

HANSARD

PROCEEDINGS AND DEBATES IN THE FIRST SESSION (1961-62) OF THE
FIRST SENATE OF TRINIDAD AND TOBAGO, WEST INDIES, CONSTITUTED
UNDER THE TRINIDAD AND TOBAGO (CONSTITUTION) ORDER IN
COUNCIL, 1961

16th Sitting

Saturday, 25th August, 1962

THE SENATE

The Honourable Senate met at 10.00 o'clock this morning

PRAYERS

MR. PRESIDENT *in the Chair*

PRESENT:

SENATOR DONALD PIERRE	...	...	...	Minister of Education
„ GEORGE A. RICHARDS	...	...	...	Attorney General
„ W. J. ALEXANDER	...	...	...	Minister without Portfolio
„ V. M. CRICHLAW	...	...	...	Parliamentary Secretary to the Premier
„ L. E. BECKLES	...	...	...	Vice-President
„ JAGANSINGH				
„ A. K. SABGA-ABOUD				
„ T. SHEARS				
„ N. SIMONETTE				
„ C. A. TULL				
„ R. J. WILLIAMS				
„ SIR. P. C. HOBSON, kt.				
„ R. LANGE, O.B.E.				
„ J. F. F. ROJAS				
„ J. B. STOLLMAYER				
„ B. O. WALKE, M.B.E.				

ABSENT:

SENATOR M. T. I. JULIEN
„ R. M. KIRPALANI

10.15 a.m.

ANNOUNCEMENT

Leave of Absence

Mr. President : Members of the Senate, I wish to announce that I have granted leave of absence from this meeting to Senator R. M. Kirpalani.

BILL BROUGHT FROM THE HOUSE

Trinidad and Tobago Citizenship Bill

Bill relating to citizenship of Trinidad and Tobago—(*The Attorney General*)—Read the First time.

The Attorney General : Mr. President, I beg to move that the next stage be taken forthwith:

Members of the Senate will be aware, Mr. President, of the anxiety which gives rise to this measure. It will be realised that this Bill must pass into law before the 31st August, and they will be aware that the Bill was passed in another place as late as yesterday evening. In those circumstances, Mr. President, it becomes absolutely necessary to seek the permission of the Senate to take this Bill through all the remaining stages forthwith.

I beg to move.

Question put, and agreed to.

The Attorney General : Mr. President, I have the honour to move that a Bill relating to Citizenship of Trinidad and Tobago be now read a Second time.

This Bill, Mr. President, is intended to supplement certain provisions of the proposed constitution of Trinidad and Tobago with respect to matters relating to citizenship. Members of the Senate will be aware that

according to agreement reached in the Constitution Conference in London, which concluded on the 8th June this year, it was agreed that certain provisions regarding citizenship will be made in the constitution. Certain categories of persons will become citizens by operation of law. Certain other categories will receive an entitlement to registration as citizens, and accordingly those classes of persons are not dealt with in this Bill. What this Bill provides is for other classes of persons not specifically dealt with in the constitution. This section of the constitution, Mr. President, will provide that Parliament may make provision for the acquisition of citizenship of Trinidad and Tobago by persons who do not become citizens of Trinidad and Tobago by virtue of the provisions of the constitution, or for depriving of the citizenship of Trinidad and Tobago any person who is a citizen otherwise than by virtue of certain sections of the constitution and for the renunciation by any person of the citizenship of Trinidad and Tobago. Accordingly, this Bill proposes to make such provisions.

In the first place, Mr. President, as I have indicated before, it would be well known to most people that the constitution will provide that persons born in Trinidad and Tobago prior to the 31st August, 1962, assuming that they do not come within the scope of diplomatic immunities, will automatically become citizens of Trinidad and Tobago. It will also provide that persons may become citizens by descent, that is to say, persons born outside of Trinidad and Tobago of a father, and in certain circumstances, of a mother who was born in Trinidad and Tobago. It will also be provided that persons who are citizens of the United Kingdom and Colonies, resident or ordinarily resident in Trinidad and Tobago from

the 1st January, 1962, will be entitled to registration as citizens of Trinidad and Tobago. This Bill accordingly seeks to make the necessary administrative provisions whereby that purpose could be effected. The Bill, in clause 16 gives to the Minister, to whom will be assigned responsibility for matters relating to citizenship, the power to make regulations for that purpose.

Perhaps at this stage, Mr. President, I might say that while it is a very healthy thing that the Legislature should jealously guard the privileges and that it should wherever appropriate insist that the executive arm of government should not have any power of legislation that has not been approved by the Legislature, I would like to emphasize that the powers given to the Minister under this clause by no stretch of the imagination can be regarded as legislative powers. They are purely administrative provisions. For example, if you were to read paragraph (a) of the clause, it would seem that the Minister will be given the power to prescribe for anything which is prescribed in relation to citizenship. That is to say, the powers are conferred in the body of the Act and the Minister is merely to provide the machinery, prescribing for the putting into effect the provisions of the Bill. He is further given the power to provide for the registration of anything required or authorized to be registered, that, again, Mr. President, is purely an administrative arrangement. Obviously, Parliament is not a body that can undertake administrative matters and these necessarily must be left to the Minister. As one reads the remaining paragraph of the section, it is quite clear that no power is being conferred on the Minister which can in any way be regarded as trespassing on the scope of the authority of the Legislature.

However, in deference to certain views expressed, and in keeping with parliamentary practice, an amendment is being sought to this clause which will provide "that any regulations made by the Minister must be laid before Parliament" and subject to revocation by Parliament within a period of 30 days commencing from the day on which they are laid, if Parliament shall decide. I shall at the appropriate stage seek the permission of this Senate to have the Bill amended to provide for such.

I have dealt at some length with clause 16 because I know the suggestion may possibly be raised. In my view, such an interpretation of clause 16 would be a misconception of its purpose. However, any Member of this Senate, as in duty bound, is entitled to express his opinion on the clause, and because of the possibility that that view may exist, this amendment has been prepared so that any regulations made by the Minister may be laid before this Senate in due course if the amendment is accepted by the Senate.

