HOUSE OF REPRESENTATIVES

Friday, June 12, 1998

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from three Members of this honourable House—the Member for Oropouche, the Member for Diego Martin West and the Member for Tunapuna who have asked to be excused from today's sitting. They are excused.

CONSUMER PROTECTION AND SAFETY BILL

Bill to amend the Consumer Protection and Safety Act, brought from the Senate [*The Minister of Trade and Industry and Consumer Affairs*]; read the first time.

INDICTABLE OFFENCES (PRELIMINARY ENQUIRY) (AMDT.) BILL

Bill to amend the Indictable Offences (Preliminary Enquiry) Act, brought from the Senate [*The Attorney General*]; read the first time.

PAPERS LAID

1. Report of the Auditor General on the accounts of the Post Office Savings Bank for the year ended December 31, 1986. *[The Attorney General (Hon. Ramesh Lawrence Maharaj)]*
2. Report of the Auditor General on the accounts of the Post Office Savings Bank for the year ended December 31, 1987. *[Hon. R. L. Maharaj]*
3. Annual report and accounts of the Unit Trust Corporation for the year ended December 31, 1997. *[Hon. R. L. Maharaj]*

   Papers 1 to 3 to be referred to the Public Accounts Committee.
4. The Water Improvement Rate (Point Lisas Industrial Estate) Order, 1998. *[Hon. R. L. Maharaj]*
5. The Water Improvement (Point Lisas Industrial Estate) Area Order, 1998. *[Hon. R. L. Maharaj]*
6. Green Paper for proposed energy policy for the Republic of Trinidad and Tobago. *[Hon. R. L. Maharaj]*

7. Working Paper on the reform of the management structure of the Parliament of Trinidad and Tobago. *[Hon. R. L. Maharaj]*

MANAGEMENT STRUCTURE REFORM (PARLIAMENT)

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, you will recall that the management of the Parliament Department was a matter of much deliberation by the House Committee of the House of Representatives in the 1996/97 session.

In its comprehensive report to the House of Representatives, the House Committee advised that the reform of the management structure of the department was long overdue and recommended an investigation into this matter. The recommendations of the committee were adopted by the House of Representatives on a motion moved and agreed to on November 6, 1997.

As you are aware, the Parliament Department, with the exception of the office of the Ombudsman, has its antecedence in the legislative department of the Office of the Colonial Secretary, which was in existence up to our attainment of independence in 1962. Very little organizational change of any significance has taken place since then. That, notwithstanding, the purpose of the department has always been to provide quality support services to the Parliament of Trinidad and Tobago.

The modern concept of parliamentary democracy presupposes that Parliament is serviced by an agency appropriately trained and equipped and that it must be separate and completely independent of the Executive. The principal reasons for this are the specialized nature of parliamentary work and the constitutional independence of Parliament. In addition, Mr. Speaker, as you are no doubt aware, parliamentary administration differs from standard concepts applicable in the general civil service. It is therefore not at all surprising that the current tendency in the Commonwealth is to appoint Parliament staff who will be exclusively employed and who are not civil servants.

Senior level transfers into Parliament from external agencies are only exceptionally successful, since it is evident by the aptitude and adaptability of such personnel that it is only relevant experience and training in parliamentary services which equip such staff for parliamentary duties.

Throughout the Commonwealth, parliamentary service at the level of table clerkship is a recognized profession. Apart from formal training, seminars, attachment to various Parliaments, the principal learning process of senior

parliamentary staff is on-the-job training. It is therefore relevant of an accumulation of experience which implies that it is usually only after several years in parliamentary services that parliamentary senior officials and other support staff mature into a full display of their value to their Parliament. Advisory services in support of the Chair and professional support assistance to Members on all sides of the House are the primary responsibility of all table clerks and secretaries general of Parliament.

Mr. Speaker, I am sure you will agree that no one should venture such advice to the Chair and to Members of the House without the relevant learning in parliamentary practice and procedures and a sound knowledge of primary legislation relevant to the business of Parliament.

The House Committee found that some Parliaments such as Westminster, India, Ottawa, Canberra and New Zealand have a large core of specialist staff in various areas. The House of Commons Administration Act of the United Kingdom, the Parliamentary Services Act of New Zealand and the Parliament of Canada Act provide for the independent staffing of Parliament. Amongst the small Parliaments of the Commonwealth, it was discovered that the Parliament Administration Act of Barbados provides for an independent parliamentary service and an internal management body composed of parliamentarians.

In Trinidad and Tobago, the members of staff of the Parliament are public servants and they are governed by the public service rules and regulations. They, therefore, are under the management of the executive arm of the state. It is important to recognize that public servants who are officers of Parliament are, by their attachment, bound by and, indeed have the benefit of the privileges and the immunities of Parliament. It can be argued that during their tenure in Parliament such persons are not answerable to any other person, authority or body outside of Parliament in respect of their employment, other than the court unless Parliament so provides. It can also be argued, Mr. Speaker, that interference by persons or bodies outside of Parliament in the performance of their duties may constitute contempt of the Parliament.

All Members of this honourable House will recall that the House Committee felt that it was past time for reform of the Parliament Department and recommended that there should be a thorough investigation into its management structure.

1.40 p.m

Mr. Speaker, the Cabinet of Trinidad and Tobago requested the Law Commission to prepare a working paper on the reform of the management structure of Parliament of Trinidad and Tobago. The Working Paper makes the following recommendations:

(a) that appropriate legislation be enacted to provide for the establishment of a Parliamentary Service Commission comprising the chairman of the Public Service Commission as chairman, the Speaker of the House of Representatives *ex oficio* or in his absence, the President of the Senate and three other members appointed by the President in his discretion;

(b) that the Parliamentary Service Commission be vested with the power to appoint persons to hold or act in positions falling under a Parliamentary Service, including the power to make appointments or promotion and transfer, confirm appointments and remove and exercise disciplinary control over persons holding such positions;

(c) the enactment of separate legislation to provide the establishment of a Parliamentary Service and for the classification of officers and to further provide for the establishment of a Parliamentary Management Board responsible for the administration and management of the Parliament of Trinidad and Tobago;

(d) that the Parliamentary Management Board be comprised of the Speaker of the House of Representatives as chairman, the President of the Senate, the Leader of the House of Representatives, the Leader of the Opposition, the Minister of Finance, two Members of the House appointed by the House of Representatives and two Members of the Senate appointed by the Senate; and

(e) that the accounts of the Parliament Department continue to be audited annually by the Auditor General.

Mr. Speaker, this Working Paper was considered by the House Committee of the House of Representatives and it agreed with it in principle. Cabinet considered the Working Paper and upon the recommendation of the Attorney General and Leader of the House, agreed that the Working Paper be laid in this House for it to be published as a House Paper and that a Joint Select Committee of Parliament be established to consider it.

It is therefore my honour to present this Paper to the House of Representatives today. In laying this Paper, I beg to move that in accordance with Standing Order 15(3) that it be printed as a House Paper.

Question proposed.

Question put and agreed to.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I also beg to move that a Joint Select Committee of the Parliament be established to consider the Working Paper, The Reform of the Management Structure of Parliament Department and to submit its report to Parliament thereon.

Question proposed.

Question put and agreed to.

ORAL ANSWERS TO QUESTIONS

Birk-Hillman
(Termination of Contract)

71. Mr. Colm Imbert *(Diego Martin East)* asked the hon. Minister of Works and Transport:

(a) Is the Government aware that the termination clause in the contract between Birk-Hillman and the Airports Authority for the design and project management of the Piarco Airport Development Project allows for termination of the contract at any time without any financial penalty?

(b) Is the Government aware that evidence was submitted during the Deyalsingh investigation which indicated that Birk-Hillman had misrepresented its experience record with regard to the design and/or supervision of construction of airports?

The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma): Mr. Speaker, the Government has been advised that the contract has no such clause as suggested. It contains a right of termination for convenience which carries with it damages and any other remedies applicable by law.

In High Court action No. 1202 of 1997, Madam Justice Warner declared that the Deyalsingh Committee in making its findings and recommendations in its report dated April 21, 1997 failed to observe the requirements of procedural fairness. This Government is committed to observe and uphold the rule of law and to be guided by the declarations and orders of the Court. In light of the declaration by the Court, the Government cannot act on the recommendations of the Deyalsingh Committee.

Part (c) of the question does not apply.

Piarco Airport Development Project
Performance Bond

72. Mr. Colm Imbert *(Diego Martin East)* asked the hon. Minister of Works and Transport:

(a) Is the Minister aware that the present Chairman of National Insurance Property Development Co. Ltd. (NIPDEC) promoted Birk-Hillman as the Consultants for the Maritime Financial Group in presentations made during the tender evaluation exercises for the Piarco Airport Development Project during the 1992—1995 period?

(b) Is the Minister aware that the Maritime Financial Group provided the Northern/Yorke/Coosals (NYC) Consortium with an unprecedented 100% Performance Bond in the sum of over $200 million for its tender for the Terminal Building in the Piarco Airport Development Project?

(c) Is the Minister aware that this unprecedented 100% Performance Bond was not requested in the tender documents?

(d) Is the Minister aware that the unprecedented 100% Performance Bond was used as a basis to award the contract to the NYC Consortium for the Terminal Building, despite the fact that the NYC Consortium did not rank as highly as other tenderers in other important areas of the tender evaluation exercise?

(e) If the answer to parts (a), (b), (c) or (d) is in the affirmative, does the Minister still believe that the present Chairman of NIPDEC, who is a senior official of the Maritime Financial Group, is not in a conflict of interest situation in the present negotiations with Birk-Hillman and the NYC Consortium for contracts on the Piarco Airport Development Project?

The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma): Mr. Speaker, it is public knowledge that in 1992 and 1993, in response to a request for proposals by the Airports Authority of Trinidad and Tobago, Maritime, Birk-Hillman Consultants, Smith Barney, Lehman Brothers Division, Citibank Trinidad and Tobago Limited, Royal Merchant Bank and Finance Company Limited, the National Commercial Bank of Trinidad and Tobago, Republic Finance and Merchant Bank Limited and Bank of Nova Scotia of Trinidad and Tobago made a proposal which was rejected and an award was made in favour of a proposal by Pegasus. In spite of many postponements and

accommodations, Pegasus was unable to provide the promised finance as a result of which not only was valuable time lost, but much money was spent uselessly.

In the Government has been advised that in accordance with requirements of the request for proposals, Maritime as well as other institutions provided to their respective clients bonding requirements in their submission.

On examination of the tender documents for the project, they do not appear to preclude the submission of a 100 per cent performance bond.

Mr. Speaker, I was not aware of this statement. The procedure for the evaluation of tenders for this or any other project does not provide for the Ministry of Works and Transport to be involved in the evaluation process.

The answer to part (e) of the question is no. However, to avoid any perception of a conflict of interest, the general management of the National Insurance Board, a member of the board of NIPDEC, was nominated to take on the role of chairman of NIPDEC in all matters pertaining to the Airports Project.

Thank you.

Auditor General's Report (Outstanding Advances)

82. Mr. Hedwige Bereaux *(La Brea)* asked the Minister of Finance:

(a) Could the Minister of Finance and Minister of Tourism state who are the 10 persons responsible for the "outstanding advances" which are mentioned at paragraph 6.70 of the Auditor General's Report on the finances of the Republic of Trinidad and Tobago for the year 1994?

(b) Could the Minister also inform the House of the amounts outstanding by each individual?

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, the ten persons who are responsible for the "outstanding advances" which are mentioned at paragraph 6.70 of the Auditor General's Report on the finances of the Republic of Trinidad and Tobago for the year, 1994 are as follows:

1. Mr. Hart Edwards
2. Dr. Vincent Moe
3. The Hon. Basdeo Panday
4. Mr. Leo Seebaran

5. Mr. John Nunez

6. Mr. Knowlson Gift

7. Mr. Basdeo Maharaj

8. Mr. Egbert Pierre

9. Dr. Alan Butler

10. Mr. Frank De Matas

The amounts outstanding to date are as follows:

1. Mr. Hart Edwards, $41,260.81

2. Dr. Vincent Moe, $82,791.63

3. Mr. John Nunez, $50,000

4. Dr. Alan Butler, $24,700.90

5. Mr. Frank De Matas, $34,581.33

Mr. Speaker, the advances to Messrs. Leo Seebaran, Egbert Pierre, Basdeo Maharaj, Knowlson Gift and the hon. Basdeo Panday have been cleared.

Reminders have been sent by the Comptroller of Accounts to the five persons with outstanding accountable advances to have the account settled expeditiously.

Mr. H. Bereaux: A supplementary question Mr. Speaker, could the Minister say when these advances were cleared?

Hon. G. Singh: Mr. Speaker, I am not in possession of that information. What I have is that these outstanding advances have been cleared.

Mr. H. Bereaux: Would the Minister undertake to supply that information in writing on another occasion?

Tobago House of Assembly
(1998 Development Programme)

84. Mr. Fitzgerald Hinds *(Laventille East/Morvant)* on behalf of **Dr. Keith Rowley** *(Diego Martin West)* asked the hon. Minister of Finance:

(a) With respect to Head 15—Tobago House of Assembly under the 1998 Development Programme, could the Minister state what percentage of

the approved amount has been transferred to the Tobago House of Assembly as at May 15, 1998?

(b) Could the Minister further state what percentage of the amount approved by Parliament would be available to the Tobago House of Assembly by June 30, 1998?

(c) Could the Minister also advise whether there are difficulties in effecting these transfers in a timely manner, and if so, could he outline these problems and state how he proposes to deal with them?

The Minister of Public Utilities and Acting Minister of Finance (Hon. Ganga Singh): Mr. Speaker, with respect to Head 15, the Tobago House of Assembly: Under the 1998 development programme, 12.3 per cent of the approved amount has been transferred to the Tobago House of Assembly as at May 15, 1998.

It is anticipated that 50 per cent of the amount approved by Parliament would be available to the Tobago House of Assembly by June 30, 1998 provided that the Tobago House of Assembly complies with the requirements for the release of funds. These requirements are embodied in the Ministry of Finance Circular No. 1, dated January 2, 1998 and the Comptroller of Accounts Circular, dated March 20, 1998.

Difficulties are being experienced in effecting these releases in a timely manner. Effecting releases in a timely manner is dependent upon timely requests accompanied by the required status report, implementation schedules and monthly expenditure reports pursuant to the Ministry of Finance Circular No. 1, dated January 2, 1998 and the Comptroller of Accounts Circular No. 8, dated March 20, 1998.

In 1998, the Tobago House of Assembly has not been complying with the requirement to provide reports and data on projects. The information required is in keeping with the provisions of the Exchequer and Audit Act and the Financial Regulations. The Tobago House of Assembly is therefore subject to the Exchequer and Audit Act and all the safeguards therein contained. The Exchequer and Audit Act is not repealed or amended in any way by the Tobago House of Assembly Act except where expressly provided.

By the Ministry of Finance Circular No. 1, dated January 2, 1998, the Tobago House of Assembly *inter alia* was informed of the requirements for release of funds under the Development Programme, namely a statement of the status of each

project as of December 31, 1997 and an appropriate implementation schedule on a monthly basis setting out the main activities of each project to be undertaken and the related cost of each activity for the period ending December 31, 1998. This schedule is to be used to evaluate all subsequent requests for releases in 1998. The deadline date for submission of the requirements was January 31, 1998.

Two meetings had been held between the Tobago House of Assembly and the Minister of Finance on May 1, 1998 and May 6, 1998 to discuss *inter alia* the non-release of funds for capital projects since only an amount of $9,862,500 from the Consolidated Fund had been released thus far in 1998 with an outstanding request of $22,189,000 for disbursement from the Infrastructural Development Fund.

The Infrastructural Development Fund does not form part of the approved 1998 appropriation. This fund is under the control of the Minister of Finance. The Comptroller of Accounts Circular No. 8, dated March 1998 sets out the requirements for release of funds from the Infrastructural Development Fund which are basically the same as for the Consolidated Fund.

It was pointed out to the Tobago House of Assembly that the reason for the non-release of the development fund programme funds was the non-submission of the required information which constitutes a breach of the Exchequer and Audit Act and the Financial Regulations.

The Tobago House of Assembly staff indicated that they were in the process of preparing the reports and schedules, but the exercise was taking longer than anticipated.

1.55 p.m.

Mr. Speaker, to date the information has not been submitted. On May 8, 1998, the promised date for submission of the documents, the Budget Division of the Ministry of Finance contacted the Tobago House of Assembly and was informed that the information was not yet available. On the afternoon of Wednesday, June 10, 1998, the Ministry of Finance received some data from the Tobago House of Assembly and is now in the process of reviewing the documentation. On completion of the review of the documentation received, and providing it conforms to the requirements of the circulars issued, the Minister of Finance would approve a release of funds. Further releases under the development programme would be made to the Tobago House of Assembly as soon as the required documentation is submitted to the Ministry of Finance.

Mr. Speaker, you will agree that accounting for the use and management of public funds is a necessary safeguard. What is required of the Tobago House of Assembly in this regard does not constitute any new imposition since this information, as in the past, has been provided by the Tobago House of Assembly on an annual basis.

Mr. Hinds: Mr. Speaker, a supplemental question, please? Notwithstanding the explanation given, does the Minister anticipate that this position would adversely affect the capital projects, general development and, therefore, employment in Tobago?

Hon. G. Singh: Mr. Speaker, what is required is conformity with the necessary audit, exchequer and accounting requirements. This is the stated position of the Minister of Finance.

COHABITATIONAL RELATIONSHIPS BILL

Order for second reading read.

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

> That a bill to confer on cohabitants rights and obligations, to give the courts jurisdiction to make orders with respect to interests in property and maintenance, to make provision for the enforcement of agreements and for matters incidental thereto, be now read a second time.

This Bill seeks to confront the realities of conjugal life in Trinidad and Tobago and attempts to redress some of the injustices and hardships caused when parties to common-law unions do not recognize their obligations to each other.

In Trinidad and Tobago and in many of the West Indian islands there has always been a high percentage of common-law unions among persons from particularly lower income groups. In the last three decades such unions have increased to noticeable proportions among persons in the middle income group.

It is part of our social landscape, however, that these common-law unions exist and, therefore, governments have to recognize the realities of these relationships. The realities of the existence of these relationships include that they produce children and that these relationships form part of families. These facts have forced the hand of governments and parliaments to confer rights and impose duties on parties to these non-marital relationships.

Mr. Speaker, Canada, Australia, New South Wales and Barbados are some of the countries which have passed this kind of legislation to enforce the obligations and duties which parties to these relationships have to each other. The aim of these legislative measures is really not to give legal status to the relationship, to take away the rights of the legal spouse or to equate a cohabitational relationship with a marriage, it is to recognize obligations which parties have to each other and to provide a legal framework for these obligations to be enforced.

The aim of this legislation, therefore, is to prevent and remedy injustices and hardships caused by parties to these relationships who do not recognize or carry out their obligations to each other. A government cannot ignore the sufferings caused to parties to these relationships and to the children of these relationships when there is a breakdown of the relationships and the parties neglect their responsibilities. Ignoring these realities could produce adverse effects on the social life of a country and produce negative effects to national development.

When there is a breakdown of such relationships, important questions of property rights and dependency arise. I would illustrate the injustices caused by giving an example of a common case: A man and a woman start a common-law relationship, the woman becomes pregnant—at the time of the commencement of the relationship the man and the woman do not own any property and they do not have much personal wealth—the relationship continues and, although they started the relationship before they were living with each other, pregnancy arises and they decide to live with each other under one roof. Children are born, the man continues to work and the woman leaves her job in order to see about the home and the family. The woman sees about the household, prepares the meals, does the washing and ironing of the clothes and all the necessary matters which a wife would normally do and as a result of the thrift and enterprise of both parties they acquire wealth, including getting a home and having money in the bank.

Mr. Speaker, as life is real the man—after a few years living together, there are children and the wife is living at home—gets another woman and decides that he wants to evict the woman and the children from the house. Under the present law the woman does not have any right to claim any maintenance from the man. Under the present law even though the woman would have given up her job, performed the household chores, she would not be able to have a share in the property unless she could establish in the court that there was a trust, which would include proving there was a common intention, by both parties that she should have a share in the property.

2.05 p.m.

What happens therefore, is that the woman and children are at grave disadvantage and one knows that such disadvantage can affect the lives of people, not only with regard to the education of the children, but in relation to the life of mothers.

Among the things that this Bill does is that it provides that at the instance of a party to such a relationship, the court is empowered, not only to make a maintenance order against the other cohabitant, but also to make an order in respect of property rights to alter and transfer to the applicant a share of the property belonging to his or her *de facto* partner. I say his or her because this law gives the right to either the man or the woman to make the application, because it would depend upon who was done the injustice. It also imposes on a female *de facto* spouse the equal responsibility to maintain, not only her children, but her male partner if the circumstances warrant it.

Mr. Speaker, under clause 21 of the Bill, one would see the powers of the court in situations like these. One would see that the court would have the power to—

"(a) order the transfer of the property;

(b) order the sale of the property and the distribution of proceeds of sale in such proportions as the court thinks fit;

(c) order that any necessary deed or instrument be executed and that documents of title be produced or such other things be done as are necessary to enable an order to be carried out effectively;

(d) order payment of a lump sum;

(e) order payment of a weekly, monthly, yearly or other periodic sum;

(f) appoint or remove trustees;

(g) make an order or grant an injunction in relation to the use or occupancy of the home occupied by the cohabitants;

(h) ...order that the lease be assigned;

(i) make any order or grant any injunction which it considers necessary and which it is empowered to make or grant under any other law."

Mr. Speaker, what this Bill is doing is giving to a cohabitant the right to apply to the High Court for a property order—an order in respect of the share in

property—and the court will have the power, looking at all the circumstances of the case, not only to make an order giving the lady or the man as the case may be, his or her rightful share in the property, but can also make an order in the form of an injunction to prevent either party from evicting or preventing the party from being in the family home.

So, it is a far cry from what is the present situation. As I said, at the present, if there is such a situation, the wife or the husband would be very in order to establish a trust. What can be said however, is that although the statutory law has not been in place, the courts have found a way by using the device of a trust to try to give justice to parties in such situations.

The conditions upon which an order for maintenance or an order for an adjustment of property will be made, according to clause 7, are that the court must be satisfied that—

"(a) the applicant lived in a cohabitational relationship with the respondent for a period of not less than five years; or."

So there must be proof that this relationship existed for at least five years. It continues:

"(b) the applicant has a child arising out of the cohabitational relationship; or

(c) the applicant has made substantial contributions of the kind referred to in section 10,"

Mr. Speaker, when one looks at clause 10, one would see that the considerations which the court would take into account would be:

"10. (1) On an application for an adjustment order, the High Court may make any such order as is just and equitable, having regard to—

(a) the financial contributions made directly or indirectly by or on behalf of the cohabitants to the acquisition or improvement of the property and the financial resources of the partners; and"

So the court would examine to see what financial contributions the wife made, directly or indirectly, to the acquisition of the financial resources of the partner. The court would also consider:

"(b) any other contributions, including any contribution made in the capacity of a homemaker or parent, made by either of the cohabitants to the welfare of the family constituted by them;"

This Bill recognizes that if a common law wife does not bring in money, but because of the performance of her duties as a parent and what she does in the household to keep the house going, to nurture the family, to keep it together, to cook and wash, those are matters which can be taken as a contribution in order for her to get an interest in the property.

Mr. Speaker, may I say that persons who have studied this Bill and know the principles of it, would recognize that this principle is even done under the existing law with respect to husband and wife. Under the Matrimonial Proceedings and Property Act, where there is an application for a share in property, the court conducts an investigation, investigates and determines what kind of contributions are made by either party in order to determine whether a party is entitled to one-third, two-thirds, three-fifths, three-quarter, or one-quarter, as the case may be.

So, the court must be satisfied with any of these three matters—the five year period; that there is a child of the relationship or that the party has made substantial contributions. The court must be satisfied, not only with any of those three matters, but additionally, that the failure to make the order would result in grave injustice to the applicant. So one sees that the judiciary, the courts, are being given the power, the discretion, to investigate and determine the legal and equitable rights of parties in relation to the contributions which they have made in order to prevent injustices and hardships.

Mr. Speaker, there is a statutory time limit in clause 8 of two years after the parties have ceased to live together for the application to be filed, but the court has the power to extend the time if the court is satisfied that not to do so would cause undue hardship to the cohabitants, or to a child of the relationship. According to the legislation, the aim is for the courts to make orders which would, as far as is practicable, end the financial relationship and avoid further proceedings between the parties.

One would see that maintenance is dealt with at clauses 14 and 15. Clause 15(1) states:

> "A court may make a maintenance order, where it is satisfied as to one or more of the following matters:
>
> (a) that the applicant is unable to support himself adequately by reason of having the care and control of a child of the cohabitational relationship, or a child of the respondent, being in either case, a child who is—

(i) under the age of 12 years; or

(ii) in the case of a physically disabled or mentally ill child, under the age of 16 years."

So that is one of the matters which the court must consider to be satisfied in order to make a maintenance order. It goes on:

"(b) that the applicant's earning capacity has been adversely affected by the circumstances of the relationship, and in the opinion of the court a maintenance order would increase the applicants earning capacity by enabling the applicant to undertake a course or programme of training or education; and"

Well, this is very important. Because in many of these relationships the common law wife or the woman would have to give up her job, she would also give up opportunities for training and further education and, therefore, she would have to give this up in order to see about the household. Therefore, when there is a termination of the relationship, this law is to try to put her in an equitable or in as just a position as possible by the court considering that matter and trying to redress the situation so that this would be one of the matters to consider in relation also to the quantum of the maintenance. It continues:

"(c) having regard to all the circumstances of the case, it is reasonable to make the order."

So one sees that the court would be satisfied in one or any of these matters, and it gives the court a wide discretion in determining whether a maintenance order can be made, but a wide discretion limited to specific criteria.

Clause 15(2) also states what other matters the court would consider.

"In determining whether to make a maintenance order and in fixing the amount to be paid pursuant to such an order, the court shall have regard to—

(a) the age and state of health of each of the cohabitants;

(b) the income, property and financial resources of each cohabitant and the physical and mental capacity of each cohabitant for appropriate gainful employment;

(c) the financial needs and obligations of each cohabitant;

(d) the responsibilities of either cohabitant to support any other person;

(e) the terms of any order made under section 10 with respect to the property of the cohabitants;

(f) the duration of the relationship;

(g) a standard of living, that in all the circumstances is reasonable;

(h) the extent to which the applicant has contributed to the income, earning capacity, property and financial resources of the other cohabitant;

(i) the terms of any order made by a court in respect of the maintenance of a child or children in the care and control of the applicant;

(j) any fact or circumstance that, in the opinion of the court, the justice of the case requires to be taken into account."

