prevents, Mr. President, the problem of someone retiring in the year 2000 with a pension of \$10,000 a month, and for the first five years of his retirement, his \$10,000 goes very far and then, for the next 10 years, his \$10,000 experiences a decline in purchasing power by a half. From 2005 to now, what has happened to \$10,000? Well, if you bought a bundle of goods in 2005 for \$10,000, to buy the same bundle today will cost \$20,000, but the pension paid was \$10,000. So, gradually, inflation has a way of eroding your standard of living, something that pensioners on fixed incomes know all too well.

We have not had any pension reform exercise which indexed pension in any meaningful way in sectors of the society. We have had these fixed particular pensions, half your last salary, but then you become subject to the vagaries of inflation. And in, really, linking your pension to current salaries, the Government has implicitly indicated that your quarter or one-third of your last salary will, in fact, be based upon current salaries, reflecting current conditions and not 20 years ago when you retired. So that, in effect, serves to ensure that the compensation, the pension, the purchasing power of the pension is able to maintain a standard of living, which was basically the same as the day you retired. So, the objective is when you retire in the year 2000, with \$5,000, you would get a certain amount in 2015, which will buy exactly what \$5,000 then did. It is not going to make you in any way better, but it certainly will cause your pension to rise and I do not think there is any fault in that, save and except indexing pension to the inflation rate, that seems to be the most viable economic option at this time.

There is a second position that I find agreement with, on the part of the Government and that is that someone who is now serving a minimum of four years is now entitled to a pension. So Senators are now entitled to a pension, and I would make a recommendation, why stop at 1996? Why not go to the Republican Constitution of 1976, the first Republican Parliament? I did ask, Mr. President, for figures, with respect to all Senators.

Sen. G. Singh: I just want to correct the hon. Senator. It is, indeed, 1976.

Sen. Dr. D. Mahabir: Yes, okay, but I understand—for Senators, it was what, 1996? But if you check the last line of the document that you gave, you said it is said that the Senators are going to be placed in there from 1996—I read that carefully—and you are looking at Members of the Lower House from 1976. Right. So there is still a level of discrimination against the Senators, and I want to eliminate all discrimination in my society, and so I did ask the Senate to supply data because, in my line of business, it may appear that I engage in a lot of old talk but I want to indicate that with every sentence of old talk there is a lot data behind. In the situation under review, I was told that there were some 35 judges. I was later told that there are 30 retired judges. So, we got the adequate data and I could link that to how much it will cost the Minister of Finance and the Economy.

I was unable to determine how many surviving Senators there are from 1976 to 1996. I am sure there are a few. I am sure their spouses—there may be a few of them with spouses alive but it would be good, in all of these exercises, for us to undertake a comprehensive review of every single Senator who served since 1976. Find out which of these are still alive. Some of them would have gone, no doubt, but those who are alive, I think they too should be entitled to a kind of a pension, if not a pension, an ex gratia payment of some sort, because we are making provisions for individuals in the Lower House from 1976.

Let us unify the base and let the Minister of Finance and the Economy simply have his finance people do the homework to tell us how much it is going to cost to include these Senators in their calculations. Without numbers we cannot function. We have spent \$21 billion to bail out Clico, hundreds of millions for the Hindu Credit Union. We have decided to compensate the Soca Warriors for moneys due. And, I think, the Senators who served from 1976, should not, in any way, be excluded. So that is one issue I have with the Government.

People will say here I am spending again, but I am looking, you see, at the priorities in the society, millions upon millions and hundreds upon hundreds of millions going every which way we can, coming back to the Senate for \$4 billion

of supplementary money, and I think we could really be a bit fair and we could try to persuade the public that a little change for those people will not hurt the public purse. I can definitively say, if there is any economist in this Commonwealth, not in the country, in the Commonwealth, who will say Mahabir is wrong, I need to have some tea with you. Let us have a discussion. We will have Earl Grey tea and we will discuss as to why you are wrong and I am right.

Mr. President, I would like someone to take me on there. I am throwing out the challenge, anybody, because we are talking about sums of money which are rather nuisance sums. I want the Government to consider that, so that we can end the discrimination once and for all against all Members who served in this honourable House. [*Desk thumping*]

I would like to recommend the following schedule to the Government. It is an amendment that I proposed, and I am in agreement that someone who has been fortunate enough to serve for four years—I am sure there are people in this Senate, on the Government side, who served for less than three and there are people on the Opposition who would have served as well.

I remember when the election was called in 2010, there were Members of Government who would have served three years in government. I do not know what they did afterwards to earn an income. They did not qualify. Let us say four years. If you are a survivor for four years, you are pensionable. Let us agree with that and I would agree that one-third seems to be a very fair salary, a very fair pension, for those who have served between four to seven years and I will tell you my reason for this. I see you are looking at me cross-eyed, Mr. President, but after I finish this particular schedule, I promise you, I shall not prevail on this Senate any further, but let us get on to the numbers.

Four to seven, and by seven I mean seven years and five months. If you have served anywhere between four years and seven years and five months, I say you qualify for the one-third. But if you have served seven years and six months I consider that eight years of service. I round it out. So eight years to 12 years of service, I am recommending a half of the pension. That is the fraction that I am recommending. Between 13 years and 15 years of service, 60 per cent of the pension and anything in excess of 16 years, because 16 years will take us straight into a fourth term. Sixteen-plus years, you get two-thirds of the pension and you cap it there.

Let me go through here, four to seven years, one-third pension; eight to 12 years, a half; 13—15 years, six-tenths; and the only amendment and deviation I

have with the Government is from 16 and above. They have a figure of 18 and above. I am saying, anyone who has served 16 years and above, 16 years and one day, up to 36 years, you cap the pension at two-thirds. I am in total disagreement with 100 per cent pension. But the initial law, the parent law, had as a maximum, a two-thirds pension. I do not think we should change that. We can send a signal to all out there that we keep within the confines of the parent law. The highest pension payable is a two-thirds pension.

What we do is that we create some novel instruments, so that individuals who have served for 16 years should be also in a position to make some provision for income supplementation. I think it would be a wonderful thing if, on an annual basis, the Parliament were to deduct 5 per cent of my base salary and place it into an account where they lend to the Minister of Finance and Economy and he pays me 5 per cent and whenever I demit office, I collect a lump sum. In that way—so, basically the position is, there is a deduction for the purchase of a 5 per cent government bond that is held for you some place like the Unit Trust. If you complete four years of service, when you leave, you get the normal gratuity and so on, but when you leave office you get that lump sum payment.

Someone who has served 16 years in the Parliament, if he has to leave after a few years, would have had that private savings which is purely voluntary; parliamentarians may not opt for it but if it is a facility that is available, it is a lump sum that is available to you to engage in income supplementation, and that is a position that is something to improve the functioning of the Legislature. It will supplement the other one-third that you have lost. We will have NIS. We will have an encouragement for these individuals to purchase their own annuities.

Mr. President, there are ways that we could really ensure that our legislators are compensated fairly. In an atmosphere where every single institution is crumbling, we need to gradually rebuild and as we legislate for the future, not for now, not for the past, as we legislate for the next generation that is to come, I am saying let us, at the very beginning, get our priorities right. Let us indicate that people must be compensated fairly and let us accept, you know, the nutsman out there is a person, the bus driver is a person, but the judge out there is a person and we who sit in this Parliament are also people. I thank you, Mr. President. [*Desk thumping*]

7.45 p.m.