It will be realized, of course, that it will be necessary that certain steps be taken to give effect to the rights of these persons on the 31st August, and, accordingly, these regulations will take effect from that date. The amendment provides that if they are revoked by Parliament anything done under them will not thereby be invalidated.

To revert to the other clauses of the Bill, Mr. President, it will be seen—and if I may go through it systematically—that Part I is purely preliminary, that is to say, it consists merely of a citation clause and an interpretation clause. Part III makes clear the position of certain persons whose legal status might otherwise be in doubt. For example, subsection (2) of clause 3 provides that the rights of citizens of the Republic of Ireland will be maintained. That is because of certain

Trinidad and Tobago

Saturday, 25th August, 1962

Citizenship Bill

[THE ATTORNEY GENERAL]

existing provisions in our laws which give these people certain rights, and if this is not inserted they may unwittingly be deprived of certain rights which they now enjoy.

Members of this hon. Senate will be aware that whereas citizens of the Republic of Ireland are not in the ordinary sense Commonwealth citizens, by a convention they are treated as such; they are not aliens for the purpose of the British Nationality Act or for the purpose of any Nationality Act of any Commonwealth country.

Part III of the Bill provides for the acquisition of citizenship. Clause 4, for example, deals with the case of children adopted by persons who are citizens of Trinidad and Tobago and provides that they should become citizens. Clause 5 sets out the conditions which must be fulfilled by a Commonwealth citizen, by a citizen of the Republic of Ireland, if he desires to be registered as a citizen of Trinidad and Tobago. The conditions are merely common form, Mr. President: the requirement, for example, that he should be of good character; that he should have an adequate knowledge of the language of the country and of his responsibility as a citizen; that he has resided here for a certain length of time, and that he intends to continue his residence here are fairly common provisions. In some countries, the period of residence varies from, I believe, one year to ten years: five years would be an appropriate period, although it is possible to permit registration in certain cases even if residence for five years were not completed. Clause 6 makes provision for the registration of minor children of a citizen of Trinidad and Tobago. Clause 7 deals with naturalization, conditions to be fulfilled by persons who seek naturalization as citizens of this Territory. Clause 8 gives effect to a request—that was widely

expressed that there should be some provision—clause 8 deals with the time when such person should become a citizen.

Part III deals with the loss of citizenship. Seeing that we are not by and large accepting dual citizenship, some provision must be made for the various circumstances in which a person might lose citizenship of Trinidad and Tobago. As Members will be aware, in certain circumstances people may be called upon to elect whether they will remain citizens of Trinidad and Tobago or whether they will renounce citizenship of some other country, and the constitution gives an extended period for such an election. This clause makes provision in relation to that. It also provides for the deprivation of citizenship by persons who obtained citizenship by fraud or by persons who have resided for a long period in a foreign country. That, may I respectfully suggest, Mr. President, is a very appropriate provision because of the fact that, basically, long residence in Trinidad and Tobago is the requirement for registration of citizenship and it is quite appropriate that persons who have in fact abandoned citizenship to obtain. The provision, however, is softened, as can be seen by making provision for persons who have lived a long time abroad but who do not desire to lose their Trinidad citizenship to notify the Minister in writing of their intention to retain citizenship or by registering in the prescribed manner; the prescribed manner would be by registering in the Trinidad and Tobago Consulate abroad or any place where the Government of Trinidad and Tobago made arrangements for Consular representation.

It will be further seen that, before the Minister can make an order to deprive any citizen of citizenship, there are certain things he must do. He must give notice to that

effect to allow such a person perhaps to explain some fact which may then exempt him from liability; and if a person so requests, he must refer the matter to a Committee of Enquiry which will consider his case. I think it will be accepted, Mr. President, that that gives ample protection to any such person and there is no danger of a person being deprived of citizenship without full consideration being given in his particular case.

Clause 9 makes provision for deprivation of citizenship by a person who has voluntarily exercised in a foreign country or in any other country under the law of which provisions are made conferring on its own citizens rights not available to Commonwealth citizens generally—any right that is available to him under the law of that country. In other words, if he acts or behaves as a citizen of another country, there is power under this section to deprive him of his citizenship.

10.35 a.m.

Finally, clause 11 makes provision for renunciation of citizenship. It may be that certain persons who automatically acquire citizenship may desire to renounce such citizenship or Trinidadians who may assume the citizenship of some other country may desire either under the law of that country, or on their own inclination, to renounce such citizenship, and provision is made here to permit them to do so.

As for the rest of the Bill, Mr. President, there is not much of any great importance. Clause 12 meets a view that was expressed that there should be some provision that, in cases of doubt, a Certificate of Citizenship may be granted to persons who so apply. Such a certificate can be very useful in

certain circumstances, and therefore provision has been made for persons who apply to receive such a certificate.

Clause 13 merely deals with the form of oath that is required, and clause 14 provides that certain documents will have evidential value in a court of law without special proof. And, finally, clause 15 provides for the punishment of offences committed in connection with this Bill.

Those are the provisions of the Bill, Mr. President, and while it is small in scope it is a Bill of great importance, one of the most important Bills, I would venture to suggest, that would come to this Senate. Citizenship is one of the major rights any people can possess. It not only enables them to exercise rights within the national community, but it establishes its position in the international community, and all right-thinking people highly value such citizenship. I have no doubt, Mr. President, that persons who are to receive citizenship of Trinidad and Tobago will set that great value on citizenship, conscious of their duties and responsibilities as citizens, not only to protect the good name and to maintain good order in the community, but to seek in every way that lies within their power to build up pride in the people of this country and to raise the reputation of Trinidad and Tobago to a height even greater than that which it has now attained.

I am reminded, as I speak, Mr. President, of a phrase that carried great weight two thousand years ago. No doubt hon. Members will be familiar with it: *civis romanus sum*. It was the proudest thing that a Roman citizen could have said, and I have no doubt that citizens of our country will be able, with equal pride and with equal justification, to say, "I am a citizen of Trinidad and Tobago".