So it is not that the court can roam at large without any guidelines or any criteria; the court would have to consider the state of health of both parties, the earning capacity, what their obligations are, and to come up with something that would serve the justice of the situation, bearing in mind the injustice which has been suffered by the applicant, but also bearing in mind the capacities and the capabilities of the other party.

2.20 p.m.

Mr. Speaker, it is important to note that under clause 17 it states:

"(1) The court may not make a maintenance order in favour of a cohabitant who has entered into a subsequent cohabitational relationship or who has married or remarried."

It does not allow persons who are cohabitants and may be victims, to make money of the situation. It is a law to provide for the needs of the individual.

Clause 17 also states:

"(2) A maintenance order shall cease to have effect on the marriage or remarriage of the cohabitant in whose favour the order was made."

Therefore, if a person remarries or gets married that is the end of the order.

Clause 18 states:

"(1) Where, before an application for maintenance is determined, either cohabitant dies, the application shall abate.

"(2) A maintenance order shall cease to have effect on the death of either of the cohabitants."

One sees quite clearly that the message which the legislation sends is really to provide for the maintenance of the person while that person is in need and suffering from the injustice and hardship which the other party has caused.

Under clause 19 it states:

"(1) A maintenance order may apply for such period as may be determined by the court, but shall not exceed three years from the date on which the order was made."

Thus, the law is placing a maximum time limit for the order, but it also gives a discretion for the court to make an order for less than three years. In clause 19(2) where the court makes a maintenance order on being satisfied only that the applicant has the care of the child, the order would cease to have effect if the applicant no longer has the care and control of the child. Again, the efforts being made by the legislation to provide a means of getting support for the applicant in time of need, can be seen.

Under clause 20 the court is given the power on the application of either cohabitant to vary—that is to increase, decrease or revoke—an order. Under 20(2) where the court makes an order for a period less than the three years, it is given the power to extend the order.

Mr. Speaker, clauses 11 and 12 deal with situations which the court has in relation to a change in circumstances insofar as property matters are concerned. Under clause 11 it states:

"11.(1) Without limiting the power of the court to grant an adjournment in relation to any proceedings before it, where on an application by a cohabitant under this Part for an adjustment order, the court is of the opinion -

(a) that there is likely to be a significant change in the financial circumstances of the cohabitants, or either of them, and that having regard to the time when that change is likely to take place, it is reasonable to adjourn the proceedings; and

(b) that to make an order with respect to the property of the partners when the changed financial circumstances occur is more likely to do justice than an immediate order, the court may, upon an application

by either cohabitant, adjourn proceedings to such time as the court thinks fit."

Under clause 12 it states:

"12. Where the court is satisfied that a cohabitant in respect of whom an adjustment order is made is entitled or likely to become entitled to property which may be applied in satisfaction of the order, the court may defer the operation of the order until such date, or the occurrence of such event, as is specified in the order."

In other words, if it is that the parties are going to get money and the court knows about it, the court would not want to make an order unless it knows of all the circumstances of the matter.

It is significant to note that under clause 13 there is the question of protection of the rights even on the death of the applicant, insofar as property matters are concerned. It says:

"13. (1) Where, before an application for an adjustment order under section 6 is determined, either party to the application dies, the application may be continued by or against the legal personal representative of the deceased party."

Clause 13(2) goes on to state that:

"...the court may make an order in respect of that property.

It says in clause 13(3):

"An order made under this section may be enforced on behalf of, or against the estate of the deceased party."

One sees that if there was an application filed and before it is determined the applicant dies, that does not abate the matter insofar as the property rights are concerned. The court can make the order as against the estate.

It is significant to deal with that clause and link it with clause 30 which deals with separation agreement. Under this clause one sees that where there is an agreement between the parties relating to the agreement to provide a lump sum payment of property, these rights can be enforced against the estate of the deceased partner.

The Bill also provides machinery for cohabitation and separation agreements to be registered. That is dealt with in Part IV of the Bill, where cohabitation agreement is defined.

"'A separation agreement' means an agreement whether made before or after the commencement of this Act, which makes provision with respect to financial and other matters and includes an agreement which varies an earlier cohabitation agreement or separation agreement."

Under clause 24:

"24. (1) A man and a woman who are not married to each other may enter into a cohabitation agreement or a separation agreement for the purpose of facilitating their affairs under this Act.

In effect, what it says is, two persons who are cohabiting can enter into an arrangement and the court can take notice of that. But it is interesting to note that the rights of children are not only subject to the agreement because clause 24(2) states:

"Nothing in a cohabitation agreement or separation agreement affects the power of a court to make an order with respect to the right to custody in relation to the children of the parties to the agreement."

It has always been the function of the court to determine what is in the best interest of the child, and this is merely stating the existing principle that, notwithstanding any agreement that is entered into, the court still has the jurisdiction to determine what is in the best interest of the child.

It states in clause 25(2):

"If the parties to a cohabitation agreement marry each other, the agreement shall be unenforceable."

In other words, it would come to an end and would not be enforceable.

Mr. Speaker, also significant in clause 28(1):

"Where on an application by a cohabitant for an order under Part III, a court is satisfied that -

(a) there is a cohabitation agreement or separation agreement between the parties...

...but the court is not satisfied as to any one or more of the matters referred to in subsection (1), the court may make such order as it could have made, if there was not such agreement in existence."

Thus, it gives the court the power that notwithstanding what is put there, if it is not clear or the court cannot make sense of the agreement in accordance with legal principles, the court can determine rights and obligations as if the agreement did not exist.

Under clause 29 it states:

> "On an application by a cohabitant for an order under Part III, the court may vary or set aside one or more of the provisions of a cohabitation agreement, where in the opinion of the court, the circumstances of the partners have so changed, that it would lead to a grave injustice, if the provisions of the agreement or any one of them were to be enforced."

What this Bill does not attempt to deal with in a related matter, is if a person dies intestate, which means if the person dies without a will, or if a person dies and his will only covers a part of his property. The law of intestacy would apply to that part of the property—or if he dies intestate—to the whole of his property.

Property goes to the person's spouse if there are no children. If there are children they take two thirds of the estate and the surviving spouse takes one third. The law of intestacy is based on the assumption of legitimate relationships so that in relation to those matters, even though there are children of these relationships, there may be difficulties in getting part of the estate.

The Succession Act of 1981 which was passed in this Parliament but has not yet been proclaimed, was an attempt to deal with some of those injustices. When this administration took office, this was one of the non-proclaimed laws that the Government had been looking at and recognizes that in relation to that aspect, the law must either be proclaimed or a new Bill drafted to give effect to some of the matters contained in that Act. Even where a person dies and leaves no provision for children or for family, those lawful children or members of the family can apply to the court for some sort of provisions to be made under the legislation, but here again does not provide for illegitimate children. The Succession Bill and its contents was an attempt to deal with some of those matters.

It is not that the laws in Trinidad and Tobago have not recognized that there are instances, where, although they are not lawful children they should benefit. On page 4 of the Working Paper one sees that there are many laws in Trinidad and Tobago which recognize the children or spouse of a cohabitational relationship. Under the Rent Restriction Act, Chap. 59:50, section 2, defines a tenant to include:

"(b) The widow of a tenant who was residing with him at the time of his death, or, where a tenant leaves no widow or is a woman, such member of the tenant's family as was residing with the tenant for not less than six months immediately before the death of the tenant..."

This definition enables a common-law spouse to retain possession of premises subject to rent restrictions and to have *locus standi* before the Rent Restriction Board.

I said this in order to refute any suggestion that this law is meant to destroy the sanctity of marriage. This law is not intended to do that. Any objective look at this law would show that it is meant to give protection to the product of these relationships. Under the Workmen's Compensation Act, section 4 provides for the payment of compensation to dependants of a workman. "Dependant" is defined so as to include: "a dependant female". The Act makes its intention very clear and defines "a dependant female" to mean:

"...a woman who, for not less than twelve months immediately before the date on which the workman died or was incapacitated as a result of the accident, although not legally married to him, lived with him as his wife and was dependent wholly or in part upon his earnings."

2.35 p.m.

Mr. Speaker, here again under the Workmen's Compensation Act, the laws of Trinidad and Tobago give recognition to the obligation to give to common-law spouses, in certain circumstance, rights to which they are entitled.

For the purposes of the National Insurance Act the executive director may, for the purpose of extending benefits, treat a single woman who was living with a single man as his wife at the date of his death as if she were in law his widow. Here again we see that the landscape of the law gives recognition to the rights of common-law spouses.

Mr. Speaker, the Domestic Violence Act affords protection to as wide a class of persons as possible. Section 2 defines the words ‘spouse’ to include a former spouse, a *de facto* spouse who is a common-law spouse and a former *de facto* spouse thus enabling persons involved in common-law relationships to take advantage of the provision set out in the Act and to be entitled to the granting of a protection order by the court. There are others but I do not think it is necessary to go into those matters.

It is important to recognize that this legislation did not come overnight. This legislation was in the making for some time and I think it is fair to say I am informed by the Law Commission that in 1994 when the Commission was planning its three-year reform programme for the years 1995—1998, it agreed that this would be one of the specific subject areas which would be included in its family law programme along with other important areas of family law in need of significant reform such as adoption, child support and domestic violence. It is my duty—and I think the Minister of Legal Affairs ought to be commended—to state that on taking office I was informed that the Law Commission had been given instructions by her as Attorney General to expedite its research in this area and to prepare a paper outlining the necessary reform. [*Desk thumping*] By June of 1996 the commission was able to comply and submitted its recommendations in the form of a Green Paper entitled *Cohabitational Relationships: Towards the Reform of the Law.* In order to ensure greater acceptability of its recommendations, the commission, on the agreement of Cabinet, engaged in a consultative process and in August of 1996 published its paper for public comment and discussion. Comments received from the public were, indeed, favourable and many individuals and organizations, including the legal fraternity, welcomed the proposed policy enunciated in the Green Paper. Early in 1997 the Cabinet accepted the recommendations of the commission and a draft Bill was formulated and that is how the Bill is before this honourable House.

Mr. Speaker, I think that this is a very historic day in the Parliament because apart from Barbados, which has similar legislation, Trinidad and Tobago is the only other country in the region taking steps to protect the rights of persons as mentioned in the Bill. I think that I would like to end by quoting a part of the New South Wales Law Reform Commission in its 1983 outline reform on *de facto* relationships. At pages 5 and 6 of the report the commission had this to say:

> "The Policy of the law is not, and should not be actively to discourage de facto relationships, whether by withholding benefits, or imposing penalties. In a pluralist society people may choose to live together;
>
> - The basis for the intervention of the law in conferring rights or imposing obligations on de facto partners should be the minimization of injustice or the removal of anomalies;
>
> - It should not be assumed that the rights and obligations of de facto partners should be the same as those of married couples;

- Conflicting claims may be made by a person's legal spouse and by his or her de facto partner. In such cases the legitimate expectations of a spouse should be protected against claims of a party to a short term relationship;
- Where there are children - their welfare should be the primary concern;
- The requirement that the relationship should have continued for a specific period will be appropriate in some cases, but not in others."

This is an important aspect of law reform that affects the family and this administration has committed itself to the setting up of a family court.

May I mention that the Attorney General has been having discussions with the Chief Justice and it has been recognized by the rules committee that, apart from setting up the building as a court, what is necessary is for the rules to be changed in order to make the rules of court and the law more friendly in order to have conciliation instead of adversarial claims. I am happy to announce that there has been the completion of draft rules which considered countries like Canada and Australia which have reformed their family law rules and in a short space of time we would have a family court in Trinidad and Tobago with appropriate law and rules to ensure that family disputes, whether they be matters like these or matters involving adoption, custody and other related matters would be dealt with, not only in the atmosphere which such matters deserve to be determined, but would be determined with a legal framework which would promote conciliation instead of hostility between the parties.

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

Question proposed.

Mr. Fitzgerald Hinds *(Laventille East/Morvant)*: *[Desk thumping]* Mr. Speaker, I listened to the Attorney General as he piloted this very important and progressive legislation. I observed, however, that he was timorous and, at times, stuttering in his presentation. He reminded me of the Minister of Finance and I could only wonder why. Why? Perhaps later in this debate we will find out when we hear contributions from the Member for San Fernando West and, in particular, the Member for Diego Martin East who has an understanding of that Government and what informs a lot of their conduct. I am sure we may better understand why he sounded so much like the Minister of Finance.

Mr. Speaker, the Law Commission obviously put quite a lot of time and effort into this bit of legislation. That, indeed, is the function of a law commission. A law

commission is a body that reviews laws, sometimes on its own initiative, sometimes on the initiative of a government, sometimes on the initiative of the professional body, the Law Association and what have you. Indeed, in the United Kingdom individual practitioners, if they come across some situation in the law, some anomaly or some matter that they consider is worthy of attention, it is open to them to make a submission to the Law Commission. The Law Commission contemplates those submissions and, in the end, one winds up with improved legislation. I want to join the Attorney General in commending the Law Commission. One, of course, does not want to get into the talk about the history of legislation. But without knowledge of it and it is fascinating to note—I am glad the Attorney General pointed it out—that when they came to office they met this bit of legislation in the pipeline and it has come before this House today. I join the Attorney General in complimenting the Member for Siparia during her very short stint as Attorney General to have spent that time asking the Law Commission to hasten these amendments.

The Attorney General, as well, pointed out correctly that Trinidad and Tobago could stand proud as this Parliament takes a historic step in advancing our law in this regard. He said that Barbados is the only country in the region with similar legislation in vogue. Mr. Speaker, as he said that I remembered Jamaica. They recently signed the Chapultapec Declaration and if we could follow Barbados in this good example why not follow Jamaica and sign the Chapultapec Agreement as well. *[Desk thumping]*

Mr. Speaker, marriage, as we well know, forms the basis of our social structure and existence. There are laws and rules that govern the coming into being of marriages and what happens when they are dissolved. Cohabitees, as the Attorney General correctly pointed out, or persons who form a union, as the Barbados legislation describes it, without the legal authority of a marriage, form an important part of the social structure of Trinidad and Tobago. In fact, I read in today's papers that the statistics are that there are some 45,000 couples. Therefore, if you are talking about 45,000 couples a significant amount of our population is engaged in this kind of relationship.

While at one point in human history this type of relationship was frowned upon, today, in many countries of the world, that is becoming a thing of the past. It is a fact that the existing law is woefully inadequate in terms of dealing with dissolution of these unions. The present position is that they are not recognized, they have no legal status and, of course, no inheritance upon an intestate death of

one of the parties. Therefore, if there is no will there is no inheritance for one of these cohabitees in the circumstances. This affects personal property and it affects realty, land, property, as it were, "stricto senso".

Sometimes the male or one of the parties would have been previously married and would have separated from their husband or wife for many years. I read of a case recently where a man was separated from his wife for 28 years. For those 28 years he lived with a woman in the relationship that I have just described. Death occurred and she stood to benefit very little. In fact, precious little, Mr. Speaker.

2.50 p.m.

Mr. Speaker, this leaves, of course, a displaced individual—woman or man—and sometimes displaced children. Fortunately, some time ago in Trinidad and Tobago, we passed the Status of Children Bill which regulated the problem which I have just described in respect of children, but nothing was done in respect of the person in that union—the cohabitee. Children, as we know, are entitled to two-thirds of the estate upon the death of the intestate person, as it were.

When I was preparing for this debate, I communicated with the Christian, Muslim and Hindu groups, to establish how they viewed this legislation. The Attorney General did mention—in fairness to him—and made it quite clear that the Government's position is not that it wants to disregard the sanctity of marriage, but simply to recognize that another type of relationship exists and is seeking to give it legal protection. In fact, the Law Commission's paper makes it very clear in paragraph 5.4 that:

> "- The Policy of the law is not, and should not be actively to discourage de facto relationships, whether by withholding benefits, or imposing penalties. In a pluralist society people may choose to live together;"

The point it is making is that it is not disregarding the sanctity of marriage.

The Christian view, of course, has been—and I am sure remains—that marriage is a triangular affair between the parties involved, the male and the female, and God. In fact, that view came from the days of the Reformation. I am quoting from *The Family Law and Society, Cases and Materials* by Brenda M. Hoggett and David S. Pearl:

> "The cannon law was framed in the belief that marriage is a permanent union of the natural order established by God in the creation, and consequently it affirmed that marriage made man and women one flesh and partook of the

> nature of a sacrament signifying the unity betwixt Christ and his Church. Medieval christendom regarded marriage as an eternal triangle within which spouses established unbreakable bonds not only with each other but also with God. For this reason, the church maintained that marriage was indissoluble and that no earthly power, not even the Pope himself, could break the bond of a Christian marriage."

It goes on to speak no doubt about the question of sexual relations outside of that. This is the foundation of the Christian teachings in respect of marriages.

Mr. Speaker, I had a look at the holy Qur'an and in the Sura IV, verse 3 it says:

> "If ye fear that ye shall not
>
> Be able to deal justly
>
> With the orphans,
>
> Marry women of your choice,
>
> Two, or three, or four;
>
> But if ye fear that ye shall not
>
> Be able to deal justly (with them),
>
> Then only one, or...)
>
> That your right hands possess.
>
> That will be more suitable,
>
> To prevent you
>
> From doing injustice."

The note says:

> "The unrestricted number of wives of the "Times of Ignorance" was now strictly limited to a maximum of four, provided you could treat them with perfect equality, in material things as well as in affection and immaterial things. As this condition is most difficult to fulfil, I understand the recommendation to be towards monogamy."

Mr. Speaker, that is the basis of the Islamic tradition in respect of marriage. There is some divergence from the Christian view, but notwithstanding, that is the position.

I consulted with the Hindu community and they as well respect and observe the sanctity of marriage and this is commendable. Notwithstanding that, in the *Daily Express* of Thursday June 11, 1998, I read an interesting piece where Mr. Sat Maharaj, the Secretary General of the Maha Sabha called on Hindus to go back to the Vedic. Of course I had heard about the concept of Vedic and veda but never had an opportunity to give particular attention to it. The study and preparation for my contribution in the debate on this Bill provided a unique opportunity and I took reference in the books and in my dear friend, the Member for Naparima, who quite willingly informed me as to what this concept represented; and of course, my very dear friend, the Member for Arouca North, both learned gentlemen in the business of Hinduism.

Mr. Speaker, the Vedas are, of course, the ancient laws that inform all the writings that followed in Hinduism. They were written in the Sanskrit which we all know and there were four categories: Rig Veda, Yajur Veda, Sama Veda and Atharva Veda—my pronouncement may not be as solid as it ought to be, but of course these are Sanskrit words and I am only now becoming familiar with them. My friend, the Member for Tobago East, has indicated that he is very familiar with them. Of course it appears as if they do not want him to speak. They are not sending him in today. More than that, I saw a photograph recently of him and the Minister of Works and Transport blocking his mouth with a certain type of pie, obviously not wanting him to say anything. We would come to that later.

Mr. Speaker, these are very rich aspects of Hindu culture. They inform all of Hinduism since that time. In the article I referred to, Mr. Sat Maharaj is saying:

> "'Many young women who are not active in the Hindu tradition are looking to the western world of relationship,' Maharaj said.
>
> He was speaking at the 45th Anniversary of the Sri Sevak Sabha Inc...San Fernando...
>
> Maharaj said the first Vedic period in India followed an invasion to convert Hindu women. Marriages in India then became a must, even from birth, to prevent abductions and conversion.
>
> Going back to the Vedic times would prove that Hindu women have excelled in education, the military, and other aspects of life, he pointed out, adding that changes in the Hindu community were becoming more pronounced due to the erosion of the extended families."

He said, in closing, that:

"'Although we are predominant in the area of education and the building of schools in the Hindu community, there is greater need for Hindu colleges, and early childhood centres.'"

3.00 p.m.

Mr. Speaker, I sought to get some elucidation from Mr. Maharaj who of course is the Secretary General of the Maha Sabha, as I prepared for this debate. As I read this article, it sounded to me not like espousing the richness of the Vedas, but it sounded like a rather sectarian kind of position. I noted we must be very careful in this country not to yield to religious sectionalism. We must be mindful at all points, even as we prepare legislation such as this, that this is a secular society. It is a multicultural, multiracial society and we must be very careful when we make these utterances that we seem to be highlighting one as opposed to the other.

I also noted that the hon. Member for Couva North, notwithstanding all the controversial statements that have come from the goodly Mr. Sat Maharaj, has never once even commented on anything he has said. Is it that the Prime Minister agrees with all and everything that the honourable gentleman has said? Or, is it that he is blinded when statements come from certain quarters and not from others?

Mr. Speaker, those as I have explained represent the bases of the view on marriage from all of the major religious communities in this country. I studied this legislation very closely and I am pleased to say that it appears in my study of it, to take into account our multiculturalism, to take into account our multireligious position so that we could quite easily disregard any sectarian view and treat it as at an end . I heard one of my friends say "rainbow country." Very familiar words. I have not studied the concept and the reply that came to the Member for Tobago East from our visitor from South Africa. All I know is that this morning's newspaper—just like the Minister of Works and Transport attempted to do with alloo pie, the Member for Tobago East was silenced by our visitor and I think, perhaps, quite properly so.

Mr. Speaker, I want to have a look at some of the aspects of this Bill. Rastafarians are Christians. We believe in God. When a marriage, as we recognize it, breaks down, and as I indicated existing law deals with the separation, it deals for example, with what happens upon death of a person in that situation, it deals with divorce flowing from adultery, desertion, unreasonable behaviour or two years with consent, five years without consent. Provision is even made and in fact, attorneys will know that when filing a divorce petition one must include in that

petition evidence to the court that efforts were made at reconciliation. Custody and maintenance are looked at and property interests are looked at.

This Bill addresses many questions but in particular, the question of property settlement. Only recently I had to grapple with a situation where, just as this Bill envisages, a young couple—they would not have qualified under this Bill because a couple must have been living for at least three years—spent about a year and a half living together in the Morvant area. They were rather ambitious, and they pooled their resources and put a structure up on a piece of land. Sadly the relationship went sour and now the young man wants to eject the young lady from the house. Of course, we are dealing with these matters. The courts of Trinidad and Tobago, because of the existing deficiency in the law, sought refuge in the law of trust.

Mr. Speaker, the law of trust basically suggests that one person may hold legal title to property or may hold property, but it is not his. He may be holding it by way of a constructive trust. There are other types of trust. Therefore, the law recognizes that while the person holds the property legally, for example, a personal representative, somebody who administered an estate, or probated a will, they hold the estate on trust for the persons who are really the beneficiaries in accordance with that administration. It is the law of trust that the courts have sought refuge in, in order to give protection. What happens is that they realize that in the absence of legislation the social force, the social necessity causes the judges of not only Trinidad and Tobago, but other jurisdictions to exercise their creative legal capacities to find a way to bring relief to people in these circumstances and they sought refuge in the law of trust. Now as we legislate for it, judges will not have to be as creative as they had to be in the absence of legislation. Of course, a good thing but in some ways not a good thing.

Mr. Speaker, before I move on to the other matter, in respect of the adjustment, it is to be noted that in clause 13(1) of the Bill, if in the course of an application for relief under this legislation one of the persons die, in many cases, some debts die with the debtor and the business of land, any legally tied, if you like, obligations go beyond the natural life of the holder and it affects his estate, his legal personal representative.

In this case—and I think this is extremely progressive—if one party dies when an adjustment order is being sought then the application remains in vogue beyond his death so that his legal personal representative or beneficiaries more particularly, can continue in their name the action to bring the relief to them as opposed to the

applicant who by then would have been dead. This is a very interesting legal matter. This gives the application itself, the legal proceedings, a kind of property status and I find that fascinating. It moves the proceedings from a piece of paper and gives it a real value, an interest in land of course, if the courts eventually uphold and find the applicant would have been the beneficiary, if you like, of an adjustment order in the end and I admire that.

Mr. Speaker, in respect of clause 18(1) this deals not with a property adjustment order, but a maintenance order. That does not give the same status as opposed to an adjustment. If the application is for maintenance order that dies with the deceased. I think that is very progressive and it must be applauded. The applicant could have died while he or she was attempting to assert their right and interest in that property and all would be lost. The court would recognize that and it would continue so justice would indeed, be met. The Act, of course, makes provision for the Magistrate's Court to deal with the maintenance order and the High Court to deal with maintenance adjustment. In respect of that, the Magistrate's Court has jurisdiction in respect of the maintenance, but the High Court has jurisdiction in respect of the property adjustment order and what have you, and all of this is quite fine.

I am not sure whether the Member for Couva South—I understand his concern about man and man, but I will come to that, too, later.

3.10 p.m.

The Domestic Violence Act as it now stands in Trinidad and Tobago gives protection to a cohabitee who is called a *de facto* spouse. The Attorney General correctly pointed out that there are a number of pieces of legislation which sought to deal with this quite obvious problem relating to unmarried cohabitees. The Rent Restriction Act, section 2 provides that the widow of a tenant will continue to enjoy the protection which the cohabiting tenant, if they were not married, enjoyed under that Act.

The Attorney General told us about the Workmen's Compensation Act. The National Insurance Act, Chap. 32:01, treats a single woman who was living with a single man as his wife at the date of his death. As I alluded to a while ago, the Domestic Violence Act deals with the *de facto* spouse. He mentioned the Succession Act which has not been proclaimed. There is clear recognition that there was a gap in the law and it is now being dealt with in this Bill which we have no trouble supporting. [*Interruption*] We have no trouble supporting it.

Mr. Assam: Sit down and support it.

Mr. F. Hinds: Mr. Speaker, there are matters which must be dealt with. The Member for St. Joseph does not understand.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Assam: Parlez! Parlez!

Mr. F. Hinds: Yes. I am obliged. In the year 2000 or before, those women who marched up and down St. Joseph saying that they are not seeing him and he is of poor service to them, he would find that they have rejected him. He does not understand the role of a parliamentarian. He does not understand that in Parliament this is not for our satisfaction. We represent thousands of persons across Trinidad and Tobago. When I come to speak in this Parliament, I advocate and represent the views of all concerned. Three groups of persons from the Hindu, Muslim and Christian communities indicated to me their concerns about this legislation as it might affect the question of the sanctity of marriage. It behoves us to satisfy them in this forum, that those concerns have been and are being taken properly into account and that the Bill would not affect them.