Sen. Anthony Vieira: Thank you, Mr. President, [*Desk thumping*] Mr. President, I always enjoy my friend Sen. Mahabir, and today he put forth some very good gems for consideration. I particularly liked the idea of using retired

judges as a sort of a screening committee, to help see whether our laws and Bills are passed—are constitutional—and then again, just now making some very interesting suggestions about how we can save for the future. I think those are some very useful suggestions indeed.

Mr. President, this debate has certainly exposed weaknesses in the SRC, and it has shown that parliamentarians in the Republic of Trinidad and Tobago are perhaps undervalued and we are certainly underpaid. I agree there is a need to bring the remuneration packages of parliamentarians up to date, and in line with the value of the services we provide. In a number of debates we have talked a lot about value for money, but it does not seem as though we are getting money for the value we give, [*Laughter*] and it is true.

You know, we come here and we do so at considerable sacrifice. Sitting here until the wee hours of the morning is not easy. Not being available to my clients is difficult. It also puts pressure on my law partners who have to subsidize my time away from the office. There are lots of sacrifices.

But having said that, I am mindful of the oath I took when I became a Senator, it was to uphold the Constitution and the law. Every time we sit in this honourable Senate, we say a prayer before we begin, and in that prayer we ask that our eyes be opened to see the truth and to help us to accept it with all its implications into our lives. We pray for direction in our deliberations, so that setting aside private interests, unwholesome prejudices and personal affections, we may treat all matters set before us with honesty, courage and conviction.

So with that as my compass, I have to say jump high, jump low, what is wrong about this Bill: it is self-serving, there is a conflict of interest, it is a perverted process, it is contrary to pension plan principles, it goes against the text and the grain and the spirit of the Constitution, there is a negative domino effect. These are just a few of the reasons why I strongly urge this House to either reject this Bill or to send it back to the SRC.

Mr. President, I thank you. [*Desk thumping*]

Sen. David Small: Thank you, Mr. President. Ooh, here we go again. [*Laughter*] It is a fun day, and this is a part of my part-time day.

Mr. President, again, I want to preface my contribution, which might be a bit lengthy, with some opening comments. I continue, because I have the benefit of the physical placement on the Bench, of the benefit of hearing the other views, and it continues to—I continue to process my comments in real time as I am delivering them.

I personally struggled with a lot of the issues that have been put on the table, because I fully understand what the man in the street sees and hears. Again, I live in a normal community as I call it. I can walk out on the street and go to the minimart on Saturday mornings, “so, Small, so whey it is yuh mean”? I am blocked and I try—what I try to do is to possess people of the facts. I try not to tell them A, do not say—do not worry about A, go with B. I try to give them facts, that is what I really try to do. I do not try to tell them what my opinion is. My opinion is my own. I can share that here. Although I try to give normal, regular people, my neighbours and friends, I try to present them with the facts.

I fully agree that Sen. Balgobin hit it right on the head. The Parliament should really be acting, regarding salaries and terms and conditions on the basis of independently proffered justifications, with some sort of economic rationale. The reason why we are here is because a particular organization has simply failed. We also have to accept that, Mr. President—when I looked at this legislation, I got excited and I—because for me, for too long this country has suffered from a lack of necessities; a full professional approach to the business of Government. And I saw this Bill as perhaps the first step, or the first meaningful step in the professionalization of the legislative branch. Because you cannot expect to attract professionals to this here, and pay them what they are being paid, it just cannot happen. We need to accept that and get over that hurdle. I understand the challenges, but we need to accept that.

What I continue to find interesting, Mr. President, I read all of the submissions in the newspapers, and wherever, and I am saying, when I step back, there are people who are saying that it is self-serving, it is a conflict of interest, that parliamentarians are effectively setting their own salary, but as Dr. Mahabir pointed out, in their own spheres, they set their own salary. You know, you go to an attorney and he tells you, listen, for this piece of work, this is what the fee is. It is not a discussion.

Sen. Drayton: It is not public funds.

Sen. D. Small: I am not disagreeing. I am drawing a reference. I am not disagreeing, and everybody’s opinion is their own. I am sharing my own, that is all. That is all I am doing, [*Desk thumping*] and I am not disagreeing with any comment. Let me put that on the record. I give respect to other people’s comments, and it is what it is.

So that, Mr. President, we also have a history unfortunately in this—I suppose it exists in other places, where we do not give recognition to those who have

served. We wait until the eulogy to say how great this person was, and how good their contribution was, and how valuable a member of the society they were. Why should we wait until we are giving the eulogy to say that? Why should they not be recognized now while they are still living and breathing and can—you can impact their lives and the lives of their families in a positive way? Why should we wait until the eulogy, till they have passed and gone to another place to do that?

I think at least part of the measures included here, by going back to 1976, is to try in some way to redress that balance. To try to make sure that the people who have served, served Trinidad and Tobago, given national service in these Houses, are given something back, at least part of the rationale, and that was part of my thinking.

So, Mr. President, I am thankful that we live in a democracy that allows for differing views to be heard, and paid the respective respect that they are due. More importantly, we are able to disagree and hopefully do so in a respectful manner, and move on to other matters as required. Our beloved country is a democracy of which we should be proud. I myself have had the pleasure of going to many other—several other places where they are not democratic, and all I wish to say here is that we should treasure what we have. I really value the fact that people can speak their minds and their opinions without fear, more or less.

In the run-up to this debate, democracy has been at work, with very many persons and organizations articulating various views. So in my role here, I join this debate to share some further views.

In this part of my discourse, Mr. President, I will like to focus initially on one point that was made publicly, and that has to do with the comparison of the proposed pension quantum and the qualifying period, as between the Legislature and other arms. What is often not said is that the other arms have many advantages: permanency of employment, non-contributory pensions for life, generous vacation entitlements, a strong third party who bargains on their behalf—as raised by Sen. Mahabir—a disciplinary process that means, it is almost unheard of for a civil servant to be fired, almost unheard of, and most importantly, anonymity from public glare, except for the few AWOL Permanent Secretaries. [*Laughter*]

By comparison, in the Legislature, there is virtually no security of tenure. I am on a day-to-day contract. There is no long extended period of paid vacation. Disciplinary action tends to be—it is normal, it is harsh and publicly dispensed, that is the reality. In addition, legislators face the fact that many of their utterings

in the public domain are subject to public dissection. The reality of our small society means that one may face difficulty getting employment after ending one's stint, and importantly, this is something that there seems to be different views on; I have heard other views, and I am just sharing.

The only common factor between the legislative and the judicial arms and the rest of the public paid persons is that they all are paid from the same source of funds. So the arguments being made by other portions of the system that their pension entitlements are much lower, and that the threshold for earning them is higher has, in my view, to be counterbalanced by the facts of the realities that I have just outlined.

Now, let me be careful, lest I incur the displeasure of all and sundry. I am simply attempting to lay out the facts of the differences that exist. I am in no way suggesting that the arguments made in the public domain, against the merits of this Bill, do not have their valid points. All I am humbly and respectfully suggesting is that the case for the Bill we are debating also has several valid points which, in my own view, have not been properly ventilated, and need to be also considered.