Citizenship Bill

Saturday, 25th August, 1962

Judicature Bill

[THE ATTORNEY GENERAL]

Mr. President, I commend this Bill to this Senate for its acceptance in the hope that it will receive the blessing of every Member.

Question proposed.

Senator Lange: Mr. President, in connection with this and many of the other Bills we have before us this morning, I think I should pay public tribute here to the very courteous gesture made by the hon. the Attorney General in asking the Members of this Senate to meet him on Thursday to go through each Bill which has come up to us and which we have to consider this morning. We appreciate the urgency of having to deal with this legislation before us and that act of the Attorney General is a clear indication that Government not only recognizes that these things have to be considered but has given as much time as the hon. the Attorney General, rushed as he is, could give us.

There is not much to say on this Bill. The hon. Attorney General has covered it very clearly and concisely and, like everyone else, on 31st August I will say that I am very happy and proud to be a citizen of Trinidad and Tobago.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a Committee of the whole Senate.

Senate in Committee.

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

Senate resumed.

Bill reported, without amendment: read the Third time and passed.

BILL BROUGHT FROM THE HOUSE**Supreme Court of Judicature Bill**

10.45 p.m.

Bill respecting the Supreme Court of Judicature established in accordance with the provisions of the Trinidad and Tobago (Constitution) Order in Council—[*The Attorney General*]. Read the First time.

Motion made and Question proposed, That the next stage be taken forthwith.—[*The Attorney General*].

Question put, and agreed to.

The Attorney General: Mr. President, I beg to move,

That a Bill respecting the Supreme Court of Judicature established in accordance with the provisions of the Trinidad and Tobago (Constitution) Order in Council, be now read a Second time.

In spite of the formidable appearance of this Bill, it will not be necessary for me to speak at very great length. Members of this Senate will be aware that the new constitution of Trinidad and Tobago provides for a Supreme Court of Trinidad and Tobago. I should, however, explain at this stage, what is intended, because there seems some little confusion of what the exact position is.

Up to the present, we have a Supreme Court which exercises both instance and appellate jurisdiction, and in addition appeals go to other courts, such as the Caribbean Court of Appeal. The constitution establishes a Supreme Court of Judicature as two distinct courts, a High Court which will have only instance jurisdiction and a Court of Appeal which will have all the appellate jurisdiction customary with such a court. In accordance with that provision, the judges of the existing Supreme Court will become

judges of the High Court and it will be necessary to constitute the Court of Appeal according to the provisions of the constitution.

The Bill, therefore, in its first Part, deals briefly with the constitution of the Supreme Court, only insofar as it is necessary to make provisions that are not clearly expressed in the constitution. Wherever the constitution provides something, it is of course unnecessary to repeat it in an Act of Parliament. Therefore, clause 4 of the Bill, for example, merely states that there shall be such a Supreme Court of Judicature consisting of both courts as shown, with such jurisdiction and powers as are conferred respectively on these Courts by this Bill and the constitution. This Bill is mainly concerned with setting out the jurisdiction of these two courts.

Clause 5 indicates what will be the composition of the High Court: the Chief Justice who is *ex-officio* a Judge of the High Court and no fewer than six and no more than eight other judges. Members of the Senate will have received a supplementary sheet with certain changes which I would respectfully invite them to look at in connection with this. It will be seen that clause 5 should read that the High Court shall consist of the Chief Justice who shall be *ex-officio* a Judge of the High Court and no fewer than six and no more than eight judges.

As to the Court of Appeal, the comparable provision is that this Court should comprise of the Chief Justice who shall be President, and three other judges. The words "no fewer than" no longer forms part of this Bill. The reason for this is that the constitution expressly provides that by legislation the number of judges should be stated in the Act for the simple reason that by the constitution, salaries of judges come as a charge

on the consolidated fund of the territory and it is therefore necessary to establish the limits within which such a charge will become effective by stating the number of judges.

Clause 7 sets out the qualifications of judges of the Supreme Court and it will be observed that they are somewhat different from existing qualifications. At present the qualifications for a judge are that he must be a person who has the right to appear as an advocate before the High Court of England, Scotland or Northern Ireland, and certain other countries, and of five years' standing. What this provision is intended to do is this: in the first place, to preserve the rights of any person in subsection (2) who has been qualified according to that old qualification and is in fact at present a judge, and paragraph (b) of subsection (2) provides for the future.

That is all that relates to judges of the High Court. For the future he should be—I advise Members to look at clause 7 of the Bill, which sets out the qualification of judges of both courts. In the case of a judge of the High Court, he is to be a member of the Bar of England or of the Bar of Trinidad and Tobago and of not less than ten years' standing.

10.55 a.m.

The reason for that is that at present the only real qualification now accepted in this Territory as a right to appointment is that which is given by reason of call to the Bar in England. It may be that at some time in the future we may decide to provide other qualifications for the right of audience in our Courts and, consequently, of the qualifications of judges. Seeing that we have no provision but that, for the immediate future

[THE ATTORNEY GENERAL]

at any rate, persons who may appear before the Courts of the Territory who might be appointed judges will base their qualification on the fact that they have been called to the Bar of England by one of the Inns of Court.

As to the Judges of the Court of Appeal, it would be seen that paragraph (a) of subsection (2) deals with the case of any person who perhaps may not have been called to the Bar in England, and he would therefore come under that. Paragraph (b) is intended to be a future provision, that is to say, be a member of the Bar of not less than 15 years standing.

The necessity for establishing such a period of qualification is because it is universally expected, and indeed demanded by public opinion, that persons who sit as Judges of the Court of Appeal should be persons of considerable experience, either in the practice or the administration of the law, and who who have been called a sufficiently long time to enable them to grasp all the niceties and intricacies of the law. And it was felt that a provision for less than 15 years would not be in keeping with what is expected of this Court, which we hope will not only set a very high standard of judicial learning and competence, but may develop the existing law in keeping with conditions that obtain in this country.