If the Member for Couva South had been more committed to this legislation—obviously he is not. He mouthed it. Obviously, his heart is not in it. If he had done that, it would not have been left for me to do. It is left for me to indicate that this Bill is giving protection to cohabitees if they choose to live that way, while it does not interfere with or affect the sanctity of marriage for those who approach marriage or unions in that way. [*Interruption*] I am not going to engage in any argument with the Member for St. Joseph. He is my friend. I like him very much and I continue to like him. I ask you please, my friend, could you leave me alone? He has a valid contribution to make in this Bill. He has tremendous experience and I am sure that he has a valuable contribution to make. Perhaps that might be the reason he wants to see it done with and out of the way very quickly.

Mr. Assam: I have never done common-law. I have no contribution to make.

Mr. F. Hinds: I did not ask and I am not interested. I am here about public business and not yours. I am not interested in your affairs. That is a matter for you and yours.

The Explanatory Note says the purpose of the Bill is to confer rights and impose obligations on persons who choose to cohabit outside of marriage. It could not be more simple. If the Member chooses to live inside of marriage, five, six or

seven times—it is a matter for any individual in the country that wishes to do so. We are talking about people who choose to do otherwise. Let me continue unperturbed by the Member for St. Joseph.

An issue has been raised about direct and indirect contributions as one of the matters which the court would take into account in respect of settling adjustment orders in this legislation. It is a fact. Many times women in those circumstances never make any direct contribution. They are not employed and they do not bring any income to the home. Their contribution cannot and must not be underestimated. As a married man, my wife who brings a tremendous amount of income to our home, makes a tremendous indirect contribution to the upkeep of the home. Washing, cooking, caring for the children and the husband is a burdensome task indeed.

The women of Trinidad and Tobago must feel a sense of gratification that before the coming of this Government, a previous administration initiated these programmes. They left it in the hands of the Law Commission and today it bears fruit. We recognize that these women make an invaluable contribution to the upkeep and maintenance of our society. Their tasks of washing, cooking, cleaning, looking after the children and other household chores, though indirect in the business of law, are very important indirect contributions.

Cases such as *Gissing v Gissing* and *Eves v Eves* where, as I said before, the court implied the concept of trust, had to do with marital relationships. I do not think that Hussey v Palmer had to do with that. The court had to work the concept of trust to bring relief. My research revealed that in the case of *Abdool Hack v Rahieman* and *Harrinarine v Aziz v Aziz*, the court made good the business of trust to assist in those circumstances. Women make a very important indirect contribution which should be recognized.

This legislation is very flat and straightforward. As I studied the clauses of this Bill, I compliment the Law Commission. It is unfortunate that the Attorney General, the mover of this legislation could not be as flat and straightforward in all his dealings. If he did, then we on this side would support almost everything he came with. He is about the country talking about the Privy Council, but he has not come here with it and challenged us in a debate. He knows that it is futile. [*Interruption*] He is asking me: what is that? If the Attorney General who moved this Bill would only come straight with us and let us see clearly what they are about, we would have no problem supporting good legislation in this Parliament.

Mr. Deputy Speaker, we could never know from where he is coming. One minute he is dead set against the death penalty and on record as saying so in this Parliament, and at another meeting he is an agent of death.

Mr. Deputy Speaker: Member for Laventille East/Morvant, I caution you to look at Standing Order 36(5). You have accused the Attorney General of being "an angel of death". I advise you to withdraw that statement.

Mr. F. Hinds: Mr. Deputy Speaker, I think I heard you say "angel" I never said "angel". I said "agent".

Mr. Deputy Speaker: I did not ask for a debate on it. I asked you to withdraw it, please.

Mr. F. Hinds: Withdraw what, Mr. Deputy Speaker?

Mr. Deputy Speaker: Angel or agent of death, whatever you just said.

Mr. F. Hinds: Okay, Mr. Deputy Speaker. I withdraw the comment that the Attorney General is "an agent of death".

3.20 p.m.

Mr. Assam: Mr. Deputy Speaker, on a point of order—

Mr. F. Hinds: I am not giving way. What is your point of order?

Mr. Assam: I am asking if it will be expunged from the record.

Mr. Deputy Speaker: The Member is not giving way.

Mr. Assam: The Member does not want to give way! My time will come!

Mr. Deputy Speaker: Order! Order!

Mr. F. Hinds: Mr. Deputy Speaker, notwithstanding that emotional outburst from the Member for St. Joseph, we, dignified Members of Parliament, must continue our business unperturbed.

Mr. Deputy Speaker: Order, please! Member for Laventille East/Morvant, please direct your contribution to me.

Mr. F. Hinds: Mr. Deputy Speaker, the Law Commission recommended that an application for maintenance will not be awarded unless certain conditions are met. One of these is that the relationship must be at least three years old prior to the date of the application. In the example which I have given, a practical matter with which I had to grapple is that if the cohabitee was not engaged in the

relationship for three years, he or she would not be able to succeed with an application for maintenance.

According to the present maintenance law, the child for whom maintenance is being sought must be under 14 years. Maintenance can be sought and obtained for a child up to the age of 18 years or beyond, if that child is in full-time education. This Bill limits that age to 14 years. Does the Government feel that 14 years is an age at which the child can look after itself? Why the difference between 14 and 18? Why discriminate against the children in those relationships between the ages of 14 and 18? There are thousands of them and they would like to know why. Will the Government explain the rationale for that disparity? *[Interruption]* It is not a criticism; it is a query.

In addition to that, it must be demonstrated that the earning capacity of the applicant has been adversely affected by the relationship. Now this is a very trying matter indeed. The applicant comes to court and says that he or she is unable to earn money because he or she spent a certain amount of time in the relationship. How will he demonstrate that? It presents a tremendous amount of difficulty in a practical sense.

I remember a situation where a 61-year old woman sought a maintenance order against her 62-year old husband. They had separated about one year before her application. He asked me to act for him. When I took instructions from him, he told me a number of things. He satisfied counsel that he had made every reasonable effort to get the lady on her own two legs. He started several small businesses. He gave her money to go abroad. He told me that she sat abroad doing nothing for about four years. He even had to send money for a ticket for her to come back home. In other words, he was at pains to instruct counsel that he had done everything possible to ensure that her income earning capacity was enhanced. According to him, she sat there and did absolutely nothing.

We have to consider, as we debate this legislation, the psychological state a man would be in if he is ordered to pay maintenance in a situation where he took pains and did everything possible to make the woman independent during the relationship and she did nothing. Maybe she was just a lazy woman. It is possible. Then she wins a maintenance order against him. Establishing that in court could be very trying and I would like the Minister in his winding up to address that matter.

The Attorney General, in a debate here some months ago, pointed out that according to the legal doctrine as espoused in the case of *Pepper v. Hart*, a 1992 case in the *All England Reports*,(AER) the courts can now take refuge in reading

Hansard in a situation where, for example, construction of the legislation leads to an absurdity. The Attorney General can avoid that by putting on the record today the sort of matters the court can look at in the event it has to. This can indeed become a very sore issue as the months and years go by after this legislation is passed.

Those are some of the comments I wanted to make about this Bill. I have studied it closely: it is progressive legislation. We are dealing with the enhancement of the rights of women and men because we are talking about cohabitees.

Mr. Deputy Speaker, it was a few months ago, in the budget presentation in this Chamber, that the Government, through the Prime Minister, promised single mothers an allocation of $25 million to improve their lot. My enquiries have revealed that to date nothing has come of that. I take this opportunity, on behalf of the women whose confidence was lifted by an empty promise of the Prime Minister, to enquire from the Government what has become of that lofty promise.

Mr. Deputy Speaker: The hon. Member's speaking time has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. *[Mr. C. Imbert]*

Question put and agreed to.

Mr. F. Hinds: Mr. Deputy Speaker, I am grateful to my colleague from Diego Martin East and all Members of this House for extending my time, which I will not entirely utilize to make my closing comments. I would like the Government to tell us what has become of that empty promise to date.

I have spoken to some of the women who were affected by that promise, whom the Prime Minister put on a psychological and emotional roller coaster, lifted their expectation high only for it to flop six months later. Some of those very women have worked, have signed, have produced identification cards on the Unemployment Relief Programme and have not been paid. The Prime Minister has, time and time again, called them ghosts, unproductive and said all manner of ill against them. Those are the same women we speak about today. I call on him again to indicate either directly or otherwise when the women will be paid their money and to stop calling them thieves, scandalizing them and saying that they did not work. Some of them did and those who did are affected by his thoughtless comments.

3.30 p.m.

Mr. Deputy Speaker, with those few remarks, I wish to thank you and this Chamber for permitting me to make this contribution on behalf of my proud PNM

party on this important debate. We support it, we find it progressive and I hope that the Attorney General would take into account the few concerns we have raised and address them for the benefit and welfare of the people of Trinidad and Tobago particularly those who choose to live outside of a marriage relationship and to cohabit as this Bill says.

Thank you.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Deputy Speaker, I join this debate in full support of this Bill, and I thank the Member for Laventille East/Morvant for his support of the Bill.

Mr. Deputy Speaker, my colleague from Caroni East pointed out to me today that there is something very unusual about the Member, in that in the two and a half years we have been coming to this Parliament, today on his left hand, for the first time, we see an object that is very shiny and it appears to be his wedding ring. The Member for Caroni East has pointed out to me that today he has made sure in talking about the sanctity of marriage, to wear his ring to the Parliament.

Mr. Hinds: Member for Siparia, except to say, I must not be blamed for the short or long-sightedness of the Member, but only yesterday I celebrated 14 proud years of marriage with my wife.

Hon. K. Persad-Bissessar: Mr. Deputy Speaker, I am very happy to hear the comments of the Member and I will not blow my own trumpet of my over 29 years of marriage, but I think he is missing the point when he very clearly makes personal attacks, first against the Attorney General, then against the Minister of Legal Affairs.

The Bill is very clear that in order to qualify to make an application, one must have cohabited in the first instance for five years, or a child must have been born within the relationship where there is no time-frame therefore, for making an application under the law. There is another provision where there is no time-frame. In the first instance, to make an application, an applicant must have cohabited with the respondent for a period of not less than five years or has a child arising out of the cohabitational relationship, or the applicant has made substantial contributions of the kind referred to in clause 10.

In order to access the benefits of the Act, there are three areas within which one can come for the remedies within the statute. Firstly, five years cohabitation. So there is a time limit. There is no time limit if there is a child born, because the child is born in the common law union, the cohabitational relationship. There is no

time limit again—and when I say time limit I do not mean the time limited for bringing the action, I mean in terms of living together if the applicant has made substantial contribution. Any one of these will allow an applicant to make an application under the statute.

However, there is a limitation in bringing an application which has to do with the length of time since the cohabitational relationship has ceased. If the relation has ceased for more than two years, one is restricted by a statutory limit of two years from the break up of the common law or cohabitational union. One has up to two years within which to bring an application, however, for hardship and other causes, the court retains a discretion where applicants seek to come outside of the three-year period which is a normal provision in law where there is this kind of restriction.

The three years of which the Member spoke really apply to the duration of a maintenance order, and that is where the court makes an order for the maintenance of a party in a common law relationship. The maximum duration is three years and this is because this statute is not intended to equate the status of the common law spouses with that of those in a legal marriage.

Mr. Deputy Speaker, this Government is definitely committed to many things in order to bring a better quality of life to the older people of Trinidad and Tobago and two of these are clearly the family and family relationships and equality and justice for all. We recognize as everyone else in the society, that the family is the bedrock of the society and we are committed to the maintenance of the family and in recognizing the importance given to proper parenting.

This Bill represents one of the areas of legislative reform in terms of provisions dealing with the family. There has been another area of family law which has taken up much of our time and which has been in the newspapers time and time again. Up to this morning, we have seen another incident reported, which has to do with domestic violence. We have identified many loopholes in that legislation in the seven years since it was enacted. As you would recall, Cabinet had set up a committee which prepared a report that went out for public consultation and the committee, which I chaired, has taken to Cabinet a Draft Amendment Bill to the Domestic Violence Act and a Draft Bill is at present before the Legislative Review Committee.

In addition to domestic violence legislation in terms of a reform of the family legislation, the Ministry of Social Development together with the Ministry of the Attorney General, are at present engaged in an entire reform package in the law

relating to children. You would have heard the Attorney General mention the reforms relating to a family court, and recently, I have been charged by Cabinet with responsibility for chairing a committee to look at all the existing Family Court Bills and to make recommendations for the establishment of a Family Court in Trinidad and Tobago where there would be a less formal and adversarial setting to deal with child custody maintenance and so forth. This Bill fits in to that kind of thrust in terms of reforming the law relating to our families and children in this country.

We have also been moved to bring this legislation to Parliament because of the number of persons who are in unions of this kind and the statistics which are carried today in the *Trinidad Guardian* were taken from the last full census in 1990 which showed that there were no fewer than 40,724 persons living in common law unions in Trinidad and Tobago in comparison then with 323,804 persons who lived in legal married unions. It is our respectful view that it would be unfair to deprive the over 20,000 women or the 40,000 couples of their entitlement and equity to property which they would have worked very hard for, or their moral right to share in the estate of a man whose fortune they have helped to build.

Mr. Deputy Speaker, we look at our historical and religious antecedents, and it should be remembered that during the colonial era, in order to facilitate the plantation kind of economy, the African unions formalized registered unions were never encouraged, and Hindu and Muslim marriages, which were entered into prior to 1945, were held in contempt and were never recognized until the passing of the Hindu Marriage Act and the Muslim Marriage and Divorce Act. Legislation brought into place in 1945 for the Hindu and Muslim marriages would have given legal status to those marriages, but it does not mean to say that these pieces of legislation and the unions which existed prior to the coming into force of the legislation, or those which were consecrated according to religious rights are any less binding on the parties simply because they did not have that marriage registered in the Red House by way of a legal marriage certificate. We must remember that out of those 40,000 couples about whom we are talking, some of them may well be elderly, or middle aged Hindu or Muslim persons who married according to their religious traditions before the passing of the aforesaid pieces of legislation, and even after those pieces of legislation were passed, there were still marriages which were being consecrated by the relevant priests and pundits within the religion, but they were not coming to the Western concept of having it registered in the Red House and getting that piece of paper.

That is why I think, in a sense, the Member for Laventille East/Morvant missed the boat because he quoted all these religious treatise—I do not know if he wanted

to show his knowledge of the various religions—and he said that all religions uphold the sanctity of marriage and I think there can be absolutely no dispute with that. I think what he is missing is not the question of a religious marriage, nor legalizing something that is not a religious marriage, it has to do with the difference between having a marriage within one's religious framework, consecrated by one's religion, but not having it registered. What we are talking about is not a religious marriage versus a non-religious marriage, but one that is registered versus one that is unregistered. If we understand that, any difficulties which have to do with this offending against religions would seem to have no weight or water whatsoever, because it is very clear that there are marriages which have been consecrated by religious leaders and pundits and are not registered and the parties continue to live in very long, stable, unions in every regard as husband and wife.

Mr. Sinanan:. I thank the Minister for giving way. What happens in the case of two parties with a legal marriage and there is one spouse leaving that legal marriage and going into a common law marriage?

Hon. K. Persad-Bissessar: Those would also be taken up within the first three criteria which I gave in terms of making an application, but I am saying it is not only those we are looking at, but those relationships which could have been consecrated by a religious person and, therefore, religious in that sense, those would also be taken up within the ambit of the legislation.

Mr. Deputy Speaker, there is a question I would like to ask hon. Members and, in fact, anyone who is looking at this piece of legislation. How many of our citizens in this land of ours can say in all honesty, and with certainty, that at some point in their history, some Member of their family was not the product of a cohabitational relationship? I wonder how many of us can look back in our history and be certain that at some point of our family tree that we have not been the product of a cohabitational relationship, or of someone who came from such a cohabitational relationship.

Mr. Deputy Speaker, I want to say very clearly, that I have been a child of a cohabitational relationship, as has been my brothers and sisters. Indeed, it was not until I was a teenager that my parents saw it fit to obtain the registered married certificate from the Warden's Office in Siparia. Can I then say that because my brothers and sisters and I were born before our parents were registered in the Red House that their marriage was not consecrated in the eyes of God? As far as I am aware—and there are many unions of that nature—that marriage was consecrated

by a pundit but it was not registered in terms of the Red House registration, and this is because of our culture and history. This is the point which I am making. Many persons of the Hindu religion would have been married by their priests and children born out of those unions, the only difference was, there is no registered marriage certificate. It is a marriage in every respect, they live in stable unions, sometimes longer than those who have been legally married. In every way, it is a marriage in every sense. My parents continued to live together all the years, to the exclusion of all other interests or parties in every way as husband and wife until the death of my mother. How then could we write—which is what the position is now—that if such a relationship had been formed, if it had ceased, then the mother in such a home would be left with no maintenance, no home, no shelter, except as in the circumstances enunciated by the Attorney General in the very complicated law of trust to prove to the court and to establish a constructive trust for property entitlement. Should protection of the law be given only to those who are living in unions which have been solemnized in the western way with a marriage certificate to the exclusion of those who live in unions consecrated otherwise?

Mr. Deputy Speaker, surely where a man and woman live together in a stable relationship over many years, married according to their religious rights which they believe in, they should be accorded the benefits and the protection in a society such as ours where there is multi-culturalism, multi-diversity, ethnic and religious diversity.

3.45 p.m.

Mr. Deputy Speaker, when we look at the definition of cohabitation and cohabiting, the Oxford Dictionary puts it very clearly as "living together". Cohabiting means, living together, especially as husband and wife without being married to one another. The definition for marriage is the legal union of a man and woman in order to live together and often to have children. Therefore, the only two distinctions between these two definitions is the fact that one is legal, as falling within the ambit of the law, and the other is based on the parties love and affection for each other and their personal contract with each other which is not enforced by the legal system.

It is my respectful view that there is nothing explicit about the institution of marriage in the *Bible*. To all intents and purposes, legal marriage is a man-made institution and has little to do with religious values and more to do with maintaining law and order in a structured society. If we were to look at it otherwise, in a sense, we would be refusing to acknowledge the existence of all other types of religions, apart from the Christian religion.

Mr. Deputy Speaker, this view is reported in the High Court decision of *Ramratie Harrinarine v. Rasheed Aziz* HCA No. 1992 of 1982, where Justice Sharma, as he then was, said:

> "In this jurisdiction when there is a common law marriage there is little or no difference in substance between it and a lawful marriage. In most cases even a form of ceremony is gone through. There is no social stigma attached in this society to such a marriage and not a small amount of our upright and leading citizens are products of such an institution. It is accepted as normal, and in the majority of cases these unions have faithfully adhered to the definition of marriage in Hyde v. Hyde (1866 LR. 1 P&M 1.30) namely, 'a voluntary union for life of one man and one woman to the exclusion of all others'."

The previous speakers have mentioned other areas in our law where recognition has been given to *de facto* spouses or persons living in cohabitational relationships. Whilst these law are there they confer some rights on the *de facto* or common-law spouse and the children of such unions. In respect of other rights, particularly with respect to property acquired during the common-law union, the common-law wife has only the limited protection of the law of trust which, depending on the circumstances, could allow her to share in the home if she has contributed financially and there is an agreement between the parties. However, all these pieces of existing legislation still do not allow for a *de facto* spouse or a person living in a common-law cohabitational relationship to access maintenance benefits or property settlement when such a union should cease or breakdown.

Mr. Deputy Speaker, these pieces of legislation point very clearly to the fact that this concept of giving some recognition to common-law spouses, or persons living in cohabitational relationships is not foreign to the jurisprudence in Trinidad and Tobago. Therefore the Status of Children Act, clearly sought to ensure that all children were entitled to the same legal rights, whether they were born within wedlock or outside wedlock.

The Workmen's Compensation Act mentioned by the Attorney General, the Rent Restriction Act and the National Insurance Act, all these pieces of legislation accord some kind of recognition to persons living in cohabitational relationships. The piece of legislation that most accentuates the changing view of society with respect to common-law unions would be the Domestic Violence Act No. 10 of 1991. It is unfortunate that we could safely say that we all know about this piece of legislation because of the prevalence of crimes relating to domestic violence. Within section 2 of this Act, the word "Spouse" is defined to include a former

spouse and a *de facto* spouse, thus enabling persons involved in cohabitational relationships to take advantage of the provisions set out in that Act and to be entitled to the granting of a protection order by the courts.

Mr. Deputy Speaker, one of the ironies of our time is that in abuse there is no distinction between a spouse living in a cohabitational relationship as against a spouse living in a legal marriage, both types of spouses have been battered and killed with equal frequency. If no distinction is given by members of society to parties of a common-law union and they bear the same ills as their legally married sisters, then the question surely would be: Why should they not also reap the benefits of those unions?

At present persons who live together for a long period are not entitled to equivalent rights as those of a married couple. In many instances common-law relationships have lasted longer than legal marriages and the parties to the union have not been able to argue for the most basic right of a human being, that is the right to shelter, to a home. The aggrieved parties may have contributed to the acquisition of the home but are unable to provide tangible proof of contributions they may have made, because they acted on faith and trust that human basic decency, on the part of the other person, would ensure that they get their just rewards. However, in the real world, Mr. Deputy Speaker, basic human decency is sometimes very thin on the ground, especially where common-law and cohabitational unions are involved.

There are so many reasons this piece of legislation is well needed, is useful, would seek to wipe out some of the inequalities and injustices that persons living in common-law unions have been experiencing. In the drafting of the Bill several foreign jurisdictions were studied; these are all set out in the Working Paper and I think most Members have seen a copy of that Working Paper. Therefore, in terms of jurisprudence, this is not a totally foreign concept to the jurisprudence in Commonwealth jurisdictions in Australia, New Zealand, Barbados and in Canada, as the Attorney General has pointed out.

It is interesting to note that I have not been able to find any similar legislation in the United Kingdom which is from where we normally take our precedent. What I did find is an article in the British *Sunday Times* dated October 14, 1997 which says it is no sin to live in sin. I quote:

> "Leading Anglican bishops want the church to end its centuries-old ban on blessing couples who are unmarried but living together.

A majority of the 44 diocesan bishops of the Church of England revealed last week that they no longer believe cohabiting couples are necessarily committing a sin. They are convinced the quality of the relationship is more important than its legal status.

'We should not condemn those who cohabit,' said John Oliver, Bishop of Hereford. 'Christian people should recognise the realities of social change.' Like others, he believes couples should be encouraged to consider marriage, but if they refuse, the church should not reject them.

The shift within the church has been given extra momentum by repeated calls for tolerance of cohabitation at the Tory party conference.

At least 10 are known to be prepared to go further, however. Last week some said they would be prepared to bless such relationships, even before the church has rescinded its objections."

[MR. SPEAKER *in the Chair*]

Mr. Speaker, there is no legislation yet in the United Kingdom but certainly there is substantial lobby for cohabitational relationships to be recognized, and this is strong support coming from the representatives of the Church of England leaning towards the recognition of cohabitational relationships.

I believe the hon. Attorney General has gone into the clauses of the Bill in great detail and they are fairly simple, as drafted. I have heard no serious comments from the hon. Member for Laventille East/Morvant with respect to those provisions and, therefore, I will not go into detail with respect to those. Mr. Speaker, if you will permit me I would like to quote from an article in the *Sunday Express* dated February 25, 1996 at page one, by Sandra Chouthi. It says:

"Come Live with Me

Legal Affairs Minister Kamla Persad-Bissessar brings welcome news for some 40,000 couples living together"

Mr. Speaker, the reason I want to quote from this is because it gives the views of a cross-section of persons from the community with respect to their feelings on the cohabitational relationship proposals.

3.55 p.m.

I am quoting:

"Ramrattie Harrinarine, a sugar worker, lived with Nabee Aziz for 23 years. She couldn't read or write but worked hard in the fields and joined a sou

sou, monies from which went toward buying two lots of land in Couva in 1958. His death in 1980 left her in the cold. They were not married. Though she had cared for his nine children (their mother had died), and the one child their union produced, he willed the property to his two sons.

In contesting the matter legally, Justice Sat Sharma awarded to Harrinarine, now 65, half of the property on the grounds that it was intended as a joint ownership at the time of purchase. The sons' appeal is listed for hearing on March 1."

I understand that the appeal was not pursued and was, in fact, withdrawn. So the matter was never pronounced on in the Court of Appeal. It goes on:

"Legal Affairs Minister Kamla Persad-Bissessar must have had common-law wives like Harrinarine in mind when she proposed legislation to legalise their status. Two Saturdays ago, Persad-Bissessar focused on *de facto* spouses...

'As the law stands, the common-law wife, even though she may have lived in a single common-law marriage for ten or 20 years with a spouse who has had no other wife but her, yet she is disinherited and debarred from any claims to maintenance or otherwise,' Persad-Bissessar had said.

Persad-Bissessar said that two weeks ago her Ministry sent faxes to other Commonwealth countries requesting copies of their legislation on common-law unions.

Dr. Daphne Phillips, Community Development, Culture and Women's Affairs Minister supports Persad-Bissessar's proposal. Her Ministry will also hold consultations.

Asked why this legislation is being introduced, Persad-Bissessar asked in turn: why should women who are in stable unions over a period of time be deprived of rights accrued to women who have a marriage certificate?

'In every respect the *de facto* wife functions the same as a legal wife,' she said. 'We're not thinking of the deputy. Our concern is not with multiplicity of spouses.'

In the nine years spent in private practice, Persad-Bissessar said, she dealt with family, friends and neighbours in common-law relationships. The majority of these spouses are not working women, she said.

A marriage clerk at the Registrar General's office said that of the average 15 people who post banns weekly, about two of them are living with their

partner. Most times they've been living together for between 10 and 20 years and want to marry to make the relationships more stable.

The clerk said that one woman in her thirties wanted to marry her live-in partner, who's in his late fifties, before he underwent a hernia operation. She wanted to secure her legal rights to their house to avoid legal complications if the operation was not successful. He has other children from a previous relationship.

Glenda Morean, Harrinarine's attorney, estimated that 20 per cent of her family law practice deals with claims based on contributions to common-law unions. This legislation is long in coming, she said.

To get past the deficiency in the law, Morean said, she establishes a case of one party making the other believe that the property would be jointly owned or in some other proportion.

A common-law spouse can claim if he or she can prove they've contributed to the acquisition of the property, Morean said.

'Most claims are made by women. Men usually do the buying and in their name alone,' Morean said. 'Sometimes when you have these stars (starry-eyed) in front of you, you don't think to put your name on paper, even in marital situations.'"

It is interesting to note the comment of the General Secretary of the Maha Sabha. The quote continues:

"Sat Maharaj, general secretary of the Sanatan Dharma Maha Sabha, said that before the Hindu Marriage Ordinance came into effect in 1946, the children of such marriages, though conducted according to strict Hindu religious law, were regarded as 'bastards'.