Mr. President, to make my point, I wish to repeat a quote from the United Kingdom's;

“Independent Parliamentary Standards Authority, the IPSA”

Under their document entitled:

“Reviewing MPs’ Pay & Pensions:

A First Report – January 2013”

This is a quote by Sir Nick Harvey, Liberal Democrat MP, at page 37 of the document. He was asked to respond to the question:

“Are there any factors which may affect the equality and diversity of the House of Commons which you think IPSA should take into account when reviewing MPs’ pay and pension?”

His response is as follows:

“We should aim to attract into Parliament, individuals who would otherwise fill demanding professional jobs at a senior level. It is reasonable to assume that, in answering a vocation to public service, such individuals willingly sacrifice the chance to rise to the pinnacle of their professions. But it is not reasonable to expect them to make such an enormous financial sacrifice that

their families are severely and permanently disadvantaged as a consequence of their service in Parliament...If the salary is not high enough to attract the individuals described above...then Parliament risks being denied a significant slice of modern society as Members.”

Mr. President, as I move quickly along in my discourse, I want—there was another statement amongst many others that caught my eye, and it is from the *Trinidad Express*, June 20, 2014, “LETTER OF THE DAY”, from which the following statement emanates, and I quote:

“No democratic country in the world permits its legislators to determine their own compensation.”

And, Mr. President, I do not want to say this statement is incorrect, but it is not true. [*Laughter*]

Mr. President, I seek your indulgence to please permit me to place some facts on the public record. I wish to quote from a document entitled—published by the:

“Congressional Research Service”, entitled:

“Salaries of Members of Congress:

Recent Actions and Historical Tables”—by—“Ida A. Brudnick...dated June 17, 2014.”

At page 2 it states, and I quote:

“Congress is required by Article I, Section 6, of the Constitution to determine its own pay.”

As this demonstrates, the United States of America, one of the oldest and most referenced democracies in the world, has a system that requires Members of their Congress to set their own pay, and this is constitutionally protected. In the 27—Mr. President, please permit me, I am going to go on. In the 27-state European Union, in the majority of National Legislatures, it is the case that legislators decide upon their own salaries and terms and conditions to varying degrees. Let me put it another way, independent bodies such as our SRC exist in only five of the 27 EU Member States.

Let me go on. I want to really labour this point. [*Crosstalk*] I am going on, there are several and many examples because the reason I am belabouring this is because there is a view held that himself to himself. It is—and I am saying, okay. I am not arguing with your view, all I am saying is in several other more advanced economies than ours, legislators setting their pay is not necessarily seen as being a conflict of interest.

So that, I want to make sure that the public has information.

8.00 p.m.

In India, legislators vote on changes to their salary and pensions via a simple amendment to the relevant Act as presented by the Government. In 2010, when the Indian Government brought an amendment to their salaries and allowances of Members of Parliament Act, to increase salary by 300 per cent, and allowances by 200 per cent, it was passed, but not after much complaining from the opposition parties. Why? Because they wanted a 500 per cent increase. [*Laughter*]

And just for additional information. In India, legislators are entitled to a pension for “any period of service”, with increases for each five year period served thereafter. I am not advocating that for us, but it is just an example of what happens, in what happens to be the largest democracy in the world on pure numbers.

Mr. President, just to demonstrate how in the UK it was the process similarly, as in most of the other EU countries, that the legislators set their own pay, up until 2009 when the IPSA was formed. And that had to do with the fact that there were some challenges around the way in which the allowances were being done by members, and they had to find a way to treat with that. But to demonstrate how some countries have elevated the discussion on the matter of legislative pay, allow me to share the following.

In the United Kingdom, there is an organization called the Tax-Payers’ Alliance, which was launched to speak for ordinary taxpayers:

“...fed up with government waste, increasing taxation, and a lack of transparency in all levels of government...”

Here is their comment on page 36 of the previously referenced IPSA Report, on MPs losing the right to determine their own pay, and I quote:

“MPs get to vote on how much of our money they take in tax, how they spend it and whether or not the country goes to war and so on—and on all those issues, they are then held accountable by their voters at election time. It therefore strikes us as odd—and it certainly goes against the historic tradition of parliamentary sovereignty—that MPs no longer decide their own pay, since it would simply be another matter on which voters would be able to call their representatives to account at the ballot box.”

This was from an organization that represents the interest of taxpayers, complaining that legislators lost the right to set their own pay.

And this speaks to where the discussion has been elevated. And it has gone out of the realm of the things that we are dealing with. It has gone to another realm, where people are trying to look at the philosophical arguments, as my learned colleague, Sen. Mahabir, might suggest.

So, Mr. President, this was just for the public record. It is a sample of the incorrect or skewed information that was placed in the public domain on the issue. And I simply do not have the time to quote and correct each of them. But let us know that there were many more out there.

Mr. President, before I move on to my next area of focus, I wish to mention what I consider one of the more disturbing, troubling matters for me. And it has to do with the undercurrents, the thinly veiled accusations, or the blatant assumptions, regarding the perception held about the wealth of parliamentarians.

I wish to quote from an article in the Trinidad *Guardian* of June 29, 2014, entitled “‘Obscene’ pension bill shows sheer greed” and I quote:

“After all, the Government members have all become exceedingly wealthy since assuming office. A pension is what they do not need, and it is only due to unmitigated greed that the Government members want to become even more wealthy when out of office.”

Sen. Vieira: Who is the source?

Sen. D. Small: I gave the source earlier.

Sen. Viera: The *Guardian*?

Sen. D. Small: The *Guardian*, June 29, 2014.

Mr. President, as I stated earlier, the right to voice one's opinion is vested in our Constitution. So in my opinion, fine. However, if we follow this thesis, then it is clearly being suggested that pensions are not needed, on the basis that one would become wealthy after assuming office. As a responsible Senator of this Parliament, I reject this thesis. [*Desk thumping*]

Mr. President, I am aware of the prevalence of this view in the society. And if one sits and deconstructs this, then those who are saying this are actually making part of the case for pensions. And here is how this works. If you assume that MPs become wealthy via office, then the inherent assumption is there: it is by some underhanded means.

So if you assume that an MP is going to be wealthy in office, and then it is by underhanded means, what is the chance of him getting a job when he leaves, if

everyone takes that assumption that he is—no one is going to want to hire you, because you are used to doing underhanded things. So that people who—those who subscribe to that argument are actually making the argument for pensions. So that I hear it, and I would like to just put on the public record that I do not subscribe to this.

Mr. President, that ends part one of my discourse on the subject. And I now move on to the—

Sen. Vieira: How many more, again?

Sen. D. Small: A couple more parts.

Sen. Vieira: Yeah, man. I will ask for a half hour extension.

Sen. D. Small: Mr. President, that ends part one. I now move on to the major point in the public domain, and it has to do with the SRC in the remuneration arrangements. I had promised that I was going to deal with it a little more comprehensively than I did earlier.

Again, I want to err on the side of caution to be very clear. I am not here to malign the SRC or any of its offices. However, as well-intentioned and diligent as they may be, I am going to develop a couple of points that point to potential weaknesses in how the formulations are applied, which is then reflected in the results of their skewed recommendations.

Mr. President, there is an argument suggesting that being a legislator or being a civil servant is a privilege—doing national service—and that one should not be expecting remuneration or final benefits that in any way mirrors the private sector.