For example, it will be a task of the new Court sometimes to interpret certain provisions of the constitution. It will be their responsibility to consider applications made before them by persons who claim that certain provisions of the constitution have been transgressed and that their rights have been impinged by the Executive, or even by legislative action. The Judges of the Court may have to deal with these high matters, and it is only right and proper that they should be persons of appropriate competence.

I shall not deal at any length with Part II which runs from clause 9 to clause 35. because they are, by and large, re-enactments of existing provisions of the Judicature Ordinance with necessary modifications. It will be realized that it has been necessary to carefully consider all these provisions in order that all possible and appropriate jurisdiction should be given to the Court, and that no loophole should be left where any person who has a right of access to the Court may find that the Court has no jurisdiction to deal with the matter.

These are largely technical provisions, but we hope that they have effectively dealt with that question of jurisdiction of the Court, and that they will cover what is intended to cover adequately and completely.

Part III deals with the Jurisdiction of the Court of Appeal. Now, that is fairly new. Some of the provisions have been adapted from the Order which makes provision for the late jurisdiction of the Federal Court, now the Caribbean Court of Appeal. Some of them have been taken from our existing Judicature Ordinance insofar as it dealt with the appellate jurisdiction of the present Court, and some of them are new provisions to give effect, as I said before, to the powers of this Court as a complete Appeal Court.

Senators will know that in the past we had what is called a Full Court which was really in fact a divisional Court of the Supreme Court. That Court will no longer function. All appeals, be they Magisterial Appeals, appeals from Rent Boards, appeals from Petty Civil Courts, and appeals from the High Court, both on the civil side and the criminal side, will go to the Court of Appeal. So that it has been necessary to make those provisions.

Part IV deals with what I might call administrative provisions affecting the

Registrar, Sittings of the Court, and things of that sort. And what will now be Part V deals with the transitional powers and certain repealing enactments in order to conform with the existing Order; that is to say, to deal with the going out of existence of the British Caribbean Court of Appeal and things of that sort.

Senators will observe on the sheet which is attached that what was originally printed as Part V has been completely deleted, and I think they would like an explanation of that. When the Bill was drafted we did not know precisely what provision had been made by the Order in Council dealing with appeals to the Privy Council. Since it is their Court they are the persons to make rules. Seeing that our constitution provided for appeals to the Privy Council, until we received such rules we had to make provision. Before this Bill reached the House, however, we have received rules that have been passed by the Privy Council in England dealing with appeals to the Privy Council, and accordingly it is not necessary to make provision in our Act; so that it does no longer form part of the Bill.

A large part of the Bill falls in the first, second and third schedules, and in fact the third schedule is the really important one, because that sets out various rules that are necessary if the Court is to function properly, and people should know exactly what procedure it should follow. It deals merely with appeals, because one could not expect a Court to come into existence unless there are certain rules to guide its functions, and accordingly these rules were made and now form part of the Bill.

11.05 a.m.

In view of the heavy programme before us this morning, I do not propose to say very much more on this Bill, except this: that in spite of the fact that it has been drafted in very short time, it has been subjected to comment on the part of persons who are able to comment: for example, a Committee of the Bar Association considered it and submitted comments, and many of their suggestions were considered and the original draft was amended accordingly. The same thing was done on behalf of the Law Society, on behalf of the Chamber of Commerce, which deputed a lawyer to look through the provisions of the Bill, and also by certain other members of the Bar. In addition, in the light of all these suggested amendments, the Drafting division of my Ministry, Mr. President, reconsidered the entire thing and made various observations.

It is our hope that this Bill now presented to the House will form a worthy code of practice, procedure and jurisdiction of the Court in order that the high expectations entertained in that Court will be met. I need not repeat any trite phrases, Mr. President, as to the high place of the Court in any other community. We know what to expect in this community, and I am quite sure we will not be disappointed in our expectations.

Perhaps I may, in passing, just comment briefly on one new provision in this Bill which gives the Attorney General the right to interpose in certain matters. That has been necessary, because it will be remembered that the constitution makes provision for persons coming to the Court and asking for a declaration either that their rights have been transgressed or that they have been dealt with unconstitutionally. And it is appropriate then that some provision should

Judges Salaries and

Saturday, 25th August, 1962

Pensions Bill

[THE ATTORNEY GENERAL]

be made for giving to the Attorney General the right to become a party to these proceedings, in order either to justify to the Court what has been done or to take the necessary steps to see that the right of such a person be properly established.

That then, Mr. President, is the Bill before us, and I hope that the Members of this House will see their way to accept it. I do not pretend, Mr. President, that a Bill of this size and magnitude can be absolutely perfect. What I do say is that there are certain things which are not easily discovered even by the most astute draftsman until, in the light of actual practice, some defect appears. If that is so, any such defect that might appear in the light of practice, I assure the Members of this House, will be speedily corrected.

I beg to move.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

11.15 a.m.

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

Senate resumed.

Bill reported, without amendment: read the Third time and passed.

BILL BROUGHT FROM THE HOUSE**Judges' Salaries and Pensions Bill**

Bill to provide for the salaries, pensions and other conditions of service of Judges of the Supreme Court of Judicature.—[*The Attorney General*]. Read the First time.

Motion made and Question proposed, That the next stage be taken forthwith.—[The Attorney General].

Question put, and agreed to.

The Attorney General (Senator Richards):
Mr. President, I beg to move.

That a Bill to provide for the salaries, pensions and other conditions of service of Judges of the Supreme Court of Judicature, be read a Second time.

Before saying anything on the Bill itself, Mr. President, I beg to report that the presentation of this Bill has the authority of Cabinet and that, being a Money Bill, it was first presented to the other place and passed. The Speaker has certified it to be a Money Bill.

11.25 a.m.

This Bill seeks to comply with what has been expressly stated in the constitution, that is to say, that the Judges of the new Supreme Court shall be paid such salaries as shall be provided by Parliament, and the Bill seeks to obtain the consent of Parliament to make such provisions.