'Anything to revise these marriages is a good move. You can't have people living together for 20 and 30 years but when it comes to distribution of property, they're excluded,' Maharaj said.

The Maha Sabha agrees in general principle with the proposed law, he said. 'It will be a good idea to have this practice of common-law relationships corrected by statute rather than by court cases.'

Fr. Michael de Verteuil, editor of the *Catholic News*, said being married is better than a common-law union, but added that the women's rights must also be protected. The two positions are like 'walking a tightrope', de Verteuil said.

> We must also protect rights of the woman in common-law union, who, in our culture, has none at all. Our position would be to insist on values. Common-law unions are not stable, in the sense that they could break up at any moment."

So it is very clear, from two religious figures, that there is support for the concept of giving some kind of benefit to the persons who are engaged in cohabitational relationships.

Mr. Speaker, one of the innovations within the Bill has to do with the fact that a person now living in a cohabitational relationship can apply to the High Court for injunctions and exclusion orders where it would be in her best interest and the best interest of the child. Previously, it would have been very difficult for a person in a common-law or cohabitational relationship to obtain, amongst other things, but in this specific instance I am speaking about exclusion orders. The Bill makes it very clear that, amongst the other kinds of benefits that could accrue to a person in such a relationship, would be an interim order with respect to exclusion orders or orders for the occupation of the—if you want to call it—matrimonial home or the home where that common-law, cohabitational couple would have been living.

So, I give full support to this Bill. I thank the hon. Attorney General for continuing the work that we had started to make sure this piece of legislation came into being. This call has long been made. I remember for myself, almost 10 years ago, starting the cry for some kind of status and rights to be given to women especially, but persons in cohabitational relationships. That call has been echoed, has been repeated by many other persons in all walks of life. In fact, I see that in 1996, the former Sen. Pennelope Beckles, had also put in a stirring call for the recognition and benefits to be given for persons living in cohabitational relationships. I do not know—as my colleague is saying—if that is why she was removed from the Senate Bench, but I know she did give full support to this measure. I am sure if the hon. Member for Arouca South were here she would also give full support because it is a cry that has been echoed over the years by many persons.

Again, I want to join with both the Attorney General and the Member for Laventille East/Morvant to make it very clear that this Bill and the provisions within this Bill in no way detract from or attempt to devalue marriages and the sanctity of marriages, in no way attempt to legalize what some people are calling "living in sin". All that it seeks to do is to give some rights to persons who would have been in a cohabitational relationship; who would have contributed to that

relationship; who would have given of their time, love and affection; who would have sacrificed, as it were, perhaps their own career in order to live in that union, allow, perhaps, a male spouse to go forward to further his career—*[Interruption]* Or a female spouse. It is very important to note that this Bill does not discriminate in any way. Both males and females can benefit out of provisions of the legislation. That is to say, that a male living in such a relationship would have the same benefits as a female living in such a relationship.

The reality is, however, that it is the majority of women who suffer, who are the most vulnerable in these kinds of relationships. Again, historically because property is usually registered with the male and, again, most women are so trusting and, as I said before, look to basic decency on the part of their common-law spouses that they do not always ask for pieces of paper to put deeds and properties in their names. In fact, they may even be afraid so to do, in case that would drive them away. So that, this legislation would give them some access. It will not equate them fully with a legal spouse, and does not put the cohabitational spouse on the same footing as the legal spouse; I think that point needs to be made. So that the over 300,000-plus legally married persons have nothing to fear from this piece of legislation.

I think the argument that the legislation could, in some way—by legalizing living together without a marriage certificate—devalue family life, could have people looking at it in a very weak manner. That argument again, I do not agree with because persons recognizing that if this Bill becomes law, then persons who are entering into common-law relationships would know that now there are legal consequences which would flow from those common-law relationships and, therefore, would not be tempted to take those relationships as lightly as they may have done prior to the coming into force of such legislation. So where, for a man or a woman it would have been, "There is no responsibility attached to going into a common-law union, no responsibilities whatsoever, therefore, go ahead, do it", with the legislation, once it becomes law, responsibilities would attach and I am sure the Member for Diego Martin Central would ensure that he is not caught anywhere within the provisions of this piece of legislation. *[Laughter]*

Mr. Speaker, once again, I support it and I ask all Members of this honourable House to give support to this Bill to redress the imbalance and inequities that exist at present in our jurisprudence.

I thank you. *[Desk thumping]*

Mr. Barendra Sinanan *(San Fernando West):* Mr. Speaker, I rise to make a brief contribution in support of the Bill before us. Unlike the previous speakers, I have some concern as to the rights of a legal spouse vis-à-vis this piece of legislation.

We know that common law unions are, in fact, a fact of life in Trinidad and Tobago. We also know that one of the churches operating in Trinidad and Tobago, the Catholic Church in particular, has a difficulty in terms of marriages when they are broken up. For example, if one is Catholic and one gets divorced, one cannot get remarried in the church; that is still the position of the Catholic Church. Now, perhaps it may change. Now whilst one recognizes that this piece of legislation is progressive, we must also recognize that perhaps prevention is better than cure, that is to say, that one must try to keep marriages wholesome and afoot and not have marriages breaking up.

My main difficulty with this legislation is with respect to Part IV, Cohabitation and Separation Agreements. I think the legislation is discriminating, in the sense that it gives as a right to cohabitants, the ability to make cohabitation and separation agreements. Now, in a legal marriage, one can, in fact, have a separation agreement, but the law as it stands now does not permit marriage contracts. So that, at the moment, men and women thinking of marriage, even after they are married, cannot enter into marriage contracts. So that, in Part IV of this legislation, I think it is discriminating in the sense that we do have provision here for cohabitation agreements, whereas we do not have a similar provision in terms of a legal marriage.

4.10 p.m.

Mr. Speaker, the other thing I am concerned about is, here we are rightfully giving redress to a common-law union—a common-law wife and a child born out of such a union—but what of the position of a legal wife? She is married, husband takes off after a period of time and is now living in a common law relationship; that wife may perhaps for five or 10 years have worked very hard, sacrificed, may have been the bigger income earner or contributor, in terms of amassing some sort of wealth for the family, and then the husband takes off, for whatever reason, and ends up in a common-law union. While clause 10(1)(c) speaks of the court taking into consideration the right, title, interest or claim of a legal spouse in the property, there can, in fact, be some degree of conflict between a legal and common-law wife.

It could be unfair to a legal wife in a situation where she has contributed tremendously to the building up of an income and fortune of the marriage, and then we have a situation where the husband goes off, spends five years in a common-

law union, and that common-law wife is coming in to share some measure—because there is provision here for an adjustment order—of that property that the legal wife worked so hard to contribute to the attainment of that property. Therefore, I can see some conflict.

I think it is unfair for a legal wife to work that hard to contribute to the building of income, spend five, 10, 15, 20 years in a marriage, separate from her husband, he goes into a common-law relationship for five years, then that common-law wife, spending five years, being able to share his estate. For example, the court may make an order that the share of the husband be given to the wife, or it could be that the share be sold, but the wife has a half share in the property. There may be a situation where the husband and wife own property as joint tenants—that is a legal marriage—or there may be a common-law union with one of the legal spouses and the common-law wife comes five years, after living with the legal spouse, to claim an interest in that property where a legal wife has worked 15 or 20 years to contribute to the attainment of that property.

As I said before, we on this side support the legislation, it is very progressive. I would say, however, while we recognize that common-law unions are inherent in our society, I hope that this legislation does not lead to the promotion of common-law unions and to break up of legal unions.

Before I take my seat, I ask the Attorney General to look carefully at the discrimination which I allege takes place in Part IV, where a common-law union can have cohabitation agreements and in a legal marriage there are no marriage contracts.

In looking at Part IV, one can perhaps suggest that it is creating a class distinction, in the sense that, when you look at the cohabitation and separation agreement, in particular clause 28, it states:

"Where on an application by a cohabitant for an order under Part III, a court is satisfied that -

(a) there is a cohabitation agreement...;

(b) the agreement is in writing;

(c) ...witnessed by an attorney-at-law;

(d) each cohabitant was...advised by an attorney-at-law..."

I think here we are looking at a class distinction in the sense that, the ordinary, everyday, working-class man is not thinking about this. He is not as *au fait* with

the world and the things of the world, to go into a cohabitation agreement and to have a lawyer look at it, witness it and advise him on it

Miss Nicholson: The Government would educate the people.

Mr. B. Sinanan: You have the poor man or woman getting into a common-law relationship without the benefit of advice as to his or her rights to go into one of these cohabitation agreements. Thus, to some extent, I think it could be said that there is a slight class distinction being promoted in this Bill.

I would like the Attorney General in his winding up to elucidate and explain what he means by the words "*bona fide* domestic basis" in the definition of "cohabitational relationships". The definition states:

> "'cohabitational relationship' means the relationship between cohabitants, who not being married to each other are living or have lived together as husband and wife on a bona fide domestic basis."

I am not sure what is a "*bona fide* domestic basis", I would like somebody on the other side to amplify, elucidate and tell us what this means. To me, it is too wide.

I also want an explanation of the definition of "child" as it is used in clause 2 which states:

> "'child' when used in relation to the parties of a cohabitational relationship means a child of both parties and includes an adopted child."

Perhaps a wider definition of "child" as contained in the Matrimonial Proceedings and Property Act which says that a child of a family could include any other child who has been treated by both of those parties as a child of their family.

I think "adopted child" could very well be the answer to fall here.

There is also one correction I would make to the hon. Member for Siparia when she spoke about Hindu marriages not being registered. Under our laws, Chap. 45:03, the Hindu Marriage Act in section 13(4), there is provision for either party to that marriage to apply by summons to a judge in chambers to have the marriage registered, and the law prescribes that the Hindu marriage officer, the Pundit, must register that marriage within seven days of the solemnization of that marriage. If he does not, he is liable on summary conviction to a fine of $300. This Act came into being in 1946 so when the hon. Member spoke about Hindu marriages not being required to be registered, certainly that was the position before this Act, but I thought she gave the impression that it was the position at present.

Mr. Speaker, I hope the Attorney General was listening to me when I said that in terms of Part IV common-law unions are being given the right to make common-law marriage contracts, whereas that right does not exist now for legal spouses.

I support the Bill.

The Minister in the Ministry of Planning and Development with Responsibility for the Environment (Dr. The Hon. Vincent Lasse): Mr. Speaker, I rise to make a modest contribution on the Bill.

At the outset, I emphasize that there is a well defined and codified body of law in other jurisdictions known as "Family Law", and this piece of legislation, in my view, is intended to lead us in that direction. From a jurisprudential point of view, we are now dealing with the progressive development of family law. I have always contended that law follows society. Therefore, as legislators we must respond to the changes in our society and, of course, put rules and regulations in place in order to conduct our business in an orderly manner.

In the instant case, we must address the rights and obligations of cohabitants. The Minister of Legal Affairs mentioned in her contribution that she has been chairing a committee designed to address the progressive development of family law. I think this is a step in the right direction. When I examine the Bill before us, I see it, not dealing here with religious or moral conduct, *per se*, but a legal question, equity, and attempting to codify, as I mentioned earlier, the whole question of family law.

The Member for San Fernando West expressed some concern a while ago about the rights of the legal wife versus the common-law wife. As I see it, this piece of legislation does not affect the rights of the legal wife, and I am sure that the Attorney General, in winding up, would address this matter.

In my contribution, I shall be treating with the duty of parents to their children with specific reference to property maintenance, inheritance and, of course, the enforcement of agreements, all within the context of cohabitation. I shall question, in passing, the logic of the age-old doctrine of *filius nullius*, that is to say, the right of a child born out of wedlock. He is considered a non-person or a person without a father. In modern society this doctrine has now become something of the dark ages.

I now quote from the publication *Cases and Materials on Family Law*, published by Little, Brown and Company, from Part I entitled "The Formation of the Family".

> "...deals with the various ways in which a family comes into existence and examines the legal consequences of different kinds of family formation. In a social sense one can say that a family is created, at least at a rudimentary level, whenever a man and woman share a common household or where one or both parents are sharing such a household with their minor children."

The question could be asked, is this not cohabitation? I admit that the family in its legal sense is much more restricted and, as such, a much more restricted concept. Later in my contribution, I hope to treat with the question of *de facto* families.

4.25 p.m.

Mr. Speaker, we are aware of the fact that a formal marriage is the usual pre-requisite of the legal family and that the law both restricts freedom of entry into marriage and even more strangely, inhibits the right to terminate that legal status. But the practical situation in our society does not always permit the partners to a legal agreement to await the outcome of due process of law when there is disagreement in a family.

We are aware of the fact that there are persons who may have been cohabiting for 25 years, who have created a new family structure; who have served the basic psychological needs by providing the satisfaction which resulted from bonds of affection created by family living and sharing; who have created the protective environment demanded by the prolonged helplessness and dependence of the human child; and who have been provided the economic framework for the woman who is herself incapacitated from other productive labour because of the demands of child bearing and rearing. What happens at the death of the partner if there is no recourse to law? I think this is what we are trying to legislate here today. This, I submit, must be examined in the context of the Bill which confers on cohabitants rights and also obligations.

Mr. Speaker, as stated in the Explanatory Note to the Cohabitational Relationships Bill, 1997, and I quote:

> "The purpose of the Bill is to confer rights and impose obligations on persons who choose to cohabit outside of marriage.
>
> The objects of the Bill are -
>
> (i) to confer on parties who cohabit the right to apply for an adjustment of property interests and for maintenance;
>
> (ii) to allow cohabitants to regulate the terms of their relationship by entering into cohabitation and separation agreements; and

(iii) to confer on the courts the necessary jurisdiction and power required by the Bill."

Mr. Speaker, I believe it is necessary for me to read also and to put into the record other important portions of the Explanatory Note in which it has been stated that:

"Under the proposed law either party to a cohabitating relationship may apply to the court for relief. Relief may be granted by the courts under three different sets of circumstances. Firstly, where a relationship was in existence for a period exceeding five years. Secondly, where there is a child arising out of a relationship, and thirdly, where significant financial and non-financial contributions have been made by a cohabitant to a relationship."

4.30 p.m.: *Sitting suspended.*

5.03 p.m.: *Sitting Resumed.*

Dr. The Hon. V. Lasse: Mr. Speaker, before we took the tea-break I was addressing the question relevant to the Explanatory Note. Of course, I went on to indicate that parties may apply to the court for relief under three sets of circumstances: where the relationship was in existence for a period exceeding 25 years; where there is a child arising out of the relationship and where significant financial and non-financial contributions have been made by cohabitant relationships.

Mr. Speaker, as we proceeded, there was a Green Paper based on law reform of 1996 that addressed the question of marriage. It stated that marriage has formed the basis of our social structure and the legal recognition of this situation has led to an elaborate array of rules relating to custody, property rights, maintenance, obligation and so forth. However, there had not been such clarity in relation to a cohabiting situation which is a *de facto* common-law relation.

The introduction went on to state that this kind of arrangement has existed throughout human history and is now accepted as a widespread social phenomenon. Whilst it appears that there is a sufficient proportion of the population of Trinidad and Tobago affected by such arrangement, the law has failed to recognize and provide remedies to meet the social and economic consequences which attend the breakdown of these relationships.

Mr. Speaker, noting that Members on both sides seem to be in agreement with the piece of legislation, I would not go very much into explaining certain aspects as

there is really no need to appeal to Members for their support. Therefore, what I would do at this point in time is to narrow down my contribution to summing up. In summing up, and in making the case for support of the Bill which seeks to confer on cohabitants rights and obligations, I took into consideration public opinion. In discussion with residents of my constituency, in particular, those who have found themselves, based on reasons beyond their control to be in such a situation, believe that this piece of legislation is not only necessary, but is long overdue.

Mr. Speaker, here I am in full agreement with the findings of the Green Paper in calling for reform when it referred to the legal recognition of cohabitation relationships as a contentious issue of social policy and in so doing, justify the case for reform on the following premises:

"(a) The common-law relationship in Trinidad and Tobago is almost akin to a legal marriage.

(b) A substantial portion of our society is affected by such relationships;

(c) Other jurisdictions are now recognizing and legislating for protecting property and maintenance rights to be attributed to these relationships;

(d) The legislative and judicial inroads which have already been made are insufficient;

(e) Cohabitants are usually advised that they have no legal grounds on which to stand, and in many instances they lose the beneficial interest in the property which they would have occupied during the course of the relationship; and

(f) Only very specific legislation can prevent further injustice from arising."

As I see it, Mr. Speaker, this is a clear and convincing call being made for the principle of equity.

Mr. Speaker, only today I read an article entitled "Help for women 'shacking up'", in the *Trinidad Guardian* dated June 12, 1998, which states that:

> "Women who are involved in common-law relationships will soon be able to claim property, maintenance, and other financial benefits if Government succeeds in passing the Cohabitational Relationships Act being debated in Parliament today.
>
> According to statistics, there are close to 45,000 common-law relationships in Trinidad and Tobago. At present, women in common-law relationships are left 'in the cold'..."

so to speak;

> "...if the man dies, leaving no will, but having a wife at the time of his death."

5.10 p.m.

As has been mentioned several times before, the cohabitant may have contributed financially and otherwise to the well-being of the deceased and to the home, yet the law at present does not provide a remedy for the situation.

The Government, in its wisdom, is now addressing this issue and as such would welcome the support of all Members of this honourable House. I thank you.

Mr. Roger Boynes (*Toco/Manzanilla*): Mr. Speaker, I rise to make a very brief contribution on this very important piece of legislation that is before us today. Let me indicate immediately that as was said earlier, we on this side do, in fact, see the need for Trinidad and Tobago to address the situation of common-law relationships. There is an average of over 45,000 such relationships that exist in Trinidad and Tobago, and I am sure there could be more. There is a serious need to deal with that particular type of union as though it were in fact a marriage because all the elements of a marriage, save and except the legal ties of a marriage, are there.

There will be a situation where the two parties involved in such a relationship may have been living together for a period of over 25 years. They would, in that union, no doubt have children. They would be taking care of their children, they would have a family, they would own a house together and so forth. In short, they would be living just as much as man and wife as though they were in fact legally married, so much so that in several countries throughout the world, this particular situation has been looked at very carefully. Consequently, several countries throughout the world have taken the initiative of formalizing common-law unions. In Barbados, they have gone ahead and done so. Another country which comes to mind with similar legislation like Barbados—and ours basically is, in fact, patterned along that sort of legislation—would be New Zealand. Whereas there may be different types of legislation, different terms in the clauses, basically those two pieces of legislation are similar to the one that is before this honourable Chamber.

It is important to understand immediately the need for this piece of legislation. One may ask the question why this piece of legislation? Why does the common-law wife want this type of protection? Let us go back in time and look at the whole place of the woman. A very long time ago when a woman got married to a man

her right to property was very limited. It went even so far as if a woman who owned a house and/or a piece of land got married, her property became that of the husband. The rights of women have evolved throughout time and what happens today, under the umbrella of a marriage, is that a woman would be entitled to the matrimonial property on a 50/50 basis, obviously subject to the findings of the courts.

The abundance of cases will point in the direction of 50/50. We have now reached a situation where we want to even take the law further to ensure that there is legislation to deal with the common-law wife. As I mentioned earlier, what obtained with respect to a man and woman living together not under the umbrella of a marriage, proved to be very difficult for the persons in the union, particularly the common-law wife. In a situation where the common-law wife has been involved in a union with her mate for over 30 years, taking care of the home, care of the household, and she had even helped in building the home, to all intents and purposes she was not entitled to a single thing if the man decided she had to leave the house, and that was the problem.

That problem was addressed in several cases; *Cooke and Head*, as you know doubt would be very familiar with, Mr. Speaker; as well as the case of *Burns and Burns*. In those cases they decided to take the point even further in a bid to assist the situation of the common-law wife. Those cases found that once the common-law wife could be seen to have contributed financially and directly to the actual acquisition of the home, then she would be deemed to have an interest in the said property of the union. Was that good enough? Sometimes, even though the common-law wife did not contribute financially directly to the acquisition of the matrimonial home, she took care of the children, the household, thereby freeing up the common-law husband to go out in the field and work so that moneys could come into the family, thereby contributing more to the actual acquisition of the home. In the case of *Burns and Burns* and others, the battle as to the rights of the common-law wife or husband raged on and on.

Even in the case of *Jack and Jack*, a Court of Appeal case in Trinidad and Tobago, which I am sure the Attorney General is very familiar with, the former Chief Justice, Mr. Clinton Bernard adjudicated in that matter. An attempt was made to give certain rights to the common-law wife in that particular case taking into consideration all the work she had done in that union. Here we are today, what a glorious day in Port of Spain, coming together to deal with the rights of the common-law wife and husband

As has been mentioned earlier, we on this side have no difficulty in giving our support to this Bill and also to the common-law wife and husband.

5.20 p.m.

Mr. Speaker, if I may direct your mind's eye to clause 7 of the Bill. It deals with the amount of time that the parties need to cohabit before they are given the protection, or are afforded the rights prescribed under this piece of proposed legislation. Clause 7 refers to a period of five years which is similar to that in Barbados. I suggest that our situation in Trinidad and Tobago is different from that of Barbados. We have more common-law unions than that of Barbados. We need to look at the situation in New Zealand as well, where the parties need to live together for two years before they are treated as husband and wife, as prescribed in their legislation.

Taking into consideration our unique environment, I suggest that we shorten the time. In this country when one looks at the type of contribution that a common-law husband or wife could make in a union of two or three years, it can be tremendous. I am suggesting by way of an amendment to make it for two years. I would certainly be all the more happy.

There is another matter with which I have a difficulty. The whole situation as obtains with a common-law wife and husband that has given rise to much hardship for either spouse is in the case where either one of the parties dies. I am painting the scenario again. A man and a woman are living together for 30 years or more; they have no children and the man dies. The house, car, credit union shares and the moneys in the bank are in the name of the common-law husband. What happens to the common-law wife? What is her position today, if the common-law husband has a brother and sister?

Miss Nicholson: We did that already.

Mr. R. Boynes: If she listens very carefully, she would understand the point I am getting at.

The common-law wife is subject to the fact that the common-law husband has other family. How would she apply for the estate of her common-law husband? I have looked at clause 13 to see if I could get some information, but it does not deal with it. I suggest that there is need to deal with that particular type of situation. If we want to ensure that we do the right thing, then it is imperative that we give the common-law wife the ability to apply for her deceased common-law husband's estate.

The situation which obtains now is that one has to apply via the Administrator General to ensure that the person shows he/she has an equitable interest in the estate of the deceased and there is no next of kin. It is a very long process. Nowhere in this piece of legislation or any that I know, is there a clause where the common-law wife has any rights to the estate of the common-law husband, if she had no children for him. That is my difficulty with this piece of legislation.

I do not know if the Member for Couva South would address this problem now, or if he wants to address it in the Succession Bill. I would be glad if he addresses that situation in his closing remarks. We on this side want to ensure that under this piece of legislation, the rights of common-law wives and husbands are guaranteed.

I also want to mention another point. Clause 17 states:

"(1) The court may not make a maintenance order in favour of a cohabitant who has entered into a subsequent cohabitational relationship or has married or remarried.

(2) A maintenance order shall cease to have effect on the marriage or remarriage of the cohabitant in whose favour the order was made."

What if they are cohabiting with another person and have not remarried? I hope that later on in the cause the person would have an opportunity to apply to the court. I must commend this particular clause where the person can apply to the court to vary the order which was made before. A common-law wife who has obtained an order from her common-law husband, if that order is in force and she decides to live with another man, the common-law husband would then have to prove to the court that she is living with another man, for the court to vary the maintenance. It does not matter how difficult it may be to prove. I have seen the provisions in the Bill for an application to be made to vary the order.

I am respectfully asking that clause 7 be amended to two years instead of five years. Once more, let us as leaders in the Caribbean and the most innovative Caribbean people take the lead to show that we know what is right for our jurisdiction. Let us not blindly follow another Caribbean territory and ensure that we look at two years instead of the five-year period.

5.30 p.m.

I wish to indicate that the womenfolk in common-law relationships in Toco/Manzanilla are waiting with bated breath to ensure that this legislation is

passed. They have property and rights to which they are entitled. I will see that their rights are enforced.

In closing, I wish to state that we support legislation for and on behalf of the common-law unions of Trinidad and Tobago.

Mr. Hedwige Bereaux (*La Brea*): Mr. Speaker, I rise to make a very brief contribution on this Bill and start by saying that this is one of the more satisfying days that I have spent in this Parliament in that I am pleased that we are dealing with a bill of this nature.

Not least among the considerations of my pleasure is the fact that the initiation of this legislation started in 1994 and it has been completed by the present Attorney General, as dealt with by previous Attorneys General. I share the congratulations all around.

The reason I feel that I must make this contribution today is that the whole question of common-law unions in Trinidad and Tobago has its genesis in slavery. I think I heard one of the speakers before say it. I remember the comments made by Dom Basil Matthews in his *Illegitimacy and the West Indian Family*. During slavery there was no encouragement to permanent unions. In fact, some men were encouraged to move like bees—from flower to flower—to create more children to enrich the slave master. Unfortunately, certain habits die hard. As a result of that, there were these transient relationships.

We have grown up with the statement "living in sin". Children born out of wedlock were said to be born in sin. We go back to the fact that many brilliant persons who have made serious contributions in this country were alleged to have been born in sin. In this country, we took a decision some years ago, in the Status of Children Act, when we decreed that there were no longer any illegitimate children in this country. Today, we have reached a stage where we are passing a bill to give rights to persons who are operating in this common-law union.

We had a situation where there were established religions and history would show that in order to be married one needed to have a certain amount of refinery to go to the church. In some cases, marriage in the warden's office was considered almost not to be married. We had common-law unions in which marriage was treated as a kind of trial. We heard people say that a good living is better than a bad marriage. While we were doing that in our culture, the very metropolitan cultures which determined that one had to be married to have children legitimately, had already introduced divorce to an extent where they were being married and

divorced at a rate in which people were changing their married partners at almost the same speed as they were changing their underwear.

On the one hand, our stable common-law relationships were being stigmatized and, on the other hand, the same people who had caused us, unwittingly through a certain amount of ignorance that posed as religious fervour, to treat our common-law relationships as living in sin, were doing something else. I make no value judgment in respect of persons who were married five or 10 times or persons who live in common-law relationships. I am just showing how we were in a situation where our solid common-law relationships were treated in one way, whereas in another situation, the numerous marriages were treated in a different way.

Today, Mr. Speaker, moving to deal with the rights of cohabitees, I think, is a step in the right direction. I really make this contribution to underscore a situation which is an injustice which was perpetrated on people who were living in a cultural situation which they did not think wrong, but which our behaviour, our background and training in a metropolitan sense made to appear to be wrong.