Very respectfully, I posit that taking this view could be doing a great disservice to the many talented and productive professionals in both the legislative and civil arms. I agree with the part that it is a privilege to serve. And I have the advantage of experience in both the civil and now the legislative branch, with the added dimension of making—earning my real living in the private sector. I disagree, however, on the point of remuneration, as my own experiences both in the civil and legislative arms suggest that there is some level of dissatisfaction with the terms and condition, as it relates to the time and effort required to do our respective jobs properly.

I have another very interesting viewpoint from my many business colleagues, both locally and internationally, who often have asked me—and looked at me as if there is something definitely wrong with me—how could I have worked for so

long for such a relatively low salary, and more incredulously, now having left and gone private, I should return for a payment that is even less on an hourly basis than my last position. It makes absolutely no sense to them, in their rational legal minds.

To be truthful, I have no good answer, other than to roll out the national service argument: I am a patriot and I want to give service. I do not know. I cannot answer it. It does not make—there is nothing—I can offer no rational argument for it. Yes?

The point I am making here, Mr. President, is there are different perspectives on the issues. We may see it one way. And I am telling you, other people would see it completely differently. And reading the newspapers for the past week, there seems to be only one view.

Sen. Vieira: That is right.

Sen. D. Small: So, I often sit and wonder, is there something wrong with me? Because I just do not understand a lot of the views. Perhaps, I grew up too poor or something. I do not know.

Mr. President, the other major argument being made in the public domain has to do with the circumventing, the bypassing, the avoidance, or whatever, of the SRC. Now, I know my more learned colleagues may disagree with me. I am encroaching on their area of expertise. I am certainly not legally trained. So I—and I want to share with you what I have taken away from my many conversations with my little group of people in my local area. I live in a little local-people area. No, we have no gated community in my area, just regular, normal, people—“eh, smally, wuh goin on? Everybody does talk. Yeah, it have no Senator ting; is just, ey, mornin.”

Hon. Senator: In what area?

Sen. D. Small: The way in which this has been presented or reported—here is what some of the public have taken away. They have formed a view that one, the SRC is the only body that could change salaries and terms and conditions. That is what people on the street understand; not what the lawyers, well trained people understand. The man in the street is of the view that the only way to increase salaries is through the SRC. And I have tried to share with them, no, that is not so. But the way the arguments are being place out there, that is what they take from it.

Sen. Vieira: Wrong information.

Sen. D. Small: Two, they think that once the SRC makes a recommendation the Government has to accept it—it is binding—and I have shared with them that no.

Sen. Ramnarine: Parliament is a rubber stamp.

Sen. D. Small: And three, because of this, that this Bill is sidelining the supremacy of the SRC, and is thus violating the Constitution. And I have said, “I cannot necessarily say that in those words”. Because I have shared earlier my view about my understanding of how this process works. I read the Constitution, and it says, “at the behest of the President, the SRC reviews and recommends”. I have worked 20 years in another place and have presented many reviews, and conducted many reviews, presented many recommendations, and at no time did it even remotely arise that it was the final step in the process.

So, I, perhaps, have a different experience and a different understanding; when I read the Constitution—“review and recommend”. If the Cabinet in its sole discretion—the Cabinet cannot be constrained by a recommendation. I cannot see how. [*Desk thumping*]

And I am not saying that what—if the Cabinet looks at a report with recommendation and the Cabinet says we have seen the report, but we choose to do something differently, I—for want of not getting into trouble—will not quote many experiences, where many and varied expensive consultants have done documents and have presented them to the Cabinet and the Cabinet decided to do other things. And for me that is not necessarily something earth-shattering. It is part of the normal course of business because the Cabinet would always be possessed of information that those who are doing the work would not have. So we have to trust the Cabinet.

So, Mr. President, I am not sure. I understand there are several legal arguments about that, and I am not legally trained, but I am giving you a layman’s perspective, and not only a layman, but also an operator in the civil service system. My understanding is that if Cabinet decides to get—it gets a recommendation, Cabinet is not fettered to accept every single word, dot and—in that the Cabinet can change, amend, defer, throw away, whatever. That is my understanding.

If I am wrong in that, then, perhaps, some of the legally trained persons can say, “Sen. Small, no. With regard to the SRC report, the Cabinet must accept it, and must implement it.” If that is not the case, what are we arguing here about? What are we arguing about? I am not sure. So, I would love to be corrected and guided and directed by the legal luminaries in the room.

So, Mr. President, the issue is that this is my understanding of how the Bill has gotten here. And the Constitution is silent on what to do if the SRC is impotent, or simply omits to recommend on issues that fall under their purview. The Constitution does not say, “Well, if the SRC does not do it, then this other party is going to do it. Or the Government should do it” It is silent. It just says, “report and recommend”.

But if they do not recommend, are we supposed to just sit by and wait for something to happen, for them to think about it? I think it is wrong. I really think it is wrong for the legislator to just sit by and just wait.

In such a situation that if the Cabinet in discharging its own function makes recommendations in these matters, is it wrong? Could somebody advise me? Is it wrong that, recognizing that a state arm has failed to do its job, and the Cabinet is attempting to address that gap? Is it wrong that the Cabinet should do that? If it is wrong, fine. I have no problem. But I am not convinced as yet. And I have not heard anyone suggest an argument in that direction.

Mr. President, to be clear, this view has been formed by one, my analysis of the situation; two, my reading of virtually every article in all of the newspapers on this issue, and I have numerous clippings; and three, my reading of the advice of learned Senior Counsel as presented to this Senate.

So, Mr. President, that brings me to another point that—and I was asked a really hard question by my neighbour. He said, “So, David, so if the Government get a lawyer to give an opinion, then dah opinion go be wha the Government want it to be, ent?” Now, as a legal layperson, I took the high ground, and suggested that his question or thinking was flawed. And that we have to have some faith and belief in the legal system, otherwise the entire thing that we have been working with here collapses.

If an attorney is hired by whoever, we must assume that his opinion is unfettered and is based purely on analysis of the facts and the law that relates to it. If we cannot accept that, then what is the point of going to a lawyer? We could go to any bush lawyer and get any opinion we want—come to me, I will give you an opinion. Because it has to be that if someone gives an opinion there has to be some factual basis to support it. I am not saying it is right. But it has to be on a basis that could be supported. That is all I am saying. So if I get—if I hear and I read, “learned Senior Counsel, learned Queen’s Counsel,” and I am reading—I am not a legal lay person. I am not a legal-aid person. When I read, I am willing—my brain—I am willing to accept the things that have been provided.

So, I do not take lightly, Mr. President, any suggestion that an action is under way to usurp the Constitution. I do not take that lightly. If people in the public domain think that, I do not take that lightly.

My argument today simply suggests that the matter is not as clear-cut as some make it out to be. And, in fact, a strong opposing argument can be made for the work that we are trying to do here.

Okay. Mr. President, my next area of focus in my discourse has to do with the actual output of the SRC process. It is a matter of public record that the SRC has failed to do their job; simply inaction or whatever to do their jobs. But when moves are being made to address their inaction there is a hue and a cry, and claims of self-service and all sorts of things.