This Bill deals, (1) with judges' salaries, and (2) with their pensions, and by virtue of clause 14 gives the Governor power to make regulations for carrying out its provisions and for making regulations relating to the conditions of service and allowances payable to a judge. In other words, while the Bill will specify the salary and while it will state how pensions are to be computed, there are several other conditions of service, some already settled and some not yet settled, which will be provided for by regulations. For example, if I may give an illustration of this, it may well be that the present leave provisions for judges of the existing Supreme Court may be altered. Quite obviously, that is not something which one does without some consultation. After the new Court has been constituted, it will be appropriate to seek the views of the

judges and probably of the Bar before conditions of leave of judges be set out. However, while on this point, I should like to state that although the regulations have not actually been made, it has been decided that all the judges of the new Supreme Court will receive a commuted travelling allowance of one hundred dollars a month.

There has been some comment, Mr. President, on the provisions for the salaries of judges of the High Court, but if reference is made to clause 4, paragraph (c), it will be seen that the salaries provided for the judges of this Court will be \$11,040 per annum, that is to say, the same salary which the present judges receive. Now that is not because the Government does not realize the necessity for attaching such emolument to the high office of judge as befits his position in the Constitution and in the community, but Members will be aware that a complete reconsideration of the whole structure of salaries and conditions of service of public servants is now being undertaken, and it was considered that if the existing salaries of the present judges were altered it may affect the successful completion of that survey. That is not to say that the judges are being equated with civil servants—clearly they are not, and one of the intentions of this Bill is to make it quite clear that they are not civil servants, because their pensions provisions will make it quite clear that they are on a different basis. However, a review of salaries must obviously have certain implications, and because of that fact it has been thought fit not to change the salaries at the moment but, as I said before, judges are now receiving a commuted allowance of one hundred dollars a month and, therefore, even the present judges will receive some immediate pecuniary benefit.

It will be seen that a salary of \$15,600 a year is provided for the Chief Justice. In addition, he will of course receive the same one hundred dollars as the other judges, and certain other allowances will be made to him such as the use of a free, furnished house and a chauffeur's allowance. We are apt, Mr. President, when we look at figures on paper to think that they represent all that comes to the holder of an office, but when one considers in these days the value of a free, furnished house of adequate size, quality and standard, it will be observed that that is a fairly substantial addition to the salaried post, especially having regard to the fact that that is not subject to income tax.

I have heard it suggested that the provision here is very meagre compared with that obtaining, let us say, in Great Britain. I have heard it suggested that judges in the United Kingdom receive \$5,000 a month. That is not quite correct, Mr. President. At present Judges of the High Court in the United Kingdom receive an annual emolument of £8,000 a year, but in actual fact at least half of that amount goes in taxation and what remains is considerably smaller than what appears on paper. I remember I was in the United Kingdom sometime in 1952 when consideration was being given to an increase in the salaries of judges. It was first proposed to give them £1,000 a year free of income tax. That met with a great deal of public criticism and was abandoned and instead, their salaries were increased by £3,000 a year; but after the deduction of all taxes the figures that remained to the Judges were £713.

I merely state this, Mr. President, to show that the figures provided here are no indication of the value of the office. I do not say that they are being excessively paid, but I say that considering all the circumstances

*Judges Salaries and**Saturday, 25th August, 1962**Pensions Bill*

[THE ATTORNEY GENERAL]

and the allowances that are to be made to them, this is a reasonable provision at the time. It must be remembered that these provisions had to be made quickly if we are to get the Court in motion by the 31st August, and we decided that those be the figures. It does not mean those salaries will not come in for consideration; it is very likely that they may be reconsidered at a later stage.

So far as pensions provision is concerned, I must invite the attention of Members of this Senate to the fact that pensions form a substantial part of the value of an office. We have been told from time to time in the past that Judges ought to receive higher pensions than the rest of the civil service, and that is now being provided for under this Bill. Some years ago the Judges of the Supreme Court used to receive five added years, that is to say, whatever their period of service, when they came to retire five years were added for purposes of pensions. It has been suggested in the Napier Commission's Report that that be done, but I am happy to be able to inform the Members of this Senate that, under the provisions of this Bill, the Judges will be considerably better off than if five years were added, because it will be seen in clause 7 of the Bill that for a judge who joins the Judiciary with less than five years previous pensionable service or with no previous pensionable service, each year will be counted as two years, so that at the end of let us say, fifteen years, he will be credited with 30 years of service, which will be considerably more than if five years were added.

11.35 a.m.

By clause 8, if he has had previous pensionable service in excess of five years, not only will he carry his pensionable entitlement with him, but each year of service as

a judge will count as one-and-a-half years and that is the meaning of the figures, 1/300th and 1/400th, so if I may again refer to the theoretical position of a judge who had served for 15 years, and if he had 10 years previous pensionable service elsewhere he will carry that 10 years, and his 15 years service as a judge will count as 32½ years. In other words, he will be credited with 32½ years of service which will be practically the maximum allowed to any pensionable officer, that is, two-thirds of his full amount.

I believe that a number of people who have commented on these sections of the Bill have not quite understood what is intended, and I think it my duty to make it clear that so far as pension at any rate is concerned, certainly no reasonable person can quarrel with it.

Clause 9 merely deals with the periods which are to be taken for computation. Clause 10 provides for gratuity and for the personal relatives of a judge who should die. Clause 11 allows a judge who has retired the opportunity to opt for a gratuity or reduced pension.

Finally, clause 13 vests in the new Judicial and Legal Service Commission the power to decide all questions relating to pension or gratuity. Clause 14, as I have indicated before, will allow the Governor-General to make such regulations as to vary or add to conditions of service or allowances payable to judges as may be thought fit, and bearing in mind the overriding provisions of the constitution that the emoluments and conditions of service of a judge should not be altered to his disadvantage while he holds office, it is obvious that there is no possibility of reduction in these things. Changes that may be made in the future, will be changes to the financial advantage of judges. With these remarks, Mr. President, I beg to move.

Question proposed.

Senator Lange : Mr. President, we must thank the Attorney General for dispelling any fears that we and the judges might have regarding salaries, as outlined in this Bill. I am sure that the judges will be only too glad to know that this is an interim measure and that in due course consideration will be given to appropriate salaries for them.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

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

Senate resumed.