Now, the more educated persons in the metropolitan countries, those who would have cast aspersions on common-law relationships, are engaging in the same relationships as a trial before marriage. Even the question of the enforcement of pre-nuptial agreements usually arises among the more affluent members of the various societies.

I want to elaborate a little on some of these points. I can recall when I practised in another Caribbean country. There are certain economic advantages to giving the cohabitees of a common-law union rights. Whereas a husband and wife would have a joint account, people in common-law relationships have separate accounts because they are always fearful that one partner will move out and carry off the money.

5.40 p.m

When people save together, they have a larger pool of money and are able to do a number of things and when that trust, security and stability of marriage is there—that stability was only provided because there were persons who would say I have the man under cover now, I have married him, or he has the woman as the case may be, and that is the reason they thought they were secure.

Where legal rights have been introduced and each partner knows that he or she has a right to the fruits or the proceeds of the marriage, including the children and the responsibility to take care of them, there is a greater amount of stability and

that is more important than people would anticipate. I could remember when I practised in another jurisdiction, the men there were very macho and what one found was that the women would work hard and they would contribute money towards the purchase of the residence and the men sometimes would say it is his house because there was a property law where the men would have the property in their name and all the women would have was dower's right. When one was going to mortgage that property, in order for the mortgage to go through, the woman had to renounce her dower's right so at a subsequent day for some reason, this property would be solely in the man's name, and, being a macho man in the sense that he believes, he would say, "Woman, this is my property."

There were a number of problems like that and, recognizing it, anytime we were doing a transaction I would ask both parties to bring the money by certified cheque and invariably what one found was that the woman would go to her bank and bring her certified cheque with V.O Miss So and So written on it, and the man would bring his, V O Harry James, as the case may be. *[Interruption]* When I am speaking about important matters, I do not want to be disturbed.

Mr. Speaker, I am dealing with the law, which is an important matter here and I am being obstructed by the Member for Fyzabad who is a stranger to this particular subject—a stranger to the law I mean. What one finds is invariably, the woman's cheque would be larger than the man's, not in size, but in quantum and I would make a copy of the cheque, particularly, if at a later date he tried to eject her, I would then quietly remind him that the woman had contributed more to the house so if he tried to give trouble, she would get more than him and usually that worked out quite nicely.

I am saying with that kind of experience behind me I am extremely pleased with this piece of legislation. I would have been even more pleased if I were able to have been speaking when we had the Succession Act or a similar intrusion in this Bill which would provide for the ability of a common-law spouse to claim unintestate. I know there is a possibility of doing so, maybe as a creditor of the estate, but I would have preferred if the law had done it very clearly that the common law spouse would have the right to do that. Rome was not built in a day, and we expect that things would be done and I am particularly concerned that we move quickly to remedy this particular *lacuna* in the law.

Mr. Speaker, there is an area which the Member for Laventille East/Morvant mentioned and that was with respect to clause 15(1) of the Bill which states:

"A court may make a maintenance order, where it is satisfied as to one or more of the following matters:

(a) that the applicant is unable to support himself adequately by reason of having the care and control of a child of the cohabitational relationship, or a child of the respondent, being in either case, a child who is—

(i) under the age of 12 years; or

(ii) in the case of a physically disabled or mentally ill child, under the age of 16 years."

I believe we have passed the point of dealing only with children under the age of 12 years. I think we should take the more liberal and modern view, which I think is in the Matrimonial Proceedings Act where there is talk about a child under the age of 16, but if in the course of education, he or she is attending an institution or school and is continuing education, until the end of that period or until the age of 18. I expect that for a mentally ill child that may need to be carried to age 18 also. If we are doing something, I think those simple corrections need to be made.

Notwithstanding that, I believe that this is a piece of legislation that is very forward-looking, that the applicant's earning capacity has been adversely affected by the circumstances of the relationship and in the opinion of the court, a maintenance order would increase the applicant's earning capacity by enabling the applicant to undertake the course, or a programme of training of education. Additionally, I think there is in subclause (2), the various circumstances listed which would go a long way to circumscribing the areas or the things that would control, or should I say circumscribe the award of a maintenance order. I think that is very good.

As I said, I wanted to register my strong support for this piece of legislation because I believe it is one which strikes at an injustice which had been going on for a long time. The injustice has, to some extent, been corrected by judicial ingenuity, but there comes a time when legislature must take its stand and deal with matters that appear to be not in keeping with what today's society recognizes.

Mr. Speaker, I just have one caution and maybe it is one for those who would administer the Bill than for us passing it. I have been trying to see how I could prevent some of the things which I see happening under the Domestic Violence Act. We have seen sometimes that where that Act has been applied in a manner which might be too stringent, there have been certain unsavoury actions coming out of it involving even further violence and murders and we have to be careful. I am sounding a note of caution to persons who would administer this Bill that it is

not a weapon, it is not a means whereby those who administer it would take out their fury on any opposite sex whom they do not like. It is a means to equitably divide shared property between the cohabitees or former cohabitees and a certain amount of care and good sense must underscore the administration of this Bill.

I recall there was a case where a man and a woman had lived together in a house where he and his previous wife lived, they had built that house. This lady came to live there six months and an order was made to put him out of his house and leave her in it, and that was under this Domestic Violence Act. I know that this Act provides for three years, but it also provides that if there is a substantial contribution, certain things have to be done. It also provides for a child in the common law union, but those areas must be carefully looked at, particularly in today's world where there are so many opportunities for deception.

Mr. Speaker, I made no attempt to introduce any amendments because I know that this particular Bill has received much comment from various quarters and I believe we have what appears to be the common wisdom and desire of the people of Trinidad and Tobago and accordingly, I take great pleasure in indicating my support, and those on this side, for this legislation.

Thank you.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, may I, on behalf of the Government, express our thanks for the support of the Opposition in supporting the policy matters which underpin this Bill. It merely shows what political cohabitation between Opposition and Government can produce.

From the contribution made by the Member for La Brea and the historical perspectives which he shared with us in relation to this Bill, one sees this is a clear example of law being reformed to mirror the history of the people of a society.

5.55 p.m.

It is true that both the African slaves and the indentured labourers were not encouraged to marry. As a matter of fact, as the hon. Member for San Fernando West said, it was only until 1946 that these matters were registered. In relation to the days of slavery there was an encouragement not to be married, and one sees all of the generations from the past adopting this culture and, therefore, we have to make our laws to suit the particular society.

Mr. Speaker, I would just like to take the opportunity to clear up some of the matters which have been raised. First, I think I should deal with the point on clause

15. The point has been made that the age of the child is different from the age in existing law with respect to 14 years, 18 years and of maintenance. I think I had made it clear, but probably there have been so many things said about this Bill, that it probably would have escaped one's attention. This Bill does not address the maintenance rights of children arising out of these relationships. As a matter of fact, there is already existing law which deals with this matter. One can look at the Family Law (Guardianship of Minors, Domicile and Maintenance) Act. There is also, in respect of lawful children, the Matrimonial Proceedings and Property Act. That law remains, so that there is still law in relation to the age of 14, 18 and 21 years of age, the physically impaired and if there are children at educational establishments. So that, this Bill does not really address those matters, but seeks to address the circumstances under which one cohabitant would be obliged to maintain the other and the question of property interest. The maintenance rights of all children, whether born to married, single or cohabiting parents, are already adequately addressed under the Matrimonial Proceedings and Property Act and the Family Law (Guardianship of Minors, Domicile and Maintenance) Act.

Mr. Speaker, the other point which has been raised by Members and, in particular, the hon. Member for San Fernando West, is that this Bill discriminates in favour of cohabitants in that prenuptial agreements are not recognized in legal marriages, but under this law cohabitants can enter into cohabitational agreements. The rights of a legal spouse are adequately provided for and protected under the Matrimonial Proceedings and Property Act, but in the case of the rights of common-law spouses, they are not generally recognized or adequately protected under the existing law. This legislation therefore, attempts to provide mechanisms for cohabitational agreements to afford common-law spouses some measure of protection. That is why we in Trinidad and Tobago do not have prenuptial agreements, because if there is breakdown of the marriage under the Matrimonial Proceedings and Property Act, it is considered that there is adequate protection. In any event, the court, under the principles that they follow under that piece of legislation, would be able to adequately protect those marriages. I want to say that if the Opposition feels very strongly that this should be part and parcel of the law, I undertake that I will refer the matter to the Law Commission for its investigation.

Mr. Speaker, the other matter which was raised is that a common-law spouse may make a claim to an interest in property in which a legal spouse may also have a claim. This is addressed by clause 10(1)(c) of the Bill which says:

> "10 (1) On an application for an adjustment order, the High Court may make any such order as is just and equitable, having regard to—

(c) the right, title, interest or claim of a legal spouse in the property."

So the court is obliged to consider, in making an order which is just and equitable, the claim of a spouse.

Under clause 10(3) it says:

"(3) An adjustment order made under this Part is binding on the parties to the proceedings, but not on any other person."

One could see that there will be some mechanism available in case there is a dissatisfaction that one can even apply, and be able—so it is really not a *res ajudicata* between the parties. I should mention that the flip side is also where a common-law spouse contributes to a relationship for years, and upon death of the other cohabitant, a legal spouse of that cohabitant becomes entitled to the property of the deceased.

The other point raised was what is meant by a *bona fide* domestic basis. That is why, in considering this Bill, when the matter went out for public comment and even before it went, a lot of time was spent in formulating the policy. It was thought that we could not have gone for the two years, because one wanted the policy to be a basis in which we would be recognizing rights under a stable relationship for some time. So that, under the definition of cohabitational relationships, we recognize the rights of parties to a stable relationship. The courts must look for elements of commitment and the intention to establish domestic relations. It is to ensure that the temporary or visiting relationship would not really qualify under the Bill. I think, Mr. Speaker, one would want to ensure that if one has such a Bill like this, it would not really be there to protect the transient relationships, but to protect the rights which have accrued as a result of relationships which have had some sort of—

Mr. Maraj: Permanence!

Hon. R. L. Maharaj: Yes, permanence, stability. I must thank my hon. colleague from Naparima. I am much obliged.

Mr. Speaker, may I mention that in relation to the five-year and two-year period, an examination of the countries which have done this legislation, showed that the majority of the countries—

Mr. Sinanan: I thank the Attorney General for giving way. As you speak in terms of a *bona fide* domestic relationship, a relationship that has some measure of

stability: What is the position with respect to a relationship that is perhaps, on and off, but would exceed a period of five years? In other words, two years or so, then breaks off for about one month, and it goes on, but together would exceed five years, not five years together.

Hon. R. L. Maharaj: Mr. Speaker, I am much obliged for that question. We tried to redress that situation in that, the legislation does not have a continuous period of five years, so that the court would be able to examine the period and see whether, in substance, there is a relationship for five years. Because there would be cases of a relationship and the parties would probably fall out for one, two or three months and then may resume cohabitation. So one did not want to penalize the parties for having a misunderstanding, because sometimes it is said that the love encourages a little misunderstanding and that they could have fall outs—

Mr. Imbert: Who say that? *[Laughter]*

Hon. R. L. Maharaj: Mr. Speaker, so that what we did is that we did not follow some of the other legislation which said a continuous relationship. As a matter of fact, if I am correct, I think it is the Barbados legislation which talks about a continuous relationship, and many of the cases have had to go to court in order to determine that. So, I am sure that the Member for San Fernando West did not ask that question because he wanted to find out for himself; he wanted to find out about his constituents. *[Laughter]* As I was saying, the majority of jurisdictions have the five-year period and if I may quote, Barbados, South Australia, New South Wales, Queensland and Victoria all provide for a five-year period of cohabitation in their legislation.

Mr. Speaker, it is correct that the Bill does not deal with the rights of common-law spouses on intestacy. With regard to what the hon. Member for La Brea stated in relation to the Succession Act, I, in my contribution, mentioned that it is really unfortunate that the provisions of that Bill were not implemented. One of the difficulties we had is that we could not proclaim the entire Bill and we have been trying to see whether we could proclaim parts without affecting the whole. One of the views is that we would have to draft a new Bill in order to deal with that aspect of it. I could tell this honourable House that we have had a few meetings about that at the Legislative Review Committee and I believe that that Bill should be introduced to this House before the end of this session.

Mr. Speaker, just for Members to know, that 1981 Act sought to reduce the financial hardships experienced by allowing a certain class of cohabitants to be eligible to inherit the fund intestacy. It was for single or unmarried persons who

have been living with a single person for not less than five years. One sees that even in 1981, the policy of the Parliament was a sort of five-year period. The provisions of this Act, no doubt, would have to be revisited and this Bill which is before us will seek to deal with the maintenance and property matters, but we will have to bring that legislation in order for there to be some continuity with respect to the rights even on intestacy.

I should mention that one of the points which is important for us to know, and I think many people would want to find out, is how this Bill would operate; what sort of arrangements it will deal with when the Act comes into force. This Bill will not govern relationships which would have ended before the Bill comes into effect and, therefore, it will not be retrospective in its operations.

6.10 p.m.

This legislation would apply to all cohabitational relationships, which are in existence, the date the Bill comes into effect and those relationships which are entered into subsequently. Therefore, when the Bill comes into effect and there is a termination of the relationship, then it would be effective. However, it is not retrospective in its operation.

Mr. Speaker, I do not see any other points raised which I have not answered. There are some amendments which I have circulated merely to increase the age of the child from 16 to 18 years in clause 15 and to do some tidying up. As I said, this is a glorious day; it is a most progressive piece of legislation.

To put it into the record, I would just give an idea of similar laws in other countries, such as the Barbados Family Law Act of 1982 which conferred on the court the power to award benefits for a continuous period of five years and dealt with the separation agreements which we have in this Bill. The New South Wales De Facto Relationship Act of 1994 is also similar and gives the court the power to take a wide range of matters into consideration. Victoria and Queensland have also passed similar legislation. South Australia has comprehensive legislation governing the property and maintenance of the rights of cohabitants. The Family Relationship Act defines a putative spouse as a person who has been in a cohabitational relationship for a period of five years. The Matrimonial Property Act of New Zealand allows the court to take into account the length of the relationship, the contribution of the parties and the presence of the children when applying its matrimonial law to a *de facto* relationship. One sees the development of the law for the court to take into account, not only the marital relationship, but also the *de facto* relationship.

Although the Canadian provinces have not enacted separation legislation to provide for cohabitants, several provinces such as Ontario, New Brunswick and Nova Scotia have amended their laws to accord limited cohabitation rights to cohabitees. New Brunswick, for example, amended its Family Services Act of 1981 to provide that where a man and woman have cohabited for a continuous period of three years and the relationship is one in which one party has been substantially dependent on the other, an application for maintenance may be made to the court. Newfoundland and Nova Scotia require a cohabitation period of one year. Mr. Speaker, the policy of this Bill is really to protect stable relationships and those with some elements of permanence.

In concluding, I think the Law Commission of Trinidad and Tobago ought to be commended on this matter. It is a statutory body which is responsible, even on its own motion, for looking at areas of law reform. From 1994 it had this Bill on the burner. One normally does not like to single out people, but please permit me—and I hope the House permits me as well—to compliment Mrs. Lorraine Lutchmedial the secretary of the Law Commission. She has played a very important role in having this Bill drafted. From the Chief Parliamentary Counsel, Miss Annemarie Brassington has also been very helpful. It is important to recognize our public officers when they have made contributions. [*Desk thumping*].

We again express our thanks to the Opposition. We are very happy to find consensus on a matter like this that affects the family lives of individuals. The Bill may not be perfect, but one knows that in legislation like this or in whatever legislation passed, no matter how long a time it takes to formulate, when it is enacted one may see some of the flaws. If we see any, we could always come back to the Parliament and remedy those matters.

Thank you.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Maharaj: Mr. Chairman, there is a typographical error in clause 2 where it says "'maintenance order' means or order". It should read "an order".

Clauses 1 to 14 ordered to stand part of the Bill.

Clause 15

Mr. Maharaj: Mr. Chairman, I beg to amend clause 15 as follows:

"A) In subclause (1) (a)

(ii) delete the word '16' and substitute the words '18';

B In subclause 2—

(ii) in paragraph (a), insert after the word 'cohabitants', the words 'including the physical and mental disability of each cohabitant'; and

(ii) in paragraph (b), delete the words 'and the physical and mental capacity of each cohabitant for appropriate gainful employment'."

Mr. Boynes: My amendment has the word "painful" instead of "gainful".

Mr. Maharaj: They are probably referring to Members of Parliament. The circulated amendments should say "gainful employment" and not "painful employment". [*Laughter*] I was thinking of myself.

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Clauses 16 to 31 ordered to stand part of the Bill.

Bill reported to the House.

House resumed.

Bill reported with amendment read the third time and passed.

ARRANGEMENT OF BUSINESS

The Attorney General (Mr. Ramesh Lawrence Maharaj): Mr. Speaker, when the House adjourned on the last occasion I did indicate that we would take the Motion on Waterworks. We are proposing to take the two Motions together.

Agreed to.

WATER IMPROVEMENT RATES
(POINT LISAS INDUSTRIAL ESTATE) ORDER

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I bego to move the following Motion:

1. *WHEREAS* it is provided by Section 11(b) of the Waterworks and Water Conservation Act, Chap. 54:41, (hereinafter called "the Act") that the Minister may by Order impose water improvement rates in respect of all or any classes of such lands and to provide for the methods of calculation and the times and manner of payment of such Rates;

AND WHEREAS it is also provided by section 11 of the Act that every Order made under that section shall be subject to affirmative resolution of Parliament;

AND WHEREAS it is expedient that the Order now be affirmed:

BE IT RESOLVED that the Water Improvement Rate (Point Lisas Industrial Estate) Order, 1998 be approved.

Mr. Speaker, on March 20, 1998 I piloted the Waterworks and Water Conservation (Amdt.) Bill, in this honourable House. The Bill was passed in both Houses of Parliament and was assented to by the President on June 4, 1998.

6.25 p.m.

Pursuant to the passing of the amendment of the Waterworks and Water Conservation Act, 1998 and in accordance with sections 10 and 11, the Minister, in order to enable the competent authority to collect rates from water improvement areas, is required to publish orders for the purposes of:

1. classifying the lands to be considered water improvement areas;
2. prescribing the rate to be paid by the customers located in that area and to provide for the methods of calculation and the times and manner of payment of such rates.

These orders require an affirmative resolution of Parliament before they can take effect.

Subsequently, I beg to move that:

1. the Point Lisas Industrial Estate, that is the area of land situated in the Ward of Couva in the County of Caroni bounded as follows: on the North by the Waterloo Road; on the South by the area designated as a reclamation area; on the East by the Old Southern Main Road; and on the West by the Gulf of Paria be declared as a water improvement area; and
2. a water improvement rate of $4.00 per cubic metre payable by customers located in that area be the applicable rate.

The water improvement rate of $4.00 per cubic metre is over and above the existing water rate for industrial users of $3.50 per cubic metre established by the Public Utilities Commission under Order No. 83. In other words, the water improvement rate of $4.00 per cubic metre will exist alongside the established Public Utilities Commission rate.

As I stated on the previous occasions when I piloted the Bill, the development works which have to be undertaken immediately to satisfy the increasing demand for water at the Point Lisas Industrial Estate will tangibly and materially benefit the customers at this estate. The Point Lisas Industrial Estate now accommodates some 22 major firms together with several small industries, commercial enterprises and offices. The expansion of the estate now in progress will allow for the accommodation of 20 to 25 additional firms and the resulting demand for water at the estate is expected to rise from 12 to 15 million gallons per day currently to 33 million gallons per day by the year 2005.

The developmental works identified as being urgent for satisfying the increased demand comprise, *inter alia*, the following:

1. Priority works - the development of new wells in the Las Lomas area supplied to Farmlands and the reinforcement of the local infrastructure at the Point Lisas Estate;

2. the expansion of the Caroni water treatment plant; and

3. other associated works including the rehabilitation of the Caroni water treatment plant and transmission system, strengthening the Caroni water treatment plant pumping capacity and the improvements in transmission and distribution network.

These works all together are estimated to cost approximately $260 million.

The customers at the Point Lisas estate are the ones directly targeted to benefit from these development works. Having regard to the substantial projected increase in the demand for water and the high capital outlay, it is only fair that these works must generate cash flow sufficient to service the debts. WASA's present revenue base derived from the Public Utilities Commission’s 1993 rates of $3.50 per cubic metre is not sufficient to provide for the servicing of roads which will be required for the capital expenditure involved in these works.

In order to maximize the overall welfare of the society, the price of goods or services should reflect the costs incurred in the production of those goods or services. These costs should include not only suppliers’ direct cost of production, but also the cost that production might impose on others; optimal price balance demand and supply and consumers and suppliers adjust consumption and supply decisions accordingly. Therefore, any rate justification depends on at least three major factors:

1. cost and revenue situation;
2. rate setting methodology utilized; and
3. impact of the proposed rates.

WASA's cost and revenue situation—currently the water rates which were adjusted in 1993 do not allow WASA to recover its cost. At the same time WASA's costs and the prices in the country have been gradually increasing over the years since the last rate adjustment in 1993.

Rate setting methodology—the proposed rate of $4.00 per cubic metre resulted from a study undertaken by the firm of London Economics, a well-known international firm in the United Kingdom. London Economics was commissioned to investigate tariffs for water and sewerage services in Trinidad and Tobago with a specific aim of bringing revenue in line with the cost of providing the service. Based on the long run average incremental cost methodology, London Economics has proposed a tariff for the Point Lisas Industrial Estate of $7.50 per cubic metre. This price will provide the customers of the estate with the price signal needed to optimize consumption. All the ingredients for calculating the long run incremental costs are identifiable. That is, all customers are metred and, therefore, consumption is accurately known; cost can be fully allocated to customers at the industrial estate who are targeted to benefit from the water improvement works; cost of supply, that is construction and operating cost, can be easily determined.

The impact of the proposed rate—at the current price of $3.50 per cubic metre the cost of water as a percentage of total operating expenses of the firms at Point Lisas is only 0.8 per cent. The cost of water as a percentage of the total gross output is only 0.4 per cent. At the proposed rate of $7.50 per cubic metre, the cost of water as a percentage of total gross output will increase to 0.86 per cent, that is, less than one per cent of their gross output.

A comparison of water prices in other countries indicates that the price of water in Trinidad and Tobago is not only the cheapest but a mere fraction of the prices in some other countries. When we do the comparative prices in pence per sterling per cubic metre—Germany, 122.27 pence per cubic metre; Belgium, 96.23 pence per cubic metre; Netherlands, 94.77 pence per cubic metre; France, 93.88 pence per cubic metre; Australia, 65.80 pence per cubic metre; United Kingdom, 63.84 pence per cubic metre; Finland, 55.58 pence per cubic metre; Italy, 54.43 pence per cubic metre, Sweden, 48.58 pence per cubic metre; Ireland, 42.74 pence per cubic metre; Spain, 42.12 pence per cubic metre; Bahamas, 260 pence per

cubic metre; Barbados, 53 pence per cubic metre; St. Lucia, 53 pence per cubic metre; Puerto Rico, 35 pence per cubic metre; and Trinidad and Tobago, 35 pence per cubic metre.

Mr. Speaker, before the initiation of this process of the amendment of the Waterworks and Water Conservation Act, consultation took place with the industrialists at the Point Lisas Industrial Estate and they are in agreement with the imposition of the water improvement rate of $4.00 per cubic metre. What they are interested in is the assurance, security and reliability of supply and they recognize that this can only be done through the need for significant capital works.

Mr. Speaker, it is calculated that the revenues to accrue from the customers at the Point Lisas Industrial Estate with the imposition of the water improvement rate of $4.00 per cubic metre will be adequate to service the contemplated debt and also to cover all operating and maintenance costs at the Point Lisas Industrial Estate. Clearly, these development works will significantly improve the supply of water at the Point Lisas Industrial Estate.

Mr. Speaker, I beg to move. *[Desk thumping]*

Question proposed.

Mr. Eric Williams *(Port of Spain South):* Mr. Speaker, before I go into this debate I want to, as I see him in the House, thank the Minister of National Security for reacting very promptly to a matter which was debated in this House last Friday. Indeed, his action has been well received in the community and certainly by this Member and we look forward to good things.

Mr. Speaker, with regard to the Order that is before us, I understand that there is a need for increasing the rates at Point Lisas. In fact, the $3.50 which was set by the Public Utilities Commission, the previous administration also believed it was inadequate. As the Minister alludes to, $4.00 may itself also not be entirely adequate in the long run. In fact, he also alludes to the wider study which suggests of the order of $7.00 or so per cubic metre.

Before Members get lost in the terms being used, a cubic metre is a thousand litres and, to convert it, that is about 264 gallons. Sometimes we use different terminology and people get confused. Basically what we are saying is, to find out the cost per gallon you just have to divide 264 by 4 to understand that the price per gallon that is being paid for water by the industrial customers—the cost of a gallon of coca cola or of juice of any kind is much more expensive than that. We find those things to be indispensable; can you imagine the actual cost that industrial

customers are paying based on the volume of water that they are using? Indeed, the water rates in Trinidad and Tobago are some of the lowest in the world if not the lowest.

In fact, Mr. Speaker, we have no argument with that. What we have an argument with is a suggestion that part of this Order has to do with the creation of a desalination plant in the Point Lisas area. I believe when the amendment to the Act, Chapter 54:14 which is now Act No. 10 of 1998 was debated in the other place there was a considerable debate on the environmental issues and so forth. I would like to suggest that there are possibly other ways to approach the amelioration of the water situation in the nation and certainly in Point Lisas and Central Trinidad. I would like over the course of the debate to raise six points or so which may tend in that direction.

The first, Mr. Speaker, is this: if indeed a desalination plant is being contemplated—and I know the Minister spoke about all sorts of general improvements—then we have a problem in the sense that a desalination plant is itself an expensive piece of machinery to go into. In fact, when I was preparing for today's debate and following on what was said by Sen. Prof. Kenny in the other place, my daughter, who is in second form in high school, happened to look over my shoulder. We started to talk about desalination plants and she said immediately that she knew what a desalination plant is. It is in her geography book. Hopefully this is one of the text books that does not have any major errors. I hope so. The Minister of Education is not here to tell us.

6.40 p.m.

In this book, *A Sense of Place, Book 2, Places, Resources and People* which is used by the second form in a number of schools, the Chapter, "Water: the basic resource". I quote from page 65:

> "In some desert areas factories have been built to turn salt sea water into fresh water, but the costs of running these desalination plants is high."