The SRC process has failed miserably in its fiduciary duties to both judges and parliamentarians. And in the face of challenges to both the quality and timeliness, or lack thereof, of comprehensive recommendations from the SRC, how could a responsible Parliament sit by and say we will wait until they are ready, or whenever they are ready to do it?

Whenever there is a Bill that is deemed nationally important, Mr. President, everyone seems to focus on the role of the Independent Senators in balancing out the controversial matters. All of a sudden, Independent Senators rise to prominence whenever there is an issue that people seem to think is important.

On the basis of the continued recommendation of the SRC, they do not seem to share this public view of the important role played by Independent Senators. They have a particular view that we are the last on the totem pole and we have virtually zero importance. And I am basing that on where the Independent Senators are continually placed. Yet, whenever there is constitutional imbroglio, everyone seems to want to hear the views of the Independents. There is a fundamental conundrum there—something is wrong—there is a mismatch.

Mr. President, I perused in great detail the most recent SRC report, and I know that this current report raised an issue that is repeated in virtually every report, and it has to do with what is called the relative positioning of various offices in the salary structure. Just by a cursory review, I am unconvinced as to the rationale that would have led to such positioning. A couple of examples from the latest report of November 2013 demonstrate my points.

The Commissioner of Police base salary is set at \$31,080; Chief of Defence Staff is \$31,080; General Manager of PTSC is \$31,950; Executive Director of NIHERST is \$31,950; Executive Director of OSHA is \$31,950; Permanent Secretary

is \$32,700. These jobs have been set at base salaries that are very close, suggesting some sort of close correlation, as it relates to duties, responsibilities and authorities.

I would like to humbly suggest there is very likely a great disparity in professional and personal demands as it relates to these positions. This is one of several obvious anomalies that should have been treated with many reports by the SRC. It seems almost as if it is the outcome of incremental budgeting, where you look at the base and every year you just add on a little bit at the end of the reviewing period to just increase it a little bit.

It might be useful to consider the principles of zero-based budgeting, where at each review period you start at zero, and, then, everything has to be justified at the end to get a number. Even more revealing is that the underlying considerations provided in the SRC report are quite sound. But the extent to which they have been actually applied is not apparent; at least, in my analysis.

Again, by example, the first consideration mentioned has to do with, and I quote, “Comparison with current levels of remuneration paid within the private sector for broadly comparable jobs.”

If one were to look at the 2011/2012 Compensation Report by HRC Associates, the median base salary for executive management and professional positions across all industries, one would see the following: CEO: \$75,000, a month; Deputy CEO, \$55,000, a month; Head of Legal, \$63,000, a month; Chief Financial Officer, \$45,000, a month. Just for comparison, if you look at the same jobs in the oil and gas sector: CEO, \$141,000, a month; Head of Exploration, \$89,000; Head of Legal, \$71,000, a month; Head of HSE, \$51,000 a month.

Mr. President, the point I am making here is there appears to be a lack of correlation between the salary levels of the senior positions, as per the HRC report, which is in direct opposition to the SRC report, where close correlation between obviously very disparate jobs is the norm. On top of this, the SRC recommendations make note of several and many economic factors, which in my view have not been reflected in the adjustments recommended.

Given that base salaries were not adjusted between 2005 and 2014, it would have been reasonable to expect an increase in base salaries that more reflected the nine year hiatus in upward movement. One key indicator, as mentioned earlier, is headline inflation, which averages 8.2 per cent between 2005 and 2012. According to the Central Bank—the source of that data is the Central Bank

Annual Economic Survey for the respective years—what this means is that \$100 in 2005 is worth \$45.6 at the beginning of this year, a loss in value of 54.4 per cent. While it may be unreasonable to expect a full recovery of inflationary and other losses, the extent to which this was in any way reflected in the recommendations proffered is not immediately obvious.

And I do not fully understand the basis for the application of an across-the-board 25 per cent increase, when you consider that according to the HRC report, senior private sector personnel based salaries in the private sector have increased significantly from 2005 to now. From 2005 to now, according to the HRC survey, the CEO's salary has increased by 18 per cent, CFO salary has increased by 71 per cent; heads of marketing have increased by 40 per cent; heads of engineering have increased on average by 49 per cent. Note again, there is no correlation between the increases, unlike the SRC process where their analysis has yielded an across the board 25 per cent increase.

So something—in closing of this portion of my contribution, I think there needs to be a revamping of the entire process, so that they can be enhanced and made more responsive and timely. Importantly, for me, there should be opportunity for a proper interrogation of the data sets and analysis techniques applied in coming to whatever recommendations are ultimately made, as I am not enamoured with what I consider to be a black-box approach. You go into a black box, and, then, a document is pulled out, and there is no supporting data. I cannot—without supporting analysis it is just words on a sheet. I have no confidence in what was presented.

Because of the infrequency of the SRC process, legislators' benefits have lagged many other sectors, which lead to calls for significant increase in pay in order to catch up. This current pattern of stagnation followed by large increases is not appropriate. And one of the challenges we now face is how to bring it to an end and apply something more sustainable and palatable. It is the cause of the challenges that we are facing, where everyone is looking at wow, this is a huge increase. The reason why it is a huge increase is because the SRC has not done its job for nine years and the increases that are now really due should have been done, incrementally, every year, have not been done. And we face a problem of the optics, that it just looks like a large increase. But the question remains, given this information, what do we do? I am coming shortly to my position on that.

Mr. President, in looking forward, the SRC process needs urgent revamping to begin to make it relevant and useful as it relates to its constitutional role. I have a couple of suggestions that require separate amendment to the legislation that established the body.

One, the matter of salary adjustments should become more of a formulae process that removes the politics from the process. The new SRC, or whatever, should be mandated to deliver recommendations on changes annually in a time frame that allows for incorporation into the budget planning process.

Mr. President, there is something in the UK called the IPSA. And they already put out the recommendations for the 2015 salaries for UK MPs. And they have done it, I quote from the MPs' Pay and Pension Final Report, IPSA recommendation. And it states at annex A, at point two: with effect from 8th May, 2015, the salary for service of a member of the House of Commons would be £74,000 per annum. They are doing work. This is an organization that has been in existence for five or six years. And they understand that timeliness—because the UK has a budgeting cycle April to April. So what they do, they have done their work and they have produced an analysis and has recommended a salary, so the Government has enough time. And it is a transparent process.

And I want to deal with that, Mr. President. Because everywhere I look—I went looking and in the—in both—and this point about the other recommendation I have for the SRC is their analysis or recommendations must be supported by an economic index, such as the inflation rate, and they should be mandated to present the basis of their recommendation before a joint select committee of the Parliament for finalization.

And I say this, Mr. President, because you look at other places. And I can go to the parliament library of Australia, and they—here is my underlying challenge with the SRC. I do not understand the policy and the thinking behind how they come up with the salaries.

In Australia, salaries are increased every year for MPs and there is a basis. There is a relation between what is called the consumer price index, and what they call total average wages in the society. And they track too; they track the changes, and they present all the data. I can go and download the data; it is available.

And importantly, they have a ratio that they work with, in Australia, on average that they work with the fact that MPs' salaries roughly are twice the national average wage, 2.0 times, give or take. And this has been done since 1968.