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

BILL BROUGHT FROM THE HOUSE

Government Securities Bill

Bill to repeal and replace the Trustee Investments in Government Securities Ordinance, Ch. 34. No. 4.—[*The Attorney General*]. Read the First time.

Motion made and Question proposed, That the next stage be taken forthwith. [The Attorney General].

Question put, and agreed to.

The Attorney General : Mr. President, I beg to move,

That a Bill to repeal and replace the Trustee Investments in Government Securities Ordinance, Ch. 34. No. 4; be now read a Second time.

I shall be very brief with this Bill, Mr. President. Essentially, what it seeks to do is to make legislative provision for the contractual obligation resting in this Government, to provide security for certain stockholders who may have invested in Trustee stocks of the Government of Trinidad and Tobago in the United Kingdom. The real point of the Bill is in clause 4, which makes provision that any money available to the Government of Trinidad and Tobago shall be available to meet any judgment, decree, rule, or order of a Court in the United Kingdom.

Clause 5 states that a certificate specifying the sum paid under order of any court referred to in section 4 to satisfy any such final judgment, decree, rule or order and issued by the agent in the United Kingdom of the Government of Trinidad and Tobago authorised to make such payment shall be sufficient authority to the Auditor General or other officer having the auditing of the accounts of such agent for passing such sum without further appropriation.

11.45 a.m.

The past history of this sort of Bill is a rather complicated one, but if I may put the position in a few words, it is this: that by a series of Stock Acts of the United Kingdom certain securities of certain overseas Governments are placed on a list, and the fact that they are placed on that list entitles them to be regarded as gilt-edged securities in which a trustee can safely invest. And it is right therefore that the position of such Stock should be protected.

We have on our Statute Books at the moment the Trustee Investments in Government Securities Ordinance which seeks to do some of those things, but because of the

Public Holidays

Saturday, 25th August, 1962

(Amendment) Bill

[THE ATTORNEY GENERAL]

changed Constitutional position of the Territory certain provisions of that Ordinance no longer apply; and that is what this Bill seeks to do, to make law what is really a contractual obligation on the part of the Government. That is as regards existing Stock and as well as future Stock.

Now, it will always be open to a Government and to a Legislature to pass legislation which may possibly alter some of the conditions under which such Stock will issue, and a convention has grown up, which has been accepted by the Treasury of the United Kingdom, that a Government on attaining independence may enter a special agreement with the British Government whereby any such legislation will be discussed with them, and until some agreement is reached on the matter such legislation will not be submitted for assent.

In the case of Colonial Territories, the provision normally is that such assent should not be given to any such Act. But such a provision is obviously inappropriate to an independent Territory, and many countries have adopted the procedure of entering a special agreement to deal with that matter. As a matter of fact, that is what Jamaica has done. That is the most recent I can call to mind. Jamaica has followed the same procedure, and that is what we propose to do.

That, however, does not affect existing Stocks. Existing Stocks are protected by this Bill, and Government has sought to pass this into law before the 31st August in order to give assurance to everyone that there will be no deterioration in the value of these Stocks on the open market, or nothing that may cause a decline in the credit of this country.

So, this Senate is asked to pass this Bill as one step towards assuring and confirming

the financial guarantees which stockholders have every reasonable right to expect.

I beg to move that this Bill be read a Second time.

Question proposed.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

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

Senate resumed.

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

BILL BROUGHT FROM THE HOUSE**Public Holidays (Amendment) Bill**

Bill to amend the Public Holidays Ordinance, Ch. 42. No. 1. [*The Attorney General*]. Read the First time.

Motion made and Question proposed, That the next stage be taken forthwith. [The Attorney-General].

Question put, and agreed to.

The Attorney General (Senator Richards):

Mr. President, I fear that members of the Senate are getting tired of hearing my voice, so I would like to assure them that we will have a break at the end of consideration of this Bill.

I have the honour to move,

That a Bill to amend the Public Holidays Ordinance, Ch. 42. No. 1, be read a Second time.

There is no need to say much on it. When one considers what is the public holiday proposed, namely, the 31st of August, one

has almost said all that is required to be said. It is most fit and proper and will meet with universal acceptance that the day on which we attained independence should become a fixed public holiday.

11.55 a.m.

The position in regard to public holidays, Mr. President, is this : in the existing Ordinance there is a schedule in which the fixed holidays are stated, and in addition to that there is provision for the Governor to declare certain days to be public holidays. All that is proposed here is that a single line be added to the schedule of the existing Ordinance whereby the words "Independence Day," that is, the 31st August, be inserted. That appears in clause 2 of the Bill. There is really nothing else, Mr. President, and I am sure that, as a people who treasure and value our holidays, especially a day like this which is likely to be associated with thrilling and pleasant memories for the rest of our lives, we would like to see this day receive the treatment that is now being proposed.

I beg to move.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

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

Senate resumed.

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

12.00 noon : Sitting suspended.

BILL BROUGHT FROM THE HOUSE

Colonial Secretary Incorporation (Dissolution and Transfer of Functions) Bill

Bill to provide for the dissolution of the Chief Secretary Corporation, for the vesting of the assets of the Corporation, and for the transfer of the functions, duties and powers of the Chief Secretary and for matters consequential thereon.—[*The Attorney General*].
Read the First time.

Motion made and Question proposed.
That the next stage be taken forthwith.
[*The Attorney General*].

Question put, and agreed to.

The Attorney General (Senator Richards):
Mr. President, I beg to move.

That a Bill to provide for the dissolution of the Chief Secretary Corporation, for the vesting of the assets of the Corporation, and for the transfer of the functions, duties and powers of the Chief Secretary and for matters consequential thereon, be read a Second time.