Any second former in any high school knows now, from their geography lessons, that a desalination plant is an extremely expensive piece of equipment to work with. For the elucidation of other Members it was copyright 1992 and reprinted several times, as recently as 1993. This is what is being taught to our students in high schools at this time.

Mr. Speaker, I have a problem when somebody tells me that even for an area that is a desert—and Trinidad and Tobago cannot, by any stretch of the

imagination be considered a desert, certainly from the geometrical and geographical sense. Some people may suggest there is a paucity of ideas and vision, but certainly not a desert in the geographical sense. Desalination plants, to my understanding, are the last resort in an area in which there is no rainfall. A considerable part of Trinidad, over the past couple of weeks, has been awash with water. Half of the country is flooded during the rainy season. Water everywhere. *[Interruption]* My colleague on my right mentions that his constituency is under water, in an area in which this Government promised that would be a thing of the past because of the dredging of the Cipero River. I saw in the newspapers that many of his constituents are in distress; trying to save all sorts of household appliances.

Clearly, Trinidad and Tobago is not a desert. Even for a desert, as a last resort a desalination plant is considered to be a high-priced item. In fact, in the Middle East, I believe it is in Qatar—or one of those Emirates in the Middle East—they decided, because they needed to get water so badly, to build an aluminum smelter which, in itself, is a capital intensive project. They needed water so badly that they decided they would use the smelting process for the aluminum to heat the salt water to get fresh water. They really wanted the water, and the aluminum in that case is a bi-product. Can you imagine that? Here we are, 10 degrees above the equator with the inter-tropical convergence zone sitting above us for days on end and we are going to build a desalination plant as in Qatar.

Mr. Speaker, I really wonder about this. The industries in Point Lisas—which the Minister is alluding to—have agreed to this increase in rates. As I said, we have no problem with the increase in rate but it is what use you put that to which is questionable. In fact, if we look here in another article by Gordon Labedz, which I got off the internet, entitled "Seawater Desalination Plants". It says:

> "The single greatest environmental impact is the energy required for pumping. The cost of this energy, plus the cost of desalination infrastructure makes desalination very expensive."

Not just expensive, very expensive.

> "For example, in 1994, a Southern California water district, using local groundwater spends about $78..."

This has to be US dollars.

> "...an acre foot. Imported Northern California water costs $380 an acre foot. Desalinated seawater costs from $1,200 to $2,000 an acre foot."

Salt water desalination plant!

Mr. Speaker, the business of a desalination plant is a very expensive process. Whether the water is further treated to make it potable or to be used for industrial purposes, it is an expensive exercise to get into. Indeed, there are other possibilities in Trinidad and Tobago, certainly in Trinidad, at this time.

I believe I heard the Minister say that the overall cost of this exercise is about $260 million—I believe it is US dollars—*[Interruption]* TT dollars?

Mr. Valley: Who is spending that money? Is it the Government?

Mr. Singh: You did not listen to what I said?

Mr. Valley: No, I did not.

Mr. Singh: Obviously.

Mr. E. Williams: Mr. Speaker, $260 million and this one gathers—because I understand we are servicing a debt—is an up front cost.

When this Government came into office, one of the things they decried very loudly was the move to rehabilitate 119 water wells by the previous administration. What they have not said is that those water wells saved the day in the previous dry season. The cost of rehabilitating those water wells when it was envisaged and being put into place was TT $200 million spread over a three-year period and the people who would be developing the water would be paid as they delivered the water. So with the cost differential, WASA's revenue base would be protected while at the same time, water would be supplied. Indeed, water was supplied during the previous dry season and that helped the overall situation. So, $200 million spread over three years with no service charge versus $260 million up front cost.

Listen to this, Mr. Speaker, the 119 water wells delivered 29 million gallons of water per day as opposed to a desalination plant in which we are trying to raise 20 million or so gallons per day. By what stretch of the imagination does one appear to be cost effective versus the other when one factors in all of the administrative and service charges?

Mr. Speaker, a desalination plant is an expensive exercise. It may not be the best way of using the resources that would come to the nation based on this rate increase, which we all agree is a useful rate increase. In fact, any approach that I have heard the Minister suggest so far may not be, in itself, the most efficient way

of utilizing the current supply of water we have in this nation. Currently, WASA has been averaging, in terms of its production since December of 1995—if you take all of it together—just about 201 million gallons per day in terms of water it treats. *[Interruption]*

Mr. Speaker, the Minister wants to know where I got this information from. I asked a number of questions of the very Minister in this House and he provided me with answers. The answer to question No. 75 gave the average production from all the various sources from November, 1995 to March 1998. *[Interruption]* Well, then you did not answer the question properly. *[Interruption]* Mr. Speaker, the reply was:

> "The production rates of water expressed in mega litres per day (ml/d), averaged on a monthly basis for the various facilities operated by the Water and Sewerage Authority (WASA), over the period November, 1995 to present, have been tabulated for ease of reference and are presented in the attached appendix for the information of this honourable House."

6.50 p.m.

Mr. Speaker, I would not take up the time of this House because members have been circulated with these. All one has to do is go to the total of all sources, calculate from millilitres per day to gallons per day, add them up, divide by the total and one would get an average. All that is needed to do that is a hand calculator. I am saying this is the average, plus a minus 50 million gallons. We produce a heck of a lot of water. In fact, by world standards, we produce water for twice the population of Trinidad and Tobago. What the Minister has not alluded to in this discussion—and it is something he has had to discuss in other places as has anyone who has had to comment on the water situation—is the transmission losses due to leaking water mains because of aging plant, and that is at about 50 per cent; an appalling rate by any consideration.

What that suggests though, by world standards, is that we ought to at least have enough supply for everywhere in Trinidad and Tobago, but there are inefficiencies in the way that is distributed throughout the system. In fact, that was the key reason why the previous administration went to international lending agencies and sought their approval and guidance to bring into the situation in Trinidad and Tobago a corporate entity which would in effect change the culture of WASA—not that the folks at WASA are not bright—but to improve WASA's ability to change water-mains throughout the system.

WASA's capability as a corporate entity could only replace 100 kilometres of pipe per year of water-mains, and that sounds like a lot given Trinidad and Tobago, except for the fact that there are at least, 2900 kilometres of water-mains in the ground, which means that if you started at one end it would take you 29 years to finish and by the time you are finished, you have to start all over again. The concept was to bring in an entity with a sort of can-do attitude that is accustomed to doing large projects and that entity would work with the existing professionals and situation to change the water-mains at a faster rate.

Mr. Speaker, to my horror, I noticed that WASA published recently a tender which has been the subject of some other questions which I have asked the Minister, for 100 kilometres of pipes, which suggests that all WASA is planning to change this year is 100 kilometres of pipes. So, what is the purpose of having brought in Severn Trent? There are many questions to be asked. Why is it that I am hearing persistent reports that the World Bank has not released the funding required to fund Severn Trent based on the criteria it set up? Maybe, I misheard. Why is it that the World Bank is suggesting that all of the controls and the criteria that were set up, which were transparent to international scrutiny, have not been met and, therefore, they are not forthcoming with the funds? Why is it I am hearing that professionals in the water industry are suggesting that they are disappointed that there is not enough capital to have been injected into the system to do an adequate job in this nation and yet, we are going about trying to build things like desalination plants and other things which are not required? There are too many questions that present themselves.

When one figures out that the Caroni Arena averages—if one uses the method of simply adding all of them up and dividing by the number of months—about 60 million gallons of water per day.

When one figures out that the North Oropouche Dam averages about 20 million gallons, can you imagine—I remember when I went into the Ministry of Energy years ago as a geological assistant, there was a discussion about increasing the supply from the North Oropouche Dam from 20 million gallons to about 60 million gallons. The concern at that time was a seismic risk in the sense that geologic maps postulate the presence of a particular fault known as the El Pilar fault, which if one would cast one's mind back caused a major incident in Venezuela where several lives were lost. Geological maps postulate that fault to run basically through Port of Spain and up along the East West Corridor. It was always thought that if a dam is built on that fault, you open yourself to the risk of some catastrophe.

Mr. Speaker, recent geological forte and seismic surveys off the east coast suggests that the El Pilar fault may not in fact, extend as far as that. If it does, the seismic survey has not been able to pick up any significant seismic activity along it. It is possible then from a geotechnical engineering point of view to develop the North Oropouche Dam to be able to produce 60 million gallons of water. Such an effort could not possibly be as expensive as some of the other methods that are contemplated by the hon. Minister. Indeed, the Minister has access to run the numbers. I do not know what the actual thinking on the costs is now and the Minister can tell us or his technocrats who are willing to advise him.

Other Members of the Government have been speaking of other possible innovative techniques. I understand the planning functions have been put under the Ministry of Housing and Settlements. In fact, the Minister of Housing and Settlements and I held discussions years ago—before I even contemplated getting into politics—about properly mapping the aquifers so we could maximize returns from them.

Mr. Speaker, if we were to route all of the water from the Caroni/Arena system to the south, and at the same time develop the North Oropouche Dam and run a parallel pipe that serves the north of the island, then for a bare factor of the cost, we would have achieved that which is required. Simple logic. What the Minister also may not have told the House is that there is a particular coincidence of traditional historical and economic activity in this country which creates an unfortunate happening.

The cane harvesting season in this country—and I stand to be corrected—tends to coincide with the dry season. Caroni has for years been reporting that it has only been drawing one million gallons of water per day from WASA. Recently, it was reported in the press that certain officials at WASA discovered two illegal connections from WASA to the Caroni processing plants which were providing water which were unaccounted for and which were drains on the system. In fact, I am informed that some of the engineers had been modelling the water flow in the area and had been finding unexplained losses particularly during the dry season when this activity was going on at the Caroni factories.

7.00 p.m.

In effect, I am reliably informed that the process of converting cane to sugar, given the plant which we have, ought to use in the order of 10 million to 15 million gallons of water per day.

I may be wrong. I am not the Minister and I do not have access to all his resources. It has been suggested to me that if this is the case, then there might possibly be more illegal connections waiting to be found. I compliment this current administration for finding these illegal connections at Caroni. I think had someone else found those connections, a political price might have been paid. I congratulate this Government for its due diligence and enterprise in discovering these. I suggest to the Government that there are more and it should find them. [*Interruption*]

The point is being lost. Much of the hue and cry in the dry season is about water taps going dry in Central Trinidad, where there are big mains. In fact, that water loss and hue and cry have been attributed to treated water going to Point Lisas Industrial Estate, when in fact there are other industries nearby that are drawing down on the water. If those are found and corrected, then, it is quite possible that the 10 million to 15 million gallons drain that should have been going to the taps in Central Trinidad, would find its way to the right place.

With regard to the contemplation of the hon. Minister, we have already pointed out that the water rate increase is fine. In fact, it may not be enough. I would like some clarification from the Minister when he is winding up as to whether or not any improvements in the water supply situation at Point Lisas, such as the new pipes and the revenue collection, would be vested in WASA. It has not escaped the national population that there has been talk about further privatization of WASA. If I were the Minister and I were to contemplate partial privatization or further divestment, in order to get the best possible price, and hence return, based on the investment which I have, I would tend to go for what would attract the most return. Since this appears to be a new activity in an area which is a prime one where water is a necessity, this then seems to line up with suggestions of privatization of WASA.

I would like the Minister to elucidate this House on whether or not his improvements in this water conservation district and all the revenue would go to WASA, or if he is contemplating privatizing this area as a means of providing better efficiency, or for any other reason. There is a real issue here as well that is of concern to us as citizens of Trinidad and Tobago.

Based on the Minister’s comments, we know the revenue base of the water which is being supplied at Point Lisas. By increasing the production and price, we are increasing the revenue base of WASA. I would like the assurance that that revenue base would continue to accrue to WASA because they need the funding. Not only that, if you remove Point Lisas from the direct revenue base of WASA, we

are still left with the transmission of the current amount of water. This means that somewhere along the line somebody has to pay for that. If the largest industrial estate is removed from that, then it would mean that other users of water in this nation may have to make up the shortfall. That, may be you and me.

I would like to know that the current revenue base of WASA is maintained and that my water rates do not have to suddenly appreciate because of a loss of the revenue from Point Lisas. The masses would be cheering that they are getting water, but they may not cheer as loudly if they realize that they have to pay for that increase in the rates, in that inordinate manner, simply because we have partially privatized certain parts of WASA. I think I would like the hon. Minister to assure us that this would not be so.

Apart from that, basically, in a nutshell, who would own the desalination plant at Point Lisas? It is interesting? Would it be WASA or private enterprise. I am hearing the name INNCOGEN generating electricity, providing some heat which could be used to heat the water. In a cogeneration situation, as part of maximizing one's revenue for the cogeneration, we could deal with some water on the side. The Chairman of WASA is the CEO of an enterprise at Point Lisas, PCS Nitrogen. I am not questioning anybody's integrity, but one starts to wonder a little about which hand is doing what and who is doing what with whom. I am asking the hon. Minister to give us the assurance that all is well and we would not face any huge draconian water rates.

7.10 p.m.

Apart from the financial issues, there are some serious environmental ones. In the other place, the hon. Senator raised some pertinent ones. I would expand on that. I do not know if he went to that extent.

One of the things I have had to look at, for various professional reasons, is water circulation in the Gulf of Paria. Let me draw a word picture so that hon. Members in this House can see what is going on.

We all know when we boil water, we set up what is known as a convection cell, in that as the water heats, it bubbles, rises up, goes to the side of the pot, cools a bit, goes back down and keeps moving around in what is known as a convection cycle.

Let us picture Trinidad, South America and the Columbus Channel. We have water coming from the Orinoco. We have water coming from the Amazon. We have the equatorial current coming up from South America; it gets to the

Columbus Channel and it starts to flow in. In the Columbus Channel, the distance narrows and so, because of the volume of water and the distance, it picks up speed. There is a current. The current comes through the Boca del Dragon into the Gulf of Paria at a fair speed. It heads up the gulf to the other Boca. Because of the shape of northern Trinidad and the Paria Peninsula of Venezuela, there is a natural deflection of water east and west. If you will recall the shape of our lovely island and of Venezuela, it goes in, so that there is a situation of a convection cell. It circulates there with the main current going through. There is a circular geyser.

What will happen if we heat up inordinately the water in a localized area in that circular geyser? The water in that geyser is by and large trapped, moving around in a circle with a little replenishment on the edges of the main current. We already have a number of heat sources from the other industrial estates. However, a desalination plant, despite the protestation of many engineers, tends to put into the system a fair amount more hot water than some of the other industries. We will now set up an environmental situation where we can cause an increase in the ambient temperature of the water that circulates in our Gulf of Paria.

What are some of the possible effects of that? Germs love heat. In fact, here is a story of fresh water fish in a North American situation, which is taken from one of the news services on the Internet. It is headlined: "Kansas officials blame fish kill on bacteria, heat." It is out of Wichita, Kansas, published by Reuters. It is dated June 11, 1998.

> "A common bacterium combined with hot weather caused a giant sport fish kill, Kansas wildlife officials said Thursday.
>
> From 70,000 to 80,000 white bass turned up dead last week in Cheney reservoir, 20 miles west of Wichita. That is half the lake's total estimated white bass population, officials said.
>
> Tests conducted by the Aquatic Animal Health Laboratory in Colorado determined that a bacterium found in all fish, coupled with hot weather, caused the kill."

What we are doing, in a situation where we are already in a humid tropical environment, where fish is scarce, where fishermen are finding an increasingly difficult time—as my friend from Naparima would attest—in catching fish, we are seeking to create conditions in the Gulf of Paria which would be inimical to the furtherance of their careers and, indeed, to my enjoying fish on my table. I think we need to rethink this.

We are not a desert. We have enough water flowing. We need to improve the efficiency with which we transmit our water. Whatever happened to all the discussions I had with my technical colleagues about setting up special testing situations along the mains where there would be a whole GPS network. I understand that this is either completed or well on its way to being completed. There would be pressure testing situations with radio telemetry, or some other remote form of communication, which would point to pressure losses in the system so that we can detect leaks. I know that those things have been in the planning for more than 10 years. I used to be one of the people trying to help with that effort.

In the Geographic Information Society, we nominated somebody, we donated money; we helped them in a number of ways so that systems such as that in WASA, in T&TEC, in Town and Country Planning, with the tax man, with CSO, can be upgraded and brought into the 20th Century and, indeed, into this decade.

What happened to all of those? I would like to hear a little more about them as a means of improving the water supply situation so that we do not have to do things which appear to be less than sensible such as creating and building expensive desalination plants.

Before I move away from the environmental conditions, because of our geopolitical location we are very careful to fall in line with certain initiatives of a major power to the north, the United States of America. Quite often it is in our interest to do so. When it is not, we try to differ, sometimes at our own peril.

Again in an article dated June 11, 1998 by Reuters and headlined "Gore announces measures to explore, protect oceans."

> "Vice President Al Gore, promising that the administration would give the world's oceans 'the priority that they deserve', announced Thursday several plans to explore the seas to help preserve them...
>
> Gore said the administration would launch new partnerships with states, local communities and the private sector to protect coastal waters."

This is somewhat like what we have in the Gulf of Paria. The point is that our friends to the north continue to wake up to the environmental impact of the engineering solutions which they and others have exported to countries such as ours.

In the line of developmental issues, we think of a particular approach to assist in the water supply situation on what is today our major industrial estate. In a

recent speech before the South Chamber of Commerce the President of Amoco, which is a fairly large multinational corporation, one of the companies that is assisting very seriously in the development and monetization of our gas reserves—some people think a little too much—pointed to something which Members on this side learnt some time ago.

7.20 p.m.

We need a new industrial estate in Trinidad and Tobago if we are going to properly catch and ride the wave of the current gas market to maximize on its monetization. *[Desk thumping]* He pointed out that the east coast—

Mr. Speaker: Hon. Members, the speaking time of the Member for Port of Spain South has expired.

Motion made, that the hon. Member's speaking time be extended by 30 minutes. *[Mr. H. Bereaux]*

Question put and agreed to.

Mr. E. Williams: I thank you Mr. Speaker, and other Members of this Chamber. I was pointing out that the gentleman pointed to the fact that the east coast of Trinidad, because of its exposure to wind and wave, is not the ideal place to put a new industrial estate because there is need to have a natural harbour from which to export the products from the estate, and given the geographical situation—its location and the other attendant things—that is not the best place. Of course, there is need for a sheltered harbour, and to minimize the developmental cost, there is need for a natural harbour, if one can be found, and it should be relatively close to the gas supply.

Mr. Speaker, there are those in our lovely sister isle of Tobago who would suggest that one should put such industrial development in Tobago, and again, there are sheltered harbours which could be developed there, they are not deep and would have to be dredged. One faces a problem because pipelines have to be laid to carry the gas off the east coast and it is the east coast gas which has to be used, not the north coast gas. Let me digress a little and explain why. Your colleague, the Minister of Energy and Energy Industries is proposing that we develop downstream industries from the gas, products which are based on ethane and propane. We want to develop the ethylene and the propylenes, the plastics and other things, and to do that, there is need to have the feed stuck in with the gas. There is need for what is known as wet gas, that is gas which has a wider range of hydrocarbons in it. The gas on the north coast is dry gas, it is 99.1 per cent

methane, there is very little of anything else in it but methane which is the simplest hydrocarbon in the chain—one carbon atom, four hydrogen atoms around it. The gas on the east coast, however, is chock-full of a broad range of liquids, but the liquids in the gas on the east coast, are not of gasoline grade so it does not lend itself to proper use in the Pointe-a-Pierre refinery to mix in with the land crudes. However, it lends itself to be used to draw off the ethanes and the propanes and so forth to develop the downstream industries.

One needs to get to a certain critical mass of production of gas from the east coast in order to make those plants economically viable, so gas has to be developed on the east coast. If one wants to put a plant in the lovely sister isle of Tobago, the gas would have to be piped up the eastern seaboard into Tobago, except you would now know that there is a seismic risk as was evidenced by certain houses which lost their foundation in Lowlands in Tobago recently. Indeed, there is a fault which causes the separation of Lowlands from the rest of Tobago. Lowlands is actually now, what is called a carbonate platform, in that it was an old coral reef and the area has been shifting back and forth and is currently above sea level.

The rest of Tobago is made up of volcanic and metamorphic rock which is different from what is at the surface here, and there is, in fact, a very rare seismic risk in Tobago now. So to put a plant there to pipe the gas up from the east coast would be risky at best, in addition to which there would be need to cross what are now known to be several active vaults off-shore off the east coast between Trinidad and Tobago, not to mention those on shore Tobago where one would have to cross between Trinidad and Tobago. So the idea of going to Tobago while it sounds good may be—*[Interruption]* Mr. Speaker, education is sometimes painful. The idea is, that the gas has to be brought onshore to Trinidad and an industrial plant cannot go on the east coast. There is not enough of a natural harbour situation from the currents to put it on the south coast. It cannot be put on the northern coast because of the hills, it cannot be put on the north/west coast, so all we are left with is the west coast of Trinidad and Tobago. That is why Point Lisas was put there in the first place, and that is why when one was looking for a natural harbour, the only other place that had a natural harbour was the Brighton area.

Mr. Speaker, there are certain geotechnical difficulties with placing any heavy foundation in Brighton. I found that out—and the Minister of Public Utilities is asking when did I find out that there would be difficulties in placing any heavy foundation in the Brighton area. I would have the hon. Member know, through

you, of course, that one of the last geotechnical studies done in that area was a gravity study to determine how much pitch was left in the Pitch Lake and one had to sample around the area and I happened to be the project manager of that. We were able to detect where, away from the Pitch Lake, there is pitch.

If a new industrial estate has to be developed, it is going to need water and here is where we come to the point. In the existing estate, we are approaching it in a manner which is clearly not necessarily the best way to go if we are to attract the international investment or investors we require to properly develop that, because they are going to be faced with high geotechnical costs to make their foundations work in that area. If you add to that a prohibitive price for one precious commodity they would require, which is water, by way of the current approach, we run the risk of scaring away the investment capital which is so greatly required to continue the monetization of our gas reserves.

I conclude at this time because I believe that we have presented a case which appears to suggest that the Minister's current thinking should be reconsidered. We certainly agree with the increase in water rate; we are very seriously concerned with what he intends to use the increased rates to do.

Mr. Singh: To increase the water supply.

Mr. E. Williams: We would most prefer to see that the appropriate capital injection be put into WASA to fix the water-mains. Severn Trent's mission can be said to have been compromised by current developments in the Minister's current vision to the extent that they have not been able to achieve their mission and we would be more comfortable, that is to say, if rates were to go up because of his particular vision. The population would, indeed, have a greater degree of comfort if the Minister could then channel this windfall into fixing the current plant and maximizing the God-given rainfall which we already have, rather than creating situations which may be dangerous from an environmental point of view, environmentally hazardous. They may also be fiscally questionable and may open him to unfortunate questions by all sectors of the population as to who would be getting what from what, and those are very unfortunate questions that he is opening himself to, when what is really needed in this country is just to fix the water supply.

Mr. Speaker, the Minister is using a plaster to fix the proverbial sore when he should seek to do what he originally set out to do, which is to properly fix the transmission system and develop it to the benefit of all, including the Point Lisas area.

With those few words, I commend some of those thoughts to the Minister and I hope he would elucidate us on some more of his plans and we would all leave this place very comfortable that things are well on the way to prosperity and we would have a better supply of water.

I thank you.

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I wish to thank the Member for Port of Spain South for his contribution because nowhere did I mention desalination in this contribution with respect to this part of my contribution. Obviously, in my last contribution, with respect to the Act, I did in fact, indicate that was one option at which we were looking, and the Member for Diego Martin Central indicated to me the $260 million and what it was being spent for. I indicated that it was for the development of wells in the Las Lomas area, the infrastructure for farm lands, around Point Lisas, and the bottlenecking of the Caroni (1975) Limited treatment plant and other associated works. That is what the TT $260 million is spent on. It is not for desalination. I want to clarify that point.

I want to deal with issues which were raised by the Member for Port of Spain South. He spoke of this attempt being a plaster to cover a sore, it is this sore, this cancer of the lack of water we lay firmly at the feet of those in Opposition when they were in office over the years. *[Interruption]* Before you call anybody dummy, look at yourself. *[Laughter]*

Mr. Speaker, there is existing in this country a serious water deficiency of 28 million gallons a day. There are four major surface water sources in this country; the Hollis, the Navet, the Caroni/Arena and the North Oropouche and they comprise 70 per cent of the water. The rest of the water comes from the ground aquifers which have a total potential capacity of 51 million gallons. Currently we extract 44 million gallons from those sources, and the Member speaks of a plan for the extraction from 119 wells—and they were extracting 33 million gallons. We extract right now, 44 million gallons from those ground aquifers.

7.35 p.m.

What he did not say was that the contracts for the extraction, which were given out by that regime, were overnight contracts, to which we had to put an end. So that when he talked about $200 million over three years, it was $200 million for their friends and overnight contractors. That was it, and we put an end to that.

Mr. Speaker, I want to deal with the issue of the serious water deficiency and how one is going to correct that. There are surface water sources and ground water sources; those are the two principal areas. Yet, we have a 28 million gallon deficit. The hon. Member, geophysicist that he is, understands the technical data associated with that. It is unfortunate that he was not the Minister of Public Utilities in the previous regime, because he would have, no doubt, lent some measure of credence and led some work in that sector.

The total neglect and state of disrepair of the transmission network of the water sector of 3,500 kilometres of pipeline dating back to 1853 is due to no replacement of the lines. That is why we have 50 per cent unaccounted for water in the country. He is right, the current engineering capacity in this country can only replace 100 kilometres per year; whether it is Severn Trent or any other company. It will take 10 years to replace 1,000 kilometres of line. The total cost projected, TT $950 million. Where are we going to find that money? How much water is this going to add to the deficit when we replace those lines? He would not know! The hon. Member would know that it is a loop that one can replace here, it does not necessarily mean that we increase our existing capacity in this area.

You see, 28 million gallons, and the people who feel the pressure are not the industrialists in Point Lisas or the people in the corridor generally, with the exception of those on the hills: Hillsboro, Gonzales and Belmont, it is generally the people in Central and South Trinidad. Their supporters! They have no interest in this matter! So what they did was to continuously deprive the people—including the people of La Brea—and pump more water into Point Lisas. So as the demand increased in Point Lisas, more water was taken from the public supply system into Point Lisas.