In the UK is a very similar process. And they show you all the data. And on average, MPs' salaries have averaged roughly three times the average wage in the country. So, philosophically, the organization that is helping to recommend salaries has a basis which they look at, to come up with the number that they—it

is not a number pulled out of the air. It is not a number looking at—oh, just apply 25 per cent across the board. There is some science. There is some economics. And this is what is lacking from our current process. Which is why, if I can go to other places and download these reports and see how it is done, and all the masses and reams of supporting data—I cannot—my confidence is very low in the SRC numbers.

Mr. President, my other recommendation is that the SRC should be conducting interviews on a rolling basis with the actual office holders, their reviewing as well as using all the available modern electronic tools for compensation management. They should be provided the requisite funding that allows them to access the needed internal and external resources to get the work done. And in the interim, the amendment should allow for annual recommendations to be made on the basis of projections for the consumer price index, as calculated by the CSO and/or the Central Bank.

Mr. President, getting this done would be no easy task. And in my view, best-case scenario, this could take up to three years to get running. In my considered opinion, the Government should consider the adoption of an annual/biannual automatic salary adjustment that uses a basket of national statistics, which would only require the SRC to make a small computation. This automatic system, over which there would be no interference or manipulation, may be the best way of minimizing the reputational damage to both the SRC and the Parliament that we are suffering now, and would to some extent take the politics out of legislators' pay and benefits.

Mr. President, just for reference, I wish to quickly demonstrate how legislative pay and pensions are handled in two key democracies. In the USA there is annual adjustment on the salaries of legislators using a formula based on changes to their employment cost index. The adjustment is automatic, unless the sitting administration chooses otherwise. In the UK, up until 2009, there were upward adjustments recommended by MPs and were based on changes in the average earnings, the retail price index, and the consumer price indices. From 1997 to 2009 there were increases, annually, every year. In looking at the data, it can clearly be seen that changes to MPs' pay have consistently tracked these indices.

When one looks at the way in which this was reported—Mr. President, just bear with me; I have too many pieces of paper here. The way in which this is reported, you can see the data points to how the increases in legislative pay track all the indices. And that is something that we should really try to get instituted, and take, as my learned friend Dr. Mahabir would say, take a measured approach to this.

And one of the interesting things that I mentioned about the UK's system; is the maintenance of a historical multiplier that places MPs' salaries at roughly three times the average salary in the country. This has been so since 1919. The data and facts to support this can be found in an IPSA report titled, "MPs' Pay and Pensions, A New Package", dated July 2013.

8.30 p.m.

Mr. President, interestingly, in spite of this, a survey conducted by the IPSA in their earlier referenced report showed that almost 70 per cent of UK MPs felt that they were underpaid, with more than half suggesting that their pay should be at least 25 per cent higher.

So, Mr. President, there is also an interesting situation in the UK where I was able to find a listing of 250-plus civil service positions that are paid higher than the Prime Minister. I mean, I found that very interesting that you have civil service positions paid higher than the Prime Minister in the country. It speaks to the level at which the democracy has reached.

It is my hope that the points I have made today put out a strong argument there is a long overdue and supportable case for upward adjustments in base salaries and allowances and pension arrangements. The history of dealing with this properly over the past 25 years has been poor. What my entreaties today would likely reveal is the extent to which the current administration is willing to break the cycle of inaction in this matter.

Mr. President, earlier this year, there was an opportunity to deal with this via the proposals made via the House Committee, which had conducted exhaustive work and made very supportive recommendations. The fact that all this work has so far gone for naught, on the basis essentially of precedent, is disappointing because the reason why we are here having the challenges is that salaries have not been adjusted properly, and if you get salaries to where they should be, the issue of the calculation of pensions is reduced to something that is going to be much more manageable.

With all of the public comments about this matter, I fear the system is likely to continue—this is my deepest fear—to have to accept random incremental increases on the base, you know, what I consider to be true genuflection to the mantra of discount mode for public official remuneration. If this is what it will be, then perhaps the cries about mediocrity of representation need to be tempered.

The ongoing national debate is part of how democracy works and is often part of the normal reaction to step changes in governmental arrangements. The fact

that a historical oversight, going back over 25 years, as relates to Senators, is being remedied, seems to not be a factor considered worthy of praise by anyone in the public domain so far.

Mr. President, let me lay out my view of the supporting factors that make the case for this legislation: one, legislative offices have a level of uniqueness, unlike any other office that is paid under the Consolidated Fund. Proper consideration must be given to the fact that the personal and professional scrutiny, which members of the legislative arm bear, is unlike that of any other public office. There is no security of tenure and that is clear from the outset unlike any other type of public office.

Further, given the realities of our small society, whenever one demits legislative office, there is a high likelihood of diminished employment or business opportunities.

Mr. President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Member's speaking time be extended by 15 minutes. [*Hon. G. Singh*]

Question put and agreed to.

Sen. D. Small: Thank you, Mr. President. Thank you, Mr. Leader of Government Business, colleagues on all sides of the House.

Mr. President, point five, the personal and professional risk of being permanently marked as a member of a particular political entity is massively significant and, again, is unlike any other type of other public office.

The other point that I raised earlier is what I call the general apathy. People like to say that you are in politics, your business nice. That envelops members of the legislative service so that people assume that your business nice, so we do not need to help you, and that is a fallacy.

Mr. President, the matter of truly appropriate pension arrangements has been overlooked for a long time. As we are all aware, it is very easy to sit on the non-governing side or sit on the outside and call for all sorts of far-reaching new laws and all sorts of changes. Well, the reality of doing such when in office often has huge perceived political risk.

In the case of the legislation before us, when these changes provide both for those legislators who have served meritoriously in the past and at the same time,

make it easier for potential new legislators to make this life-changing decision, the foresight required of the bringers of the legislation must be given proper recognition. Unfortunately, Mr. President, we have a history in this country of devaluing the contributions of several persons who have given their lives and careers to public service. What this Bill does in one part is make life comfortable for those who have made the sacrifices involved in public service in the Legislature.

Mr. President, for the record, as of today, July 08, 2014, not a single Independent Senator has been or is in receipt of a pension from the Parliament. The legislation before us today corrects this historical wrong. In this situation, I wish to table an amendment to the proposed legislation before us as it relates to the new section 1(b). Oh yes, I have dealt with that. That was the same 1976/1996 argument.

I want to reinforce my point that these legislative positions are unique in our system and that, notwithstanding the calculations proposed, I would like to propose another amendment. I wish to suggest that the minimum pension for MPs—and I am going to get into a lot of trouble—should be set at \$7,500 per month. The basis for this number is that it is roughly two-thirds of the SRC—set 2005 base salary for the legislators on the lowest rung of ladder, the Independents.

So, I am proposing \$7,500 as a base, irrespective of whatever calculation you choose and it is derived from an SRC number of 2005 set at the historical two-thirds that everyone seems to be comfortable with. I think that we need to be real about the society we are in and starting pensions—I think, for Senators, it starts like \$4,000 a month—it is not appropriate, humbly and respectfully, and I am proposing an increase in the base. It is just a proposal.

I am also proposing an amendment regarding the payment of full legislators' salaries after 18 years' service. I suggest this be reduced to three-quarters of the final salary. I propose this because I believe that there is a fundamental difference between the intent and utility of a salary as opposed to a pension. A salary is basically intended as an appropriate recompense for the output of labour, skill, expertise and judgment. A pension is intended to provide someone with an appropriate standard of living for himself and possible dependants.