As members of the Senate will be aware, Mr. President, the constitutional changes of 1961 removed the necessity for the office of Colonial Secretary which later became Chief Secretary; and, as a matter of fact, that post has not been filled for some time. However, in the past not only was it a Public Office, but by virtue of certain functions attached to that office, and because it was necessary for the then Colonial Secretary to hold certain property it had to be incorporated, and the existing Ordinance incorporates the Colonial Secretary. He is what is known in law as a corporation sole. And therefore the functions of that Office cannot be performed unless the office is filled. With the constitutional changes, Mr. President, the functions of the

Colonial Secretary

Saturday, 25th August, 1962

(Dissolution) Bill

[THE ATTORNEY GENERAL]

Colonial Secretary, as Members of the Senate are aware, are distributed among the various Ministries, and there is no need whatever for this office to be perpetuated. But having been incorporated, it is necessary legally to dissolve the Corporation and make provision for the vesting of whatever assets the Colonial Secretary held on behalf of the Government to be vested in someone else. That is the purpose of the Bill.

I invite the attention of hon. Members to the explanatory note attached to the Bill which makes the position quite clear, and there is really nothing else to say on this Bill.

The property or assets held by the Colonial Secretary consists of movable property, property and land vested in the Sub-Intendant of Crown Lands on behalf of the Crown—movable property. If, for example, nothing were done in order to deal with such property, it would be necessary to appoint some one to that office in order to deal, let us say, with shares which he holds on behalf of the Crown. In view of the fact that constitutionally the office exists, that would be an anomalous situation that could not be permitted. Accordingly, this Bill seeks to do—in the note—to dissolve the Corporation and vest any property which he holds on behalf of the Crown to the right of the Government and that the Minister responsible may then deal with such property as may be required.

I do not think there is any further explanation required, Mr. President, except to say that the schedule attached to the Bill assigns to various Ministers certain of the functions which had been assigned to the Chief Secretary by the Government. This Bill is in accordance with the existing constitutional provisions whereby no functions are exercised by the Governor or will be exercised by the

Governor-General except on the advice of the Cabinet, or the Minister.

Question proposed.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

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

Senate resumed.

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

BILL BROUGHT FROM THE HOUSE

The Supplementary Appropriation Bill

Bill to provide for the Supplementary Appropriation to the Service of Trinidad and Tobago for the year ending on the 31st day of December, 1962.—[*The Attorney General*]. Read the First time.

Motion made and Question proposed, That the next stage be taken forthwith [The Attorney General].

Question put, and agreed to.

The Attorney General (Senator Richards): Mr. President, I beg to move,

That a Bill to provide for Supplementary Appropriation to the Service of Trinidad and Tobago for the year ending on the 31st day of December, 1962, be read a Second time.

Before I say anything further on the Bill, I beg to report that the presentation of this Bill has the authority of Cabinet and that, being a Money Bill, it was first presented to the other place and passed; and the Speaker has certified it to be a Money Bill.

1.55 p.m.

Mr. President, I am not on very familiar ground in presenting this Bill, but most of the details are contained in the Schedule. The Bill itself has three simple clauses the important one of which is clause 2 which provides that the sum not exceeding \$11,598,026 be charged on the Consolidated Fund for the service of the Territory for the year ending 31st December, 1962, and that such a sum be appropriated for the purposes expressed in the Schedule, and the Schedule, Mr. President, indicates under various heads the items that are contained in the continuation of the Schedule and the amounts which it is sought to appropriate. Most of this expenditure has been occasioned by the coming of independence. Apart from that, some of the expenditure has been on certain matters which could not be anticipated when the substantive Appropriation Bill for the year was passed.

I may comment just briefly, on some of the items. If Members will refer to page 3, for example, Head 3—Judiciary, it will be seen that the amount of \$15,400 is sought, and that explains itself, because that is mainly to meet the salaries of Justices of Appeal who have to be appointed.

Several of the other items are merely transfer items and they are really not new provisions. On the preceding page, page 2, under Head 6—Premier, the sum of \$2,859,913 is to be appropriated for the purposes set out, the largest single item of which is subhead 20 (c) being expenses incidental with the independence celebrations, and that represents a sum of close on \$1½ million. The other large items are for the provisions of salaries and allowances to staff at the offices of the Government of Trinidad and Tobago in London, Washington, New

York, Ottawa, Montreal. Members will be aware that with the coming of independence it will be necessary for us to have representation in those countries and provision necessarily has to be made for these offices.

Under subhead 20—Overseas Offices, it will be seen that there is a sizable item of roughly \$½ million which is necessitated by the need to acquire property for the residence of the High Commissioner in London, the Ambassador in Washington, and the Representative in Ottawa. These amounts, Mr. President, I assure you, have been carefully considered and the expenditure to be incurred is one that has been decided on only after a close survey of the existing market prices of property in these various cities. All over the world, Mr. President, the value of landed properties in big cities has gone up and it is obvious that to provide a residence suitable to the status and functions of an Ambassador or High Commissioner involves a considerable outlay of money. Prices that are expected to be paid are in keeping with the best possible prices obtainable in accordance with market values in those cities.

On page 6 of the Schedule it will be seen that an amount of \$215,000 is to be appropriated in connection with the supplementary water programme. That means that the water service has been extended to various areas which were not originally provided for but for which provision must be made in places like Diego Martin, Valsayn, El Socorro, &c.

Under the Ministry of Home Affairs, it will be seen on page 7 there is provision for temporary staff necessitated by recent activity in the Ministry of Home Affairs in connection, for example, with the setting up of the National Guard and other such matters consequent on the attaining of independence.

Supplementary

Saturday, 25th August, 1962

Appropriation Bill

[THE ATTORNEY GENERAL]

On page 8 there is an item of \$867,835—Ministry of Agriculture and Commerce, mainly to be spent as shown under subhead 39, item 30, to enable the Cocoa Board to carry out operations during the remaining part of the year, and the Marketing Board. Then there is an amount of \$2,700,000 on page 10 that is provided to meet increased demands from the Advances Fund and in order to allow money to be advanced to bulk-purchasing departments. The only other large item I would draw to the attention of hon. Members, on the last page of the Schedule, will be the expenses in connection with the Trinidad and Tobago Defence Force. It will be seen that this represents an expected outlay of \$1,705,955.