So, how is one going to meet this demand for water? You know, the hon. Member knows that there are four or five possible sources of water in the country to develop to create a dam: the Moruga; the Yarra and Marian in the north; Matura and North Oropouche. He talked about El Pilar fault and everything else. Those are the areas that one could possibly build dams. What he did not tell this House is how long it would take to build a dam. How long? Whilst they were in Government they did nothing of the prefeasibility studies to do the necessary groundwork to build a dam. Nothing! It would take at least seven years to build a dam in this country. At what cost? At least, it is projected that the Richmond Dam in Tobago, Phase I is between $300 million—$500 million. He did not say anything about that: what it would cost to build a dam. No! That is all well and good, but he talks.

Mr. Speaker, so we addressed the issue of water in Point Lisas when the technical people came to us. We said that beyond water for Point Lisas: how would it improve the lot of the people in Central and South Trinidad? Can you increase the amount of water? That is how we came up with the South Water Project. It is our initiative: south water, increase of water, more wells being drilled. You know, the hon. Member, who works at Petrotrin, knows that it is because of the drilling of the oil wells in south Trinidad that we have pressure, we have what is happening to the aquifers. Because they use steam to inject, mud is entering the water aquifers in South Trinidad as a result of oil extraction and, therefore, we have less yield of water from the aquifers in South Trinidad, so the amount of water is limited. I know the Member would know that.

Mr. Speaker, we are dealing with this issue in the way it has evolved. We found out that after we expended significant moneys for the provision of water and for capital expenditure to develop ground water sources—the bottlenecking of Caroni, the bottlenecking of Navet Dam—to increase the capacity; because of the pressure that would be brought on by Point Lisas, we would revert to where we are in 1998, in the year 2001. Therefore, with the capital expenditure, we will not be able to build a dam in that time. What does one do? Continue to deprive the people of this country of this basic commodity? Technology and innovation are needed to come to a solution so that one can provide this basic amenity to the people.

I do not know what the hon. Member is reading. Perhaps he is reading a Form 2 book to understand about desalination. That may be his state of mind, but I know he is much more brilliant than that. I hope he will find some oil for Petrotrin. Nevertheless, we sought to deal with this issue in such a way that there will be some measure of sustainable balance. We looked at desalination and he talked about desert. Barbados is building a six million gallons per day desalination plant. That is desert? Curacao, also a desalination plant. Antigua has three desalination plants. There are desalination plants throughout the Caribbean, in Martinique; Jamaica has three desalination plants; Cuba has desalination plants. But, he goes and calls Qatar and Saudi Arabia.

When we looked at this issue, we said, "Well, this is certainly an option for us to explore, so that we can have the necessary manoeuverability in order to build a dam". So we are doing the prefeasibility studies for the dams in Moruga, North Oropouche and Matura, and we are putting things in place because we have a clear objective: water for all by the year 2000. If we continue with the plans of the hon.

Member, we will have the continued deprivation and lack of amenities for the very poorest in our communities in Trinidad and Tobago. But that is policy consistent with the others, they Tweedledumed and Tweedledeed, whilst the people in this country did not get water.

I want to deal with some issues raised by the hon. Member with respect to environmental considerations. I know that is an issue! When one builds any plant, one can determine the temperature of the water that one can leave. I am no engineer but that is simple reality, that one can determine the temperature of the water, the brine leaving a desalination plant. That can be done! So that issue of the increase of the ambient temperature, that is a matter which can be dealt with if that is a problem for the hon. Member.

Mr. Speaker, when one looks at what is required; when one sees what is happening at Point Lisas; when one sees aluminum smelter, six million gallons per day; projected time, within three years the plant could be built and operational; more iron ore smelters; significant demands for water: how does one deal with that from a practical point of view? Build a dam? How long will it take to build a dam? What is the cost of doing that? When one does a prefeasibility environmental impact study; when one runs through the multilateral agencies in order to find the funding to build a dam, it will take at least seven years, and one has three years start up; the hon. Member is talking about not attracting capital. In order to attract capital, one has to have the ability and, in order to expand by modular expansion, the ability to have the water available. So that, according to those on the other side, while the grass is growing, they would starve the horse in order to create water for Point Lisas.

We take the approach that there must be sustainable balanced development in the society. We agree, but that balance must be between the needs of the industry and the ordinary domestic customers of WASA, the ordinary citizens. The legacy of those on the other side is that there is an imbalance. The legacy of the other side is that priority went to the industrialists, and it is well established. When one looks at patterns of industrial consumption, there is more water consumed industrially in this country than domestically.

The hon. Member raised the point about the issue of revenue. The industrialists want the Water and Sewerage Authority (WASA) to control, be the middle man in any kind of development: WASA must sell the water. It is very simple. One can have various options whereby WASA assures the industrialist and, therefore, they can sell water at the price and buy it cheaper than that. One knows that when they

were on this side, they were toying with an idea of the recycling of the sewerage water from the Beetham Industrial Estate and sending it down to Point Lisas—12 million—15 million gallons to Point Lisas. The reality is that that is an option, but first one has to put a proper plant in place at Beetham. Now we are doing it. We recently had a Greater Port of Spain Sewerage(GPOSS) Study and that is being done, but the time period for that development simply will not meet the demand for Point Lisas.

Mr. Speaker, with regard to the considerations of my friend, I would refer him to my speech which I made on that particular day. I would refer it to him because I know he is a very busy man. I would read for him what I said on that occasion, with your permission, Mr. Speaker.

"Desalination Through Private Sector Participation As A Technological Option.

> Having regard to the fact that a significant amount of water is required in Point Lisas Industrial Estate, and when one looks at the major sources of water in the country, as well as the time period it will take in order to develop any major surface water, there is a need to find a technological solution for this problem of the water deficit which is likely to exacerbate."

PROCEDURAL MOTION

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I move a procedural motion in accordance with Standing Order 10(11), that the House continue to sit until the conclusion of the debate on Motions Nos. 4 and 5 on the Supplemental Order Paper, and the debate on No. 2 under Government Business, the Summary Offences (Amdt.) Bill.

Question put and agreed to.

7.50 p.m.

WATER IMPROVEMENT RATES
(POINT LISAS INDUSTRIAL ESTATE) ORDER

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I would merely indicate that it remains an option, that if we are to provide through private sector participation of desalination in Point Lisas, it means, therefore, the current 12 million—15 million gallons of water going to Point Lisas can then be routed into the central and southern areas, and we would deal with the water deficit that currently exists together with the current developmental works taking place. This will ensure that within a two-year time frame, the majority of people throughout Trinidad and Tobago would be getting water for 24 hours a day. Therefore, any

incremental growth and expansion of the Point Lisas Industrial Estate can be satisfied with the modular expansion of a desalination plant.

The concerns of the hon. Member, in a sense, stem from a lack of appreciation of the practical realities of the environment and of the latest data. He gives all kinds of prices for desalinated water. I have been advised that the price can range anywhere from US 90 cents to US $1.22 per cubic metre. When you compare that, it can be very competitive. I do not know where he got his information, but it is obviously from a high school book. I hope that he would access the Internet. I know that he has access to Petrotrin and ought to brief himself more appropriately in these matters.

With respect to Brighton, I agree that it is an area which is appropriate for an estate, and as he indicated, there are structural problems because of the shifting land. Off course, he would have advised his leader of that when they were in Government but, unfortunately, he was hard of hearing even then.

There are Dutch consultants employed by the World Bank, DHV Consultants, and in their mandate to create the basis for a water policy in this country, they recognized the immediate, medium and long term problems we face, and agreed with the approach we took: you solve the problems immediately and in the medium to long term you start the process of building dams that provide fresh water solutions. That is the way you have to go. You have to solve the problems now, and we are committed to doing so by the year 2000. We are not going to "Tweedledum and Tweedledee" about that. We are clear as to how we have to proceed, the environmental consideration and what option we have to take.

With respect to the issue of the World Bank, they were here and had raised serious considerations as to whether or not we should have engaged in rehabilitation before privatization. Our approach was, since the Water Sector Institutional Strengthening (WSIS) loan to which the IOA was a component, and the Water Sector Rehabilitation Programme (WSRP) loan was linked to that, therefore, the issue of rehabilitation would arise. You have to rehabilitate before you privatize otherwise you would end up with a fire sale. Thus, ongoing discussions are taking place with respect to that principle. As you know with these multilaterals, you have to put your case very cogently and forcefully in order to get your point home.

These Orders seek to delineate the area of Point Lisas in which the hon. Member did agree that there should be a rate increase. There is a water improvement rate of $4.00 in addition to the EC $3.50 rate for the Point Lisas

Industrial Estate area which is clearly demarcated. Therefore, people are quite clear and there is a measure of equity in knowing who would be affected by it. Indeed, there is a clear approach taken, and we have had consultation with the industrialists and they have agreed on this.

Finally, it is not often that the Member for Port of Spain South attempts to make a personal attack or *argumentum ad hominem* on anyone. It is very unfortunate that he attempted to do so with the Chairman of the Water and Sewerage Authority who is also the CEO of PCS Nitrogen. Mr. Speaker, when people give public service especially to a utility like the Water and Sewage Authority and are of that calibre, we must be thankful that they give of their time. It is very unfortunate that the hon. Member sought to cast aspersions. I ask him to refrain from taking that kind of approach unless he has cogent evidence—which I am certain he does not—in order to make that personal attack. That Chairman is doing a good job and is progressively changing the culture of the Water and Sewerage Authority. I am surprised at the line taken by the hon. Member.

I commend these Orders to this honourable House and indicate that it is in the interest of all to provide water for everyone in this country by the year 2000.

I beg to move.

Question put and agreed to.

Resolved:

That the Water Improvement Rate (Point Lisas Industrial Estate) Order, 1998 be approved.

WATER IMPROVEMENT
(POINT LISAS INDUSTRIAL ESTATE) AREA ORDER

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I beg to move the following Motion:

WHEREAS it is provided by Section 10(1)(a) of the Waterworks and Water Conservation Act, Chap. 54:41, (hereinafter called 'the Act') that the Minister, may by order declare any area in Trinidad and Tobago to be a Water Improvement Area;

AND WHEREAS it is also provided by section 10(1) of the Act that every Order made under that section shall be subject to affirmative resolution of Parliament;

AND WHEREAS it is expedient that the Order now be affirmed;

BE IT RESOLVED that the Water Improvement (Point Lisas Industrial Estate) Area Order 1998 be approved.

I beg to move for the reasons I ventilated earlier.

Question proposed.

Question put and agreed to.

Resolved:

That the Water Improvement (Point Lisas Industrial Estate) Area Order 1998 be approved

SUMMARY OFFENCES (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate: [June 05, 1998]

That the Bill be now read a second time.

Question again proposed.

Mr. Speaker: Hon. Members, on the last day on which this honourable House adjourned, we were in the process of debating the Summary Offences (Amdt.) Bill 1998. The Member for Arouca North who was speaking at the time had spoken for some 20 minutes. I now call upon him to continue his contribution.

Mr. J. Narine: Thank you, Mr. Speaker. Last Friday when we took the adjournment I was speaking about spontaneous demonstrations and marching and striking sessions. I went ahead to speak about the Julian Rogers issue where a simple walk into Port of Spain turned into a massive march through the streets of Port of Spain. At that time, I referred to incidents which took place at Blanchisseuse with the Minister of Works and Transport, who is a Member of Parliament, and at Charlieville, again with the Minister of Works and Transport and the Member of Parliament for that area.

I also spoke about the Unemployment Relief Programme demonstrations which had taken place throughout the ending of last year and the first six months of this year and of persons who have been termed "ghost gangs" and "ghost workers". My point was, not all these persons who have been termed as "ghost workers" were, in fact, ghost workers. Some of them may be, but there were others who truly did work and are very much peeved that they have not been paid since last year.

8.05 p.m.

Therefore, when they speak about increasing the time for permission to stage any march or demonstration on the streets, or to have a public meeting to make the people of Trinidad and Tobago aware of a situation, it is sometimes a long period to do so in that some of these demonstrations are spontaneous. As a matter of fact, many of the demonstrations by the trade union movement have been like that.

Mr. Deputy Speaker, what I said on that occasion was that I read a book called *Crisis* edited by Mr. Owen Baptiste and it indicated that the Members on that side for Couva North and St. Augustine, for many years through their political careers, have had many instances where they felt that legislation was oppressive and was put in place to take away the freedoms of the people of Trinidad and Tobago and was unconstitutional. Many matters came up then. As a matter of fact, I indicated at that time that on page 194 an interview was held with the Member for Couva North at the Lower Court in San Fernando, where he was a defendant with 36 other men charged for leading a march without any permission. Therefore, one can go way back and one can indicate why it is that the trade union movement and the people of Trinidad and Tobago at this point in time feel betrayed, especially the trade union movement.

I remember at the end of 1995 when the Member for Couva North became the Prime Minister of Trinidad and Tobago almost all the trade union movements in Trinidad said that they were well pleased and so forth. Mr. Deputy Speaker, at this point in time I am sure that you would agree with me that certain factors took place and, like a chameleon, what he believed in before is not what he believes in now. I challenged him last week to come here in this Parliament and be man enough to say that he was a Member of the trade union movement at that time, and that he demonstrated against certain laws. Instead of removing them now or leaving the *status quo*, he is now increasing them because he has had a change of heart which means that at the time the PNM put legislation in place for these types of offences, he was of the opinion that they were oppressive, but at this present time he does not feel so; and he must say so!

I note that in another place the Attorney General said, quoting from Mahatma Ghandi, that if a man changes his mind and does not say so then he is a fool. *[Interruption]* Who cannot change his mind is a fool. But then if he has a change of mind or a change of heart then he must tell the population. He must not stay away every time this debate takes place in Parliament. Last week they were not here.

Mr. Maharaj: Who says that?

Mr. J. Narine: Couva North and St. Augustine.

Mr. Maharaj: He is listening.

Mr. J. Narine: Oh, he is listening. I would have preferred that they were here. Maybe things would have been different because last Friday this matter was adjourned and one thought we would have continued this debate today. Of course, the Attorney General felt otherwise, that we should have come here in Parliament,

deal with other legislation and then continue the debate. They moved it from No. 10. *[Interruption]* Your television station, AVM. That will come about 10 times during the week on prime time television which will be edited and then one will only get one side of the story, Mr. Deputy Speaker. Moving this legislation from No. 10 to No. 1 last week meant that it was important for it to come to Parliament. This week it is important to bring another bit of legislation to start our debate here today. I know that the Member for Couva South is quite aware of certain political tricks in the trade, but may I say to him, at this point in time: honesty is the best policy.

I am saying that the Member for Couva North, while in opposition, charged certain people in Trinidad and Tobago, in the labour movement and other places of selling their rights for a jacket and a tie. I remember that because I was also a part of the trade union movement at that time up to 1991; I took an active role in the trade union movement. Let me say, that at that time when he said that people sold their rights for a jacket and a tie, I think that it was well taken in that context, but today we have seen almost the entire trade union movement leadership being bought for a jacket and a tie—the entire trade union movement. It started off by taking one and putting him in the Senate. That person has been used, abused and is now almost ready to be excused from the Government.

There are, Mr. Deputy Speaker, other members of the trade union movement who have been in the Senate. Two or three Members in the Senate, one was acting and then there was one in the Oilfields Workers Trade Union who was even afraid to come into Port of Spain and had to send his public relations officer one day to the Senate to make objections to what was taking place with a strike at the University of the West Indies. This is well documented. Even the Oilfields Workers Trade Union at that time was saying that the Government is now with a labour leader and that they were proud of that. Now they are saying something else. I wait with anticipation for Labour Day which would be next week Friday, to see what will take place because I am also seeing that there were two vacancies in the Industrial Court and those vacancies were filled by leaders in the trade union movement. What has happened is they have taken away six leaders in the trade union movement; bought them for a jacket and a tie; put them on their side and today they are impotent. They could not even stage a demonstration last week; poor fellas. Ordinary members of the trade union movement now feel not only betrayed by the Member for Couva North but by the entire leadership of NATUC. That is the point. They feel betrayed.

The Member for Tobago West used to call on the trade union movement about what they should be doing and so forth. What has happened now?

Miss Nicholson: What happened?

Mr. J. Narine: What has happened now is that the Member has bought over the entire executive of NATUC so there is no problem; the hon. Member can now laugh at the rest of Trinidad and Tobago.

Mr. Deputy Speaker, the members feel betrayed. *[Interruption]* If you cannot understand English it is not my fault. During this period, Mr. Deputy Speaker, those that have been bought, especially the Senator that was given the portfolio—

Mr. Deputy Speaker: Standing Order 36(5): you are not allowed to impute improper motives to people in either Chamber. Please do it differently.

Mr. J. Narine: Mr. Deputy Speaker, I am saying that the Minister who sat with the unions and negotiated for them to get 6 per cent did not tell them that the Members on the Government Benches will be awarded $4,000 per month on their housing allowance. Therefore, after the fact, when the trade union members heard that, they felt very much betrayed because they would have felt that at the time they would have told us the truth and we would have continued from there. Today he has out-foxed the trade union movement and while he has given them 5 and 6 per cent, which was refused way back in 1986, today, after 10 years they have taken the 6 per cent because of the jacket and tie, maybe. They felt betrayed because Members on the other side got an increase of $4,000 while members of the labour movement, the poorer masses in the country, were getting 3 and 4 per cent.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. *[Mr. H. Bereaux]*

Mr. J. Narine: Mr. Deputy Speaker, I did not realize that the 25 minutes had passed already but I will try to continue.

Mr. Deputy Speaker, when one talks about spontaneous demonstrations, it happens that sometimes you have school problems and these are led by spontaneous demonstrations. Then there are water problems or there may be electricity problems or, in certain areas, road problems and that would happen spontaneously. As a matter of fact, the Member for La Brea last week went out to stop the people from blocking the roadway because the people got up one morning and felt that they should do it on that day.

Under this law it will be necessary to have two days to do that and then one would have to apply to the Commissioner of Police who would have to give permission to have any such meeting.

Over the last few weeks there has been a lot of flooding, although there are Members of the Government who go all over the country and say flooding is a thing of the past. I remember the Member for Chaguanas making that statement sometime last year; "Flooding is a thing of the past" They clean three drains and send some trucks to take up some garbage and flooding is all over. I think that he has lived to regret that statement.

Mr. Ramsaran: What I said was that Chaguanas did not have floods for the last two and a half years and I still stand by that.

Mr. J. Narine: Mr. Speaker, I would not get into a debate with the Member for Chaguanas. I understand that Chaguanas is the electoral district. I am not talking about the town called Chaguanas, I am talking about the electoral district of Chaguanas and I am certain that you would not agree—

Mr. Ramsaran: No flood.

Mr. J. Narine: Eh? No flood! Mr. Deputy Speaker, I have had the opportunity to be in certain parts of these areas. I drive a motor car and I had to turn around and take other roads, therefore, I do not know what the Member is speaking about.

It is normal for the trade union movement—in the Explanatory Notes of the Bill itself it states that:

> "Clause 5 would insert a new provision to section 118 which would make it a summary offence for any person to hold an exempted public meeting for any other purpose, that is, a meeting, as listed in the Schedule, which does not require the person to notify the Commissioner of Police under section 109."

That is where the problem is.

Apart from increasing the time from 24 to 48 hours in which you must receive permission and the penalties which the Government feels will be a deterrent to persons who would want to do that; as I said this clause 5 is where the problem really lies.

8.20 p.m.

When I was in the trade union movement and we were mobilizing workers to go on a march in Port of Spain, we took a couple weeks, went to the workplaces and gathered the workers together. When we went there we did not speak about union business only, but also why we were going to the streets and much politics flowed from those meetings.

Mr. Deputy Speaker, this is the point. No longer would an officer of the union have the right to go to a station to hold a meeting with workers to seek their support in a march to show that the Government is being oppressive against the working masses of the country. That meeting may be termed as not being on the schedule of this Summary Offences (Amdt.) Bill and that the officer of the union may be preaching sedition and so forth. As you are quite aware, even as the Government is seeking to have this Bill passed, the Attorney General has announced that the Minister of National Security has now formed a Sedition Squad within the police service, in keeping with this type of legislation, may be.

Mr. Deputy Speaker, there are also religious meetings. One would understand that even from 1986 and even before that, 1956, I was a young man in Arima and in 1956 there were certain churches in Arima that were preaching who to actually vote for from the pulpit. That is a fact and that continues. I am well aware of religious meetings because I belong to two Ramayan groups—I do a little bhajan singing and so forth—and I go to all parts of the country singing in Ramayan**,** sometimes once, twice a week or more.

There are many politicians who are invited to Ramayan yag and other types of religious gatherings. I am saying that at those meetings when these politicians are asked to speak, obviously politics will flow. Even on the Sangasan, that is where the pundit sits, certain things are said that may be deemed to be political statements. Under this legislation, where the schedule maybe those that would form part of the offence that could be committed under clause 5 of the Bill and there are other religious organizations.

I come from an area that has various churches. I go to some of the smaller churches in my area and hear either a reverend, priest or someone who has a congregation and talk about politics of the country. It is a normal thing, but under clause 5 this will restrict those things. If they go to speak about the Bible, then they would have to restrict themselves to the Bbible; if they go to speak about the holy Ramayan**,** then they will have to restrict themselves to the teachings of the holy Ramayan. Some of these books have certain indicators of political issues that took place in the history of religion. Sometimes it might be difficult for them to stay away from that. I alluded to the fact that the Attorney General, in another place, said that "if a man cannot change his mind he is a fool"—a quotation from Mahatma Gandhi and I have already dealt with that.

I have a book here with quotations from Mahatma Gandhi called *Epigrams of Gandiji* compiled by S.R Tikekar and published by the Publications Division,

Ministry of Information and Broadcasting, Government of India. On page 44, under the heading "Freedom" I would read a quotation from Gandhi when asked about freedom:

> "Freedom of worship, even of public speech, would become a farce if interference became the order of the day."

Mr. Maharaj: We agree with that.

Mr. J. Narine: Then you should remove clause 5. If you agree with this, you should remove clause 5.

Miss Nicholson: It is PNM that instituted that in 1982.

Mr. J. Narine: Mr. Deputy Speaker, it seems as though we forget in one week's time. When I started to speak last week, I said that when the PNM introduced this legislation, I belonged to the labour movement at that time. I considered myself a colleague of the Member for Couva North; we were in labour congress together. We demonstrated against this legislation and the trade union movement feels betrayed today because at that time the Member for Couva North felt it was oppressive law, but today he is not leaving it the same. He is increasing on it. Whereas some of the members who were there in the struggle at that time would have thought that the Member for Couva North and others on that side would have removed the legislation or leave the *status quo* the same—this is how I felt—

Miss Nicholson: So when you marched that time you were not supporting the PNM?

Mr. J. Narine: I was a member of the PNM.

Miss Nicholson: Even though they were so aggressive towards you?

Mr. J. Narine: I was a member of the PNM. I had a brain to think, so that when I felt this was a bread and butter issue and I have been running to the trade union movement I did not hide behind any doors. I came out there and supported the trade union movement against legislation that I felt at that time was oppressive. Today I am saying that the legislation is good but the fines and time are being increased.

8.30 p.m.

That is different from what we thought of at the time when those pieces of legislation were passed. I remember when the ISA and IRA—I started to work in the Government service in 1963 so that today, one is benefiting from good

legislation, may I say, in Government. It is because of the sugarcane workers striking every Monday morning that these pieces of legislation were brought into place. I have books that I should lend the hon. Member. I know the Member is a very good reader. They are essays on the laws of trade unionism in the Caribbean. One book was paid for by the National Union of Government and Federated Workers and written by Chukka Okalaba. This is why they felt betrayed. He has gone against all the principles he had stood for 48 years in the trade union movement, and today he has dumped that for a jacket and a tie.

Mr. Speaker, at page 44 of the book, *Epigrams of Gandiji* it says:

> "Freedom received through the efforts of others however, benevolent cannot be retained when such effort is withdrawn."

I agree with him.

It goes on to further state:

"Freedom battles are not fought without paying heavy prices."

These are not seditious statements. This is like Mrs. Winnie Mandela this week talking in Trinidad about oppression in South Africa and what happened in 1990 when Mr. Mandela was released, and even at that time she said, "Do not be complacent of our freedoms." We have been seeing here that over the last two and a half years every time there is serious legislation, the freedom and the democratic rights of the nation are at stake. When one speaks to the Attorney General to try to get some of that legislation cleared up, you are met with statements like, "take me to the High Court." The arrogance is there. This is what is taking place. I will like to read one more statement:

> "No Government on earth can make men, who have realized freedom in their hearts, salute against their will."

Everything Gandiji said, one will agree with, but the Minister should check his conscience because very soon he would have to live with it. There are certain rights—and this week in Belorusia it was reported that all the diplomats were expelled and one would have to pay a $5,000 fine if one ill-speaks the Prime Minister in any way. So that certain countries are quite aware of how easy one can slip.

I hope that clause 5 would be amended or be removed from this Bill because it is against the democratic rights and freedoms of the people of Trinidad and Tobago. This is why we on this side say we cannot support this Bill. So that when

this Bill, by a simple majority, is passed—although I feel this should have a two-thirds majority—it cannot be for one religious organization. It has to be across the board for everybody.

Hon. Member: They say that is only for Abu Bakr.

Mr. J. Narine: It cannot be for one religious organization—and I attend a religious meeting anywhere and I hear a Pundit, a Reverend or Priest speak about politics and against the government, I will like to know what can be done about this; if I can report this matter and action will be taken against them. I would not like it to be for one and not for all.

Mr. Maharaj: It is not unlawful.

Mr. J. Narine: It would not be unlawful if a religious meeting is held for any other purpose. A religious meeting is listed in the Schedule as far as I know. If a Pundit calls a panchayat by him to talk about who one should vote for or not then that becomes a political meeting.

Mr. Maharaj: He will have to apply.

Mr. J. Narine: I hope so. I know that would happen very soon; as soon as election time comes around. I remember some incidents which took place in Guatapajaro when your political leader was invited. I would not go further, but the time will come and maybe, this law will clear that matter when that time comes.

Hon. Member: That is why they buy over the Police Commissioner.

Mr. J. Narine: We feel the legislation is oppressive. This increase in fine or time to march and public meetings, will this really stop happening? I know there is a commitment by the Attorney General to enforce all the laws of Trinidad and Tobago. Those which we were lenient on, he is now saying that he must now enforce them. If it is that as what took place in the Bloody Tuesday March—reading this book, *Crisis,* one would realize that there were other persons besides the Member for Couva North and the Member for St. Augustine who were involved in that march. I remember a former Member of Parliament here not too long ago, who was also there.

I remember reading an article in a newspaper after that day that it was only a coup which will throw the PNM out. I did not find the copy of that article but today, the Member is no longer here but is in another high place. Those were things that happened at that time. Today, the Government wants to put those things in law so that—I am not calling names. It is not my intention to call that

particular individual's name in the best interest of the country. If you ask me after, I will get a copy of that article that I have and bring it for you.