As far as this Bill is concerned, as with many others, it is not perfect and may not treat with all of the outstanding issues fully, but given what exists today and what exists with the SRC that has failed, it represents a step change in the right direction. It is the first opportunity we may have to bring some professionalism to

the legislative arm of Government to really attract professionals to the Legislature. [*Desk thumping*] And again I am going to hold the Government's hands to the fire because I look forward to the Government really being comprehensive and cover all of the bases involved in compensation management as it relates to really dealing with the base salaries issue that needs to be addressed sooner rather than later because that will allow all of these other issues to, in my mind, go away, or to fade.

Mr. President, as everyone connected to this exercise has been advised, it seems that the long overdue job evaluation exercise is finally on the horizon. I, unfortunately, am unsure just what that will do, but it might be useful for many positions. I question whether it will be really useful for legislative positions.

In the UK, there is a body called "The Review Body on Senior Salaries", which is an advisory, non-departmental, public body of the Cabinet office that provides independent advice to the Government on the pay of senior civil service. On the issue of matching salary to pay for MPs, this is what they have to say at page 39 of the previously referenced IPSA report, and I quote:

The—"SSRB supports performance-related pay, where appropriate. However, we cannot envisage any objective way of evaluating MPs' performance."

I will await the outcome of the exercise just to see what comes out of it, but I will be honest, I usually operate on the basis of zero to low expectations, so that I am not disappointed when my expectations are met.

Mr. President, I remain the ultimate optimist as I look to the future of legislative salaries and pensions, especially in view of the likely pervasiveness of coalition politics. I hope we may, at some point in time, elevate the discussion that we could be in a position to evaluate such issues as the possibility of an incentive being engineered into the mechanism for determining terms and conditions that recognizes the significant disadvantage that small-party and Independent Members face as it relates to research and legal support and general back-office support.

This is something that has rated zero attention from the SRC. For somebody like me, who is an Independent person, I have to take my own time, my weekends, my nights, to get the work done. I have no research support, none. Everything that I research here, I sit down behind the computer and I do it. Every word that is typed here or written or referenced, I did myself. I have no support. I am the secretary, the editor, the final proofreader. It is me.

I think that in other places where they recognize you have a coalition system and you recognize that there are going to be small-party persons who may not

have that support and they have put mechanisms in place. So that I am hopeful that sometime in the future, going forward—I like to understand where we are going—that these are the types of things; we start to elevate these discussions from where it is now and we bring it up to deal with some issues that are really important.

As I wrap up, I want to place one more statistic into the *Hansard* and it has to do with the comparison of legislative pay with GDP per capita. And Mr. President, I use this deliberately because this is something that *The Economist* magazine tends to use when it does its comparison of MPs and Government workers' salaries around the world. What they do is say what is the per capita GDP of the country and then what multiple of that would MPs, Members of Parliament, pay. This sum is done by *The Economist*, but I have done my own numbers.

The data for the GDP per capita, I have gotten from the International Monetary Fund and the data from the various salaries, I have quoted all the various sources. So, in the USA, a regular Member of Congress or Member of the Senate is paid 3.28 times the GDP per capita; in Canada, they are paid 3.5 times; in Australia, they are paid 4.2 times; in the United Kingdom, they are paid 3.1 times the GDP per capita; in Trinidad, MPs are paid 1.6 times the GDP per capita.

Now, Mr. President, if the SRC came with this type of empirical information and said, "Listen, on a comparative basis, with countries who are also oil and gas producers, who are members of the Commonwealth, who have similar legal systems to us", you start to understand the logic behind making an argument that, "Hey, 1.6 means you are at least half, we are 50 per cent of where we should be." This is the type of analysis I am looking for when I look at their report and I am not seeing it. This is defensible empirical information and it is an international statistic that you can depend on, so that, on the basis of this, MPs are at least underpaid by 50 per cent and we are a small economy and the basis for comparison is oil-based economies. It is not Antigua because I do not agree with Antigua. All the members of the Caribbean, their economic base is not what our economic base is; completely different. There is no comparison, no comparison.

So, Mr. President, I just wanted to place that additional statistic and this is the kind of thing that I, as an independent professional, when I talk about rigour in analysis, when I look at that document and it says recommendations, I am not seeing it and I am unconvinced. I remain unconvinced. If I see data like that and if someone has done the work, then I can say, well, okay, the guys have done some work and their basis for saying MPs' salary should be this, it is supportable. If I suggest now that MPs' salary should be doubled, everyone is going to argue with

me, but they are not going to argue those numbers. That is all I am saying and the SRC should be in a place where people should not be able to argue with their numbers.

Mr. President, on balance, my inclination is that I understand that this Bill is going to go to a Special Select Committee and I have volunteered to serve and I have, in my own mind, weighed all the arguments from the different quarters. I believe the nation will ultimately benefit from a system that puts the proper value on the contributions of those who make the choice to enter public life and one that ensures that they are appropriately taken care of when they demit these Chambers.

Mr. President, I want to thank you for the opportunity to contribute. [*Desk thumping*]

8.45 p.m.

Sen. H. R. Ian Roach: Thank you, Mr. President. Mr. President, my contribution is going to be very short and specific, given the fact that I have been able to sit and enjoy the substantive contributions made by my fellow Senators today on both Bills which I consider to be—I term them benefit Bills. I do not think it is necessary for me to go and regurgitate most of what have been said. There is a lot of substance in both parts of the arguments; whether or not pension should be paid to judges, in the first instance, and presently, dealing with legislators.

My specific concern really has to do with procedure, not with the substantive issue of whether or not what amount should be paid. I think that Parliament, unfortunately—our Government in dealing with the percentage or the level of pensions to be paid—lacks the technical expertise of persons qualified in dealing with determination of pensions in these Chambers, and I have a problem like Sen. Dr. Dhanayshar Mahabir, about the undermining of institutions.

The SRC is an important institution which is provided for under our Constitution, and its work cannot be easily sidestepped, notwithstanding the fact that successive Governments for over a decade have been faced with the problem of getting the SRC to be energetic and purposeful in their remit. But notwithstanding the lethargic and neglect in dealing with what is their mandate in reviewing salaries of specific office and important offices under the Constitution as well, should it be easily sidestepped by the Government in trying to redress something that needs to be attended to seriously?

There are a number of different ways where you have a public body that is charged with a function that does not carry out the function what to do. As you,

Mr. President, are also a very experienced attorney-at-law, we know that you can have access under the Judicial Review Act and engage a procedure and call for judicial review. You can engage the remedy of man; you must cause them to do something they need to do, especially where a time frame is not specifically provided. So to come here in debate after debate and complain of institutions that are provided for under the Constitution and are not doing what they are supposed to do, and then we try to find some other way in addressing it in an ad hoc way, does not cure the problem to me.

And, therefore, since it is not a problem of this present administration, but it has been one that has been going on for some time, I think in dealing with the issue, the whole issue of the appropriateness of determining pension for parliamentarians, should really be handled by the SRC. That is the institution under the Constitution that was set up to do that for a specific reason. Right? To bring some sort of objectivity and some sort of distance between the Legislature, the Executive and the Parliament. What needs to be done by the very Government is to empower the SRC by giving them the tools and the resources to do what they need to do and, therefore, if they were given and were provided with these resources, we would not be here debating this to the extent that we have been engaging in this debate and that, to me, is the crux of the matter.