Finally, there is an item of a little over \$1 million on page 4, under head 7—Federation—\$1,062,261, which represents the contribution of Trinidad to the Federation in respect of currency profits for the year 1961. This could not have been provided for in the substantive Appropriation Bill, Mr. President, because the amount had not then been ascertained. It is an obligation on the part of this Government to pay this amount in respect of currency profits in connection with the activities of the Eastern Caribbean Currency Board.

As will be seen, all these items are either, as I said before, items which could not have been anticipated or items which have been necessitated by the constitutional changes, and I accordingly invite members of this Senate to approve this Bill and to signify, by their approval, their acceptance of the necessity for the expenditure.

I beg to move.

Question proposed.

DOCUMENTS LAID

Public Accounts Committee Report

Senator Williams : Mr. President, I have the honour to present the Report of the Public Accounts Committee of the Legislature for the 1961-62 Session. I also move that the report be printed as a Senate Paper.

Question put, and agreed to.

TRINIDAD AND TOBAGO ASSOCIATION IN AID OF THE DEAF (INCORPORATION OF TRUSTEES) BILL

Order for Second reading read.

Senator Walke : Mr. President, I beg to move,

That a Bill to provide for the incorporation of certain persons into a body to be known as the Incorporated Trustees of the Trinidad and Tobago Association in Aid of the Deaf and matters incidental thereto, be now read a Second time.

It would be fitting at this juncture to inform Members of the history of the Association.

The prime mover of the organization was the late Rev. Fr. W. Gilbey who, on seeing the crying need for facilities for the handicapped members of our community, formed the Trinidad Association in Aid of the Deaf, the purpose of which was to secure funds and to arouse the public to the needs and welfare of these unfortunates. One year later, in 1943, the School for the Deaf was formally opened in premises kindly lent by Miss Audrey Jeffers. In 1946 the school was finally located on the site which it now occupies. Since those early days the school has made rapid strides.

In 1956 new buildings were erected at a cost of \$120,000, part of it being borne by Government. There is accommodation for over 60 children. The curriculum at the present time includes domestic science and woodwork. It is the stated aim of the Association to teach and prepare children to become useful members of the community to which they belong.

Tribute should be paid to the Board of Management as a whole, and to Mr. D. McBride, Miss Yuille, the first principal, and Miss Harper, the present principal, in particular for the sterling services they have rendered to such a worthy cause. There, are, however, many pressing problems that remain: lack of funds, the necessity of relying on public subscriptions, generous as they may be, for a great part of its revenue; the great demand for places, and the almost prohibitive cost of special equipment.

I take it for granted that Members of this hon. Senate have studied the Bill, but I would like, however, to invite attention to clause 8 on page 3, which states:

"The Incorporated Trustees shall at all times have a fixed address for the service of documents on the Incorporated Trustees; and such address and any change thereof shall be registered with the Registrar General."

"(2) Any document may be served upon the Incorporated Trustees by leaving the same at, or by sending the same by registered post to, the address as registered under subsection (1) of this section."

Also to page 4.

"Article 1 :

NAME

The name of the Association shall be The Trinidad Association in Aid of the Deaf."

"Article 2 :

AIMS AND OBJECTS

(a) To aid and improve the educational, industrial and social conditions of the Deaf and Dumb of the Colony of Trinidad and Tobago.

(b) To encourage and aid scientifically approved efforts for the prevention of deafness and the conservation or restoration of speech and hearing.

(c) To maintain and administer the affairs of any schools or kindred institutions which the Association may establish from time to time for the oral and vocational or other training of deaf and dumb children of this Colony.

(d) To assist the deaf and dumb to obtain and retain employment.

(e) To encourage and carry on any other activities that may be to the benefit and the interest of the deaf and dumb in this Colony."

I do not think the Bill needs any further explanation and I hope that hon. Senators will give it their full support.

1.15 p.m.

Question proposed.

Question put, and agreed to.

Bill accordingly read a Second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

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

Senate resumed.

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

Motion made and Question proposed, That the Senate do now adjourn sine die. [Senator D. Pierre].

FELICITATIONS

The Minister of Education (Senator D. Pierre): Mr. President, I think today is a very historic day in the life of this Senate. I can remember only too well that it was in this very Chamber, in December of last year, that you welcomed warmly the Members of this Senate and urged us to aspire to certain ideals. I am quite sure that I speak for all hon. Senators if I say that we have made an effort to live up to those ideals, and that we have maintained a very high standard of debate. And despite the fact that at times we differed, we were able to conduct our debates without any rancour.

Today, we have come to the end of one session. In a few days we will be an independent country and we shall enter upon a new session. The possibility is that we will have new Senators on the other side of this hon. Senate, and I can only hope that when the history of this country comes to be written, hon. Senators here, who have toiled and who have debated, would have so set a pattern that the Senate would have justified its existence, and would serve as a notable example to our successors.

On behalf of the Government and on my own behalf, I want to congratulate all the Senators who have participated in this session.

Senator Sir Patrick Hobson: Mr. President, I have the authority to speak on behalf of the three members of the Senate who

happen to be sitting opposite the Government, and I should like to associate us fully with the remarks which the Leader of the Senate has made. There is only one point on which I take slight issue with him, and that is where he referred to two sides of the House. In this Senate we do not sit on two sides of the House politically, although we may do so in effect.

1.15 p.m.

I have enjoyed immensely serving under your Presidency and I look forward to continuing to do so in the coming session. I am sure that the Senators who are sitting with me would like to say how proud we all are that we shall be moving into independence next Friday, and how much we look forward to serving our new nation.

Mr. President: Members of the Senate, just two words I wish to say. Thank you very much for your very kind words. I am grateful to you for making the job of President so pleasant and so easy. I look forward with pleasure to the session which comes into being in the next few days and which starts a new era in the life of this country. And also, I wish particularly to thank the Clerk of the Senate who has been particularly helpful to me in my post here as President of the Senate. Thank you very much.

Question put, and agreed to.

Senate adjourned accordingly.

Adjourned at 1.25 p.m.