Today trade union leaders may be bought for a jacket and tie but there will be new trade union leaders who will emerge from the ranks of the trade union movement. There may be new trade unions that will emerge from that.

When we spoke about a creeping dictatorship, it is laws like these that we are talking about. It is laws that are here to oppress the people, it is laws that will put Trinidad and Tobago population into a straitjacket and we come here time and time again to find that these laws are being updated in Parliament. Some are being introduced, because this clause 5 is a new section in this law.

When one talks about going to the Commissioner of Police to get permission, of course, at this time they talk about the Police Commissioner, but one has to remember that the Police Commissioner is living a two-year term because of this Government; because of an extension that was not due at the time. He should have been home now but his time has been extended for two years. Changes in the police service are taking place because what the Leader of Government said years ago, that we were turning into a police state, is now a reality.

8.40 p.m.

When he was on this side he said that, but now that he is in the seat of the Prime Minister of Trinidad and Tobago, we are surely moving towards a police state. On Sunday morning, I met one of my colleagues at his home in Marabella. He was in the Opposition between 1991 and 1995. I think he was the shadow Minister of Health. He was quite concerned about where the Government is taking this country. He is a member of the UNC and a former Member of Parliament.

He said when one looks at the situation of increasing the numbers in the police service, giving certain privileges and bringing certain laws to Parliament, he is afraid that this would be a socialist state. Muzzling the press was the first one. [*Interruption*] I still would not call names. If you ask me after, I will tell you. He sat probably on this or that seat in the last term between 1991 and 1995. He was not at the back. He was a front bench person in the UNC. He was very concerned about the muzzling of the media, upgrading of the police service and coming with laws which would deprive the people of Trinidad and Tobago of their democratic rights and freedoms. He was also concerned about the removal of Trinidad and Tobago from the human rights bureau. The sedition squad was another part of the puzzle at which he was looking. He was also looking at our removal from the

Privy Council as part of the whole plan of that puzzle which was now being put into place. As a citizen of Trinidad and Tobago he said that he was very concerned about these matters.

There are still decent people in the country who would think on their own about the legislation which is coming here and certain movements by the Government which are taking place on the international circuit. We should look at them too. Today, we are seeing our rights and freedoms being dismantled all over the world. As Opposition, we know our role that we have to be vigilant forever with what the Government is doing. We are concerned about clause 5 which increases the penalties and the time. Certain things would happen and people would have to move immediately and now they would have to wait for 48 hours.

I close by saying that the Members of the People's National Movement are not supporting this Bill unless the Minister makes some changes and takes this clause out of the Bill. It was a pleasure speaking in this debate.

Thank you.

Mr. Martin Joseph *(St. Ann's East):* Mr. Speaker, I am grateful for the opportunity to join in this debate on the Summary Offences (Amdt.) Bill to update the law dealing with the holding of public meetings, public marches and other related matters. Let me indicate from the outset that I join with my colleagues on this side and, that like them, I do not support this Bill. Under normal circumstances, a Bill of this nature would seem very simple and innocuous. When viewed against the backdrop of the performance of this Government over the past two and a half years, one cannot dismiss any piece of legislation, no matter how simple it may be.

I must say that given the debate on the Cohabilitation Bill we had in this Chamber, where the legislation was such that we on this side could have agreed with it and we agreed with it wholeheartedly, the hon. Attorney General and Member for Couva South was very pleased. However, as I would indicate as I go along, when we are in disagreement with legislation, he takes a particular kind of attitude—more than displeased. He talks about taking him to court and challenging the matter. Then, at the same time, he turns around and says that we are the weakest Opposition this Parliament has ever had. When we carry out our responsibilities as a responsible Opposition, if we are not in agreement, he has a difficulty with that.

I am concerned after I listened to the mover of the Bill, the hon. Minister of National Security, and the contribution made by the hon. Attorney General. The

major focus of the argument of the hon. Minister of National Security is that organizations in the main apply to the Commissioner of Police more than 24 hours in advance, as it relates to marches and meetings. He referred to me as the General Secretary of the party making applications and he also gave reference to other people who applied from time to time.

I would quote the Minister of National Security. The unrevised *Hansard* dated 98.06.05 states:

> "Mr. Speaker, these examples show that there is really no imposition or problems associated with the 48-hour time period, but rather, the need for a longer period to facilitate the applications being processed. As it stands, because the organizations and associations that hold meetings and wish to conduct public marches have all adopted the practice of giving ample notice—in this case I mean an average of 10 days—one cannot suggest that the Government is in any way trying to impose severe limitations or restrictions on these bodies."

Mr. Speaker, for that reason I cannot support the argument. If we are saying in the main, on an average, organizations apply five days in advance, it means that there is no need to increase the amount of time necessary from 24 to 48 hours. It is clear that it would be the exception rather than the rule, where organizations would apply in such a short time-frame. My colleague, the Member for Laventille East/ Morvant underscored such a situation. Let me quote him.

> "What the Minister does not tell us is another reality; a human, organizational or political reality. That is to say that there are times when an organization wishes to respond very promptly, urgently and swiftly to a matter that has come to the national fore and 24 hours might have been enough. But 48 hours might take it outside of the period available to them for a swift response and, therefore, there would be problems. He never mentioned that."

8.50 p.m.

One of the major reasons I entered this debate is that as General Secretary of the People's National Movement, it is necessary for us to apply for a permit from time to time. There are times when our Members come to this honourable House and make a request under the item "Request for Leave to Move the Adjournment of the House on Definite Matters of Urgent Public Importance" and, for whatever reason—and I am not criticizing by any means the ruling—the Speaker may feel that it does not qualify. However, as a political organization, we may feel that the

matter is urgent enough and, as a result, bring it to the attention of the public. Twenty-four hours gives us sufficient time to bring the matter to the attention of the public. Forty-eight hours may be too much time.

As a responsible political organization, when the Minister of National Security indicates that on average we apply five days in advance, it will be taking away from us a very important opportunity whenever the time arises. The time may arise when we may need to go to the public within 24 hours to raise a matter that we consider important enough.

There are many special interest groups that are concerned with our responsibility as the Opposition. As Members of the Opposition, sometimes we are hardpressed to hear some of the concerns. Different people say that they have to ensure that democracy is protected, especially as it relates to this legislation. We as a political organization are upset because there are people who believe that we are not as vociferous as we ought to be in keeping check on this Government. We keep checks on this Government and many times those checks are not reported.

I give credit to the Member for Couva South for the way he manoeuvred how this debate is conducted; that we are talking about this contentious matter at this time when there is nobody from the media. [*Interruption*] I see a camera but the Member knows very well what I am talking about. One would have expected that this debate would have continued as soon as the session started, but he has control over the parliamentary agenda so we introduced and debated a new bill, and we come now, at this hour, to continue the other Bill. I give him credit for the strategy.

We object to the time being moved from 24 hours to 48 hours because the record shows that, on average, organizations apply way in advance. I cannot agree with the Minister's argument that because people apply in advance the amount of time necessary should be increased.

The hon. Minister of National Security also argued that the Commissioner of Police needed more time and that if he had to respond in 24 hours it would not be possible. He also said, given the fact that an application may be made some place else, it has to go to Sackville Street to be processed and that sometimes he has to process more than one application.

I find that argument uncompelling, especially in the light of information technology and communications. There are fax machines. There is the opportunity to respond quickly. There is E900. As a result, the ability of the Commissioner to respond within 24 hours is increased.

Not only is that so, but this is a Government which talks about total quality and increasing standards. It should not be finding ways to increase the amount of time it takes to do anything. It should be increasing efficiency and effectiveness. It should not be talking about that as a point of argument.

Let me say what caused more concern. These were two arguments put forward by the Minister of National Security: that on average people take five days, so the law can be brought up to meet that time. Secondly, he talked about the time to respond.

I listened attentively to the Attorney General. He focused his argument on rationalizing the time-frame with Caricom. When I heard that argument and I compared it with that of the Minister of National Security, I started to worry. I am really concerned about the true nature of the introduction of this Bill.

The Attorney General lambasted us. He said we were seeing all kinds of shadows behind the legislation. He went on to talk about Barbados having three days and whether Barbados was trying to perpetuate some hoax on us. He talked about Jamaica and Guyana, so he is saying that Trinidad and Tobago, suddenly, wants to harmonize legislation with Caricom. We must bring it to three and four days as applies in other Caricom countries. This is not compelling.

How is it that we did not want to harmonize other more important pieces of legislation? What about the free movement of skills legislation, so that the matter involving Julian Rogers would not have occurred and Trinidad and Tobago would not have been seen as engaging in activities that would undermine our relation with Caricom? What about the Shiprider Agreement that we rushed to sign with the United States, one which our Caricom neighbours felt was out of line with the rest of Caricom, especially Barbados and Jamaica? How is it that we did not want to harmonize legislation that relates to that? [*Interruption*]

We cannot read the Act because the Shiprider Agreement has never been brought to this Parliament. So we as parliamentarians are not even aware of its contents to make comparisons with Barbados or Jamaica. The argument put forward by the Attorney General is that we are harmonizing. Suddenly, Trinidad and Tobago wants to harmonize agreements with Caricom. I do not buy that argument because we do not seem to harmonize on a consistent basis. I consider that argument to be clawless.

Mr. Speaker, my concern is that we do not buy the arguments put forward for the need to increase the length of time necessary to indicate to the Commissioner

of Police the need to hold public meetings. The Minister indicated that there were some concerns about marches and perhaps, the question of time for marches may need to be improved. He indicated that there is need to ensure that the community is not disrupted, that the traffic flows and so forth, so maybe there is some need as it relates to marches.

However, as far as public meetings are concerned, the 24-hour notice is ample. The reason is that, in the main, the same reasons he has put forward to increase it, we are putting forward to leave it as is. People apply way in advance, which is the rule rather than the exception. We, as a political organization, cannot agree to increase from 24 to 48 hours the length of time necessary for a meeting. That is one of the major reasons we cannot support this Bill.

Other speakers indicated other aspects. We consider the increase in the penalty draconian. Many people have spoken on that and I do not need to take up this Parliament's time unnecessarily in terms of rehashing some of the arguments made before.

With these few words, I thank you.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Speaker, before I move on to the Bill, I would just respond to a remark made by the Member for Port of Spain South concerning our meeting on Wednesday.

I express my thanks for the very positive suggestions he has given us in drawing up a plan to deal with crime in that area. I am sure he will keep in touch with me as to its implementation.

9.00 p.m.

In the main, the arguments centred around what was regarded as taking away the freedom and rights of citizens to march and hold meetings.

Generally speaking, I would like to deal with some of these arguments, one of which is that there is a need to respond urgently, and 48 hours would take away the opportunity for a quick response. In any organization, this matter of rushing into something with a quick response without giving due thought to what one is going to do, normally ends up in more confusion than good sense. One of the reasons one needs a certain amount of notice is because of this same pre-emptive or swift action which is done without full thought and notification and leads to problems among the citizens who have to suffer from the reaction of people with this short notice which is being claimed.

Mr. Speaker, the main items are a plot to interfere with the democratic freedom and rights, yet the Member for Laventille East/Morvant admitted in his presentation that it does take time—he being a former member of the police service—for the police to get things in order for the inspector to notify the constables, to get the police to respond to the request, to communicate with the Commissioner of Police. It is not that we do not want people to have the opportunity to march or to have a meeting, but the impression which is being created by all the speakers is that this legislation has set out to deny people the opportunity to march. That was done in 1972 when the PNM passed the legislation imposing the time limit and seeking permission for marches as opposed to meetings. So this has already taken place, this is purely an amendment, it is not the Bill which the PNM passed. In those days that was done, funnily enough, I am hearing all sorts of objections which the former administration did not raise when they were in office. It did not seem to bother them then but, suddenly it is an imposition and the trade unions are suddenly under some severe pressure. I am at a loss to understand the rationale behind the argument.

Mr. Speaker, I am satisfied that they have taken a decision that they would not support the Bill, but what is difficult to take, is the manner in which each speaker sought to justify what he is being told to do and they are obviously labouring under the impression that they have to say something. *[Interruption]* I believe the same person who is shouting already had an opportunity to make his statement.

For instance, the Member for La Brea said, notwithstanding what we are saying, the rights of the citizen to assemble, to speak freely, and to hold public meetings are going to be constrained in some limited way by the need to apply for permission or to give earlier notification.

Mr. Speaker, this is exactly what the Bill contained in 1972, the constrain came when the Bill was passed. This is simply an amendment to bring the notice into line and give people an opportunity to have their marches. It was also said by another Member that maybe this 24 hours would mean that certain people who want to apply would be told they applied too late and cannot get permission. We are not trying to deny anyone, we want to give them every opportunity to apply.

Most organizations took the time to make their application in good time, which is responsible behaviour. What we are concerned about is not the people who have something to contribute and are organized, it is those who want to take advantage of the situation. Let us take for instance the Schedule, which lists the meetings that are exempted and they are the religious services or meetings held under the

authority of the head of any religious denomination, educational classes, *bona fide*, musical and theatrical entertainment. What the amendment is seeking to do is make sure that nobody masquerades or purports to be conducting a meeting of a particular type that is covered by the Schedule and then goes on to do something else. Nowhere in the amendment does it state that anybody is trying to deny anyone the right, or take away the privilege which they got to have this meeting. Under clause 5, section 118A says:

> "A person who purports to hold a meeting for any of the purposes listed in the Schedule and who in fact holds such a meeting for purposes other than those listed..."

Mr. Speaker, what the Member for La Brea and the Member for Arouca North made this out to mean is if he goes to a religious meeting and for some reason, the pundit, the priest or whoever is holding the meeting, mentions an election or suggests to his parishioners how they should go about conducting affairs in their community, that immediately makes the meeting a political one. I do not think so. The intention is, when one seeks to deceive and makes a false application as it were, knowing full well one is going to have another kind of meeting, but when one is saying for purposes other than those listed, then there is a problem, and this is to protect the genuine organizations that are operating under the Schedule.

Mr. Bereaux: I take your point about a false application; if that was the case, why did you not simply say you make a false application and that would have dealt with it?

Sen. Brig. The Hon. J. Theodore: Mr. Speaker, if there is a meeting and one is permitted to hold a meeting under the areas listed in the Schedule where one does not have to apply, the fact that a meeting is held other than the one permitted to be held, is tantamount to somebody making a false claim. They are using this Schedule to assemble a meeting. Let us say it is a religious meeting, but the organizers know that it is for another purpose, this has nothing to do with somebody who is holding a meeting talking about matters pertaining to an election or a representative in the area. As a matter of fact, it would be disappointing if the religious leaders feel that they are so separate from the politics of the country that they are not to mention it. As the Member for La Brea said, it is in the *Bible*, and the matter of politics affect all of us including religion. The separation cannot be so absolute that one can tell a priest or a religious leader that he cannot say to his congregation anything concerning how they conduct their affairs. Persons who say

to me that maybe some religious person is going to hold a meeting under the guise of religion but make it into a political meeting, that is another story.

Basically, the argument that clause 5 should be removed does not seem to be justifiable because it is to protect these people who are covered under the Schedule. The other matter for which a lot of heavy weather was made is that of increasing the fine. I have been advised by legal representative in the Ministry that after a number of years, once an Act which has a section that deals with committing an offence is amended, it is almost automatic that the two matters go hand in hand. Considering the length of time since this original figure of $2,000 was imposed, one does not find it particularly harsh or oppressive; in any event, this is the maximum fine. Nobody is suggesting that should somebody go for the first time on an offence committed under this section that any magistrate would charge him $10,000. The fact remains that there is discretion, but nobody is looking at that and what is happening is that people are being made to panic and become overly concerned because the argument is these persons are now saying that one is to be charged $10,000 and go to jail for two years which is a total departure from the text and a distortion of the facts.

The issue which deals with section 113, as far as the Act is concerned we are talking about an application for permits to march. Earlier on, one of the speakers linked the two and made it appear as though permission was needed to march and to hold meetings. Just for clarification, notification is required where meetings are to be held, and the reason that a permit is required for public marches is because it could interfere with the flow of traffic, with persons conducting business, and it could have quite a negative effect on the members of the constituency on whosever behalf the people are speaking. Instead of being positive and assisting him, it could have a negative effect.

The Member for La Brea mentioned that last week members of his constituency threw some stuff in the road and he does not know how to deal with that because he feels that maybe they are likely to be arrested. They would not be arrested for meeting, nor marching. What I could say according to the police sources, they would be arrested for littering and for causing obstruction and I am glad to see that the Member for La Brea took time to speak with them and have them move away from such a course of action.

Again, there is no objection to somebody standing outside the Red House with a placard, but then people are trying to make it look as though this legislation is to stop anybody from doing or saying anything. That is not the intention, it is to

regulate the holding of marches and meetings which are based on the Act which is before us.

9.15 p.m.

So for what it is worth, mention was made of the URP people who gathered outside the Red House a few weeks ago. I do not know if the Members reflect that nothing happened. They were entitled! They were standing on the pavement with placards expressing themselves. They were neither marching nor holding a meeting, there was nobody there with a microphone addressing them. What happened is, the police came and made sure that they did not obstruct the free flow of traffic and eventually they dispersed.

We talk of Mr. Julian Rogers and his walk along the Brian Lara Promenade. Now, that was, again, deliberately made into an issue because he announced on television that all he wanted to do that morning was to take his usual stroll along the promenade. What happened? Certain people joined him with placards and tried to make an issue out of it. Did anything happen? Did the police arrest anybody? No! They all walked along the promenade and went about their business. What happened is that, again, using what would have been a simple matter that was personal to the gentleman, having expressed it, certain people in politics took it upon themselves to make some mileage out of it and produced a plaque to present to the man. Now, what is that? *[Crosstalk]* Next thing they are going to say is that this is the reason for the Bill, because somebody walked along the promenade. There is no problem. The idea is that one does not block the traffic, does not disobey the police, does not create an obstruction, otherwise the police officers with whom I spoke told me that it is within their rights to arrest such persons.

Mr. Bereaux: It was your right to arrest Abu Bakr, but you did not do it.

Mr. Speaker: Order.

Sen. Brig. The Hon. J. Theodore: So, we have dealt with the matter of people assembling, people with placards and people speaking. One of the things that I do not understand is: how is it that these organizations are able or see themselves able to mobilize their people for these urgent, important—

Mr. Bereaux: Definite! *[Laughter]*

Sen. Brig. The Hon. J. Theodore: —meetings? I will stay far from that particular aspect—but democratic rights, freedom, permission.

What they are speaking about is spontaneous demonstrations. Now, a spontaneous demonstration need not necessarily be a march, nor a meeting. Again,

as the Member for La Brea pointed out, these people got together to express themselves. Their Member came and told them, "It seems as though this is not a particularly good idea, I will deal with it", and the people dispersed, the police cleared the area.

Now, if one wants to have a meeting, one has to get in touch with the membership or their followers, one has to arrange for transportation, one may have to arrange for chairs, one has to arrange for a loud speaker system and one has to apply—but no! Twenty four hours is enough. Well, I feel if one wants to have this spontaneous thing and that 48 hours is too long, I suggest one may need the 48 hours to get word to one's various people to have them assemble where one wants them. So, this spontaneity is what will give rise to looting and confusion. It does not do the country any good to just get a whole set of people together before one has a chance to give them a briefing, or to tell them what one wants.

Somebody said earlier, the Member for Arouca North, that this means a union member cannot go to one of his agencies and speak to the union members. I do not know that. Most of the times these meetings are held on the compound, and one has to go and talk to one's membership to tell them what is going on. If wage negotiations are taking place, one has to address them, but one does not go into the middle of the road to do that. I know that TSTT, WASA, all these various places do it in the car park, they do it at lunch time, people do not even have to be away from work to do it, or they do it in the morning from 7.30 to 7.55, whatever time work starts. So, provision is made for this. So all this spontaneous talk seems to be simply begging the question that it should not be 48 hours.

Mr. Speaker, again, throughout the contribution by the Members from the opposite side, the same story, the same lines came through, repeatedly. Basically, those are the only areas I see that were being used to suggest that there is cause for concern. The way I see it, a decision was taken that they are not supporting this Bill, at least one was told to try to find a way to put that into words, so that we will be able to maintain the line, but basically, all that came through was the same thing.

Mr. Valley: We call that consistency, not flip flop, like my partner here.

Sen. Brig. The Hon. J. Theodore: Repetition is more like it.

Mr. Valley: Consistency.

Mr. Assam: Not consistent foolishness. You can have consistent foolishness.

Mr. Valley: And we have you? *[Laughter]*

Sen. Brig. The Hon. J. Theodore: So basically, this legislation deals with making sure that the meetings which are held under the Schedule are held for the purpose for which the Schedule was designed. We also want to make sure that everybody enjoys their democratic rights and freedoms. Quite frankly, the permission is only for marches and even so, the Commissioner has an obligation, if he does not grant the permission, and has reason to think otherwise. In this Act, section 114 states:

"(1) The Commissioner of Police on an application made to him under section 113, may, in any case, grant or, if he considers it in the interest of public safety and public order to do so, refuse, the application; but the Commissioner shall, where there are reasonable grounds for apprehending that the public march in respect of which the application is made may occasion a breach of the peace or serious public disorder, refuse the application.

(2) The Commissioner of Police shall as soon as practicable after receipt of the application notify the applicant of his decision;"

Now, the Member for St. Ann's East talked about modern technology and I will talk of communication. In this day and age, where I think we have three television stations and something like 14 radio stations; if there is something really urgent to tell the public, there are talk shows, there are call-in shows, one could reach the public, and I am talking about the whole of Trinidad and Tobago and, to a certain extent, Grenada. One can get on television and make one's point.

Mr. Valley: You giving us the money?

Sen. Brig. The Hon. J. Theodore: The fact remains, we are talking technology, but the Member for St. Ann's East did not tell me where we are getting the computers, where we are going to get the e-mail and what Internet we are going on for the Commissioner to communicate. It cuts both ways. There are telephones. So in this modern day and age, I feel that there are ways of communicating. I am not quite sure why there is this haste to want to assemble to say something, but, tough. Haste makes waste, and the way I know it, people who hustle to do things put their mouth in motion before they put their mind in gear and end up talking nonsense, which they have to change their mind about the next morning. *[Laughter]*

Mr. Speaker: Order, please.

Sen. Brig. The Hon. J. Theodore: I beg your pardon, Mr. Speaker, I am certainly not addressing any Member directly. *[Laughter]*

For what it is worth, I have tried to address the points made by the hon. Members and I certainly appreciated the arguments they made.

I would just like to make one more point in closing. That has to do, again, with a statement made by the Member for Laventille East/Morvant, where he admitted that freedom, as we know it in jurisprudence and in reality, could never be absolute. He said, "I cannot have freedom to do what I want at the expense of my neighbours, at the expense of the community, at the expense of the country and at the expense of other states in the world. That is understandable. So that one is not dealing with freedom in absolute terms". So what he was really saying here is that there must be regulations and when people need to express themselves, particularly in the interest of the other citizens of the country, one has to be given the opportunity to do so.

Coming out of that very statement, the Member for Laventille East/Morvant, again, took it upon himself to talk about vehicles which were leased for the police service. Mr. Speaker, I would like to set the record straight. At the last sitting, when the Member suggested that the Government boasts of renting 100 vehicles from Platinum Motors; I pointed out that 100 vehicles were never rented from Platinum Motors. I said, that the vehicles I referred to were 71 4-Wheel Drives and 21 cars which were leased in 1996. I should like to state here just what vehicles I am talking about. There were 20 Mitsubishi Galants; 25 Land Rover Discoveries; 34 Land Rover Defenders; 11 Mazda 626s and 10 Isuzu Trooper Wagons, none of which are sold or for which Platinum Motors is the agent. These vehicles were leased from NIPDEC with a repair and maintenance contract. The duration of the lease is three years, they are all fully insured, and after the three years, we will have the opportunity of purchasing each of them for TT $1.00. So again, I want to get away from trying to draw this matter of the jeeps into every statement on vehicles.

Mr. Bereaux: You do not like the vehicles business.

Sen. Brig. The Hon. J. Theodore: So the 100 vehicles were leased in 1996, they were delivered between June, 1996 and December 1997.

Mr. Speaker, generally, I think I have dealt with the matters which were allegedly of concern in this Bill. I am satisfied that the amendments are in keeping with bringing the legislation up-to-date, making sure that everybody is given an opportunity to have their marches or meetings and, moreso, to ensure that the

provisos in the Schedule are not abused and that people hold the meetings to which they are entitled.

Basically, I trust that the Members of the House have a clearer understanding of the Bill, because I certainly got the impression that many of them came here with their minds already made up, and did not take the trouble to read carefully what was contained in the amendments. At this stage, I am sure that this Bill would contribute greatly to the people holding their meetings safely and ensuring that the behaviour or action taken by people as far as meetings are concerned is within the law of the country.

Mr. Speaker, I beg to move.

9.30 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: There is circulated a list of amendments which is a page long. If there is anybody who does not have it, speak up or forever hold your peace.

Mr. Bereaux: I do not have it.

Mr. Chairman: Please make sure that the hon. Member from La Brea has one.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5

Question proposed, That clause 5 stand part of the Bill.

Sen. Brig. Theodore: Mr. Chairman, I beg to amend clause 5 as follows:

"Delete the words 'Section 118 of the Act is amended by inserting the following new section' and substitute the words 'the Act is amended by inserting after section 118, the following new section'."

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Question put and agreed to, That the Bill, as amended be reported to the House.

House resumed.

Bill reported with amendement.

Question put, That the Bill be now read the third time.

Mr. Bereaux: Division! [*Interruption*]

Mr. Speaker: Hon. Members, please take the hon. Member for La Brea very seriously.

Mr. Bereaux: I would record all of you who voted against it.

The House divided: Ayes 17 Noes 8

AYES

Maharaj, Hon. R. L.

Persad-Bissessar, Hon. K.

Lasse Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Maraj, Hon. R.

Nicholson, Hon. P.

Rafeeq, Dr. The Hon. H.

Assam, Hon. M.

Khan, Dr. F.

Job, Dr. The Hon. M.

Singh, Hon. G.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Ramsaran, Hon. M.

Sharma, C.

Ali, R.

NOES

Valley, K.

Narine, J.

James, Mrs. E.

Bereaux, H.

Joseph, M.

Sinanan, B.

Boynes, R.

Williams, E.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): I beg to move that the House do now adjourn to June 26, 1998 at 1.30 p.m.. That day, the fourth Friday in the month, would be Private Members' day and there is a loan Motion on the Order Paper for debate.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.37 p.m.