Where it goes from here—whether it goes to a special select committee or it dies a natural death—to me the SRC ought not to be easily sidestepped in this regard. I would urge the Government, whatever is the final analysis, having listened extensively to the voluminous amount of contributions in and outside of this Chamber concerning the two Bills that are being debated here—very emotional, very topical, because it is bread-and-butter issues; they are real issues.

I think that the matter ought to be addressed by looking at the SRC how it is constructed, its functions, whether it needs to be revised, whether it needs to be equipped to deal with things in a more efficient and meaningful way as is necessary in today's setting and, therefore, instead of again, meeting another situation like that where we will have to come back again and look at Government with suspicion of why they are trying to promote these two Bills at this point in time, it would not really solve the problem. The problem can only be resolved by dealing with the institution that was set up to deal with it in the very first place, and that is what I would like to urge my contribution is about.

I mean, there is substantive amount of information and quality research has gone into this, and I am not in any way challenging the comparisons that have been identified in different countries and in different systems, but for us here in

Trinidad and Tobago, we have set up an institution by the very same Legislature for a specific purpose so as to bring some sort of objectivity and confidence when salaries of the legislators are being considered and other important offices, that they are given the tools to do what they need to do, and until we do that I just think we are making a mockery of the system. I think we are undermining ourselves—the very institution that we set up so as to keep objectivity and purposefulness in what we do as Members of this Parliament.

In that regard, I think that the appropriate measure to be taken in this, if in the instance for the retired judges, something ad hoc to be done, as was said earlier on, but in terms of parliamentarians, that we need to address the issue by sending it back to the SRC. We need to empower the SRC. It may seem long; it may seem as though we are spinning top in mud, we will spin top in mud as long as we do not empower the SRC to do what they are supposed to, and if they are not doing it by how they are staffed, then there are means of removing them as well.

So I think the real issue in this debate can easily be resolved by attending to the shortcomings of the SRC; revisiting the purpose and the functions and how they have functioned over the last 20 years as the case may be. That is where I believe a lot of the emphasis in this debate should be placed.

With that, Mr. President, I would like to say, thank you for the opportunity, and I hope that the Government will certainly, in its deliberation, given the fact that it is being recommended that it goes to a special select committee, whether it goes there or it dies a natural death after this debate, I think the SRC issue ought to be attended to. I thank you. [*Desk thumping*]

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Mr. President. Mr. President, I want to thank hon. Members of the Senate for a very robust debate in which you have very strong divergent views. I want to just pay attention to a few points because I do not intend to repeat what I had indicated previously.

One, the whole issue of constitutionality: we shared with this honourable Senate and the public at large the opinions of two eminent jurists: Mr. Timothy Straker QC and Sir Fenton Ramsahoye, and they both indicated that the argument, that the current proposal, is unconstitutional and undermines the independence of the Judiciary or undermines the Salaries Review Commission, is not sustainable.

I think that Sen. Vieira indicated that there may not be legal constitutional issues, but there are moral and ethical issues. So the presumption, and for anybody to say that you can purchase legal opinions, and to deal with men of the

calibre—persons of the calibre of Timothy Straker and Sir Fenton Ramsahoye—I want to take the position that these are men of intellectual rigour and robustness.

There must be also, Mr. President, the presumption of regularity in the acts of public officials, and that is why I find it really repugnant that Senators would make allegations of feather-bedding, conflict of interest and so on when it is the duty of the Legislature to deal with these matters as presented to you. [*Desk thumping*] I find that very repugnant. I want to really congratulate Sen. Small [*Desk thumping*] on debunking that issue of feather-bedding in comparison, with analysis from different legislatures including the United States and India.

9.00 p.m.

The second point I want to make, Mr. President, is that I cannot understand—I can appreciate it, but I cannot understand—that the failure of the SRC to provide a duty of care—they have been recklessly negligent in the lack of a provision of a duty of care—to parliamentarians, retired judges and a significant level of senior public officials. We continue to prostrate ourselves at the altar of the SRC—[*Desk thumping*]—in the face of a reality that is pointed out with respect to the retired judges, that over 34 years to be exact, that they have failed to deal with the pension for retired judges. I cannot understand that alliance and allegiance to that altar of the SRC.

Another point that was made, pointed to the fact of the very “political striping” of persons who participate in the political process. I think Sen. Balgobin indicated that once you are politically aligned, you become a political leper and that leprosy then contaminates your career for all of your life.

What both Sen. Dr. Balgobin and Sen. Dr. Victor Wheeler pointed to is that there is need for a change in the political culture of the country. One of the things we need to do is that in the Westminster system, as people seek advantage in the adversarial nature of the political culture, you have, as collateral damage, that reality.

Mr. President, it is clear that the Parliament is not a human resource department. As it was envisaged, it was the role of the SRC to deal with the human resource needs, to provide adequate compensation and so on, but for 30 years, they have abandoned that. This Government, being a good listener—it is as indicated by former president Calvin Coolidge, it says:

“It takes a great man to be a good listener.”

If I were to use another quotation, one of the most sincere forms of respect is actually listening to what another has to say. Woodrow Wilson said:

“The ear of the leader must ring with the voices of the people.”

Mr. President, we must also have the courage. It was Nelson Mandela who said—we are celebrating Nelson Mandela Week—that:

“...courage was not the absence of fear, but the triumph over it. The brave man is not he who does not feel afraid, but he who conquers that fear.”

We must have the courage in this Senate to understand the failure. I think one hon. Senator said—I think it was Sen. Dr. Dhanayshar Mahabir—that the SRC is a failed commission, a failed institution, so we must recognize that failure. We must recognize that the hon. Prime Minister, in listening to the people, made the suggestion that in the aftermath of the debate in this Senate, we ought to consider utilizing the mechanism of a special select committee of the Senate in order to further provide detailed consideration to this piece of legislation and to allow for the kind of granularity that was provided by the contributions of Dr. Dhanayshar Mahabir and Sen. David Small. [*Desk thumping*]

Mr. President, our Prime Minister has indicated that it is the intention of the Government, in the aftermath of the debate—having listened—to proceed by way of a senate select committee. We sought and we had selected a special senate select committee for the previous Bill and we intend so to do with this Bill.

Having regard to all that has been said and all that will be taken into consideration, it would provide for the widest ventilation in order to reflect the political maturity that is required to deal with the salaries, allowances and entitlements, including pension, of judges and also parliamentarians.

Mr. President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Sen. The Hon. G. Singh: Mr. President, I beg to move:

That the Retiring Allowances (Legislative Service) Bill, 2014, be referred to the Special Select Committee of the Senate which has been established to consider and report on the Judges Salaries and Pensions (Amdt.) Bill, 2013, and that this committee be also empowered to discuss its details and be required to report to the Senate on this Bill by July 30.

Question put and agreed to.

Sen. The Hon. G. Singh: Mr. President, I further beg to move that the same Senators be appointed to serve on the Special Select Committee.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I beg to move that the Senate do now adjourn to Wednesday, July 09, 2014 at 1.30 p.m. to deal with the Securities (Amdt.) Bill and then the Indictable Offences (Committal Proceedings) Bill, subsequently.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.03 p.m.