

*Leave of Absence*

*Friday, December 3, 1999*

**HOUSE OF REPRESENTATIVES**

*Friday, December 03, 1999*

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 four Members of this honorable House who have asked to be excused from today's sitting. They are: the Member for St. Joseph; the Member for St. Ann's East; the Member for Arouca South who has asked to be excused up to December 6, 1999; and the Member for Port of Spain North/St. Ann's West who has asked to be excused up to December 10, 1999. The leave of absence which they seek is granted.

**JOINT SELECT COMMITTEES  
(ESTABLISHMENT OF)**

**Mr. Speaker:** Hon. Members, I have also received communication from the President of the Senate; two bits of communication dated December 01, 1999. The first reads as follows:

“Hon. Speaker,

**Joint Select Committee**

At a sitting of the Senate held on Tuesday November 30, 1999, the Senate by resolution agreed that a Joint Select Committee be established to consider and report on the Bill entitled:

‘An Act respecting human reproductive technologies and commercial transactions relating to human reproduction.’

At the said sitting the Senate approved the following resolution:

‘**BE IT RESOLVED** that the following six Members of the Senate be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee established to consider and report on the Bill entitled:

‘An Act respecting human reproductive technologies and commercial transactions relating to human reproduction.’

Brig. Joseph Theodore

Ms. Carol Cuffy Dowlat

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Ms. Vimala Tota-Maharaj

Mr. Danny Montano

Mrs. Diana Mahabir-Wyatt

Prof. Julian Kenny.’

The decisions of the Senate are forwarded for the concurrence of the House of Representatives.

Yours faithfully,

Ganace Ramdial  
President of the Senate.”

The second piece of communication from the hon. President of the Senate, dated December 01, 1999, reads as follows:

Hon. Speaker,

**Joint Select Committee**

In response to your letter dated November 25, 1999 on the above subject, please be informed that the Senate passed the following resolution at a sitting held on Tuesday November 30, 1999:

‘**BE IT RESOLVED** that a Joint Select Committee be established to consider and report on the White Paper on the Reform of the Management Structure of the Parliament;

**BE IT FURTHER RESOLVED** that this Committee be authorised to consider as part of its records, the work of the previous Committee appointed to consider this matter.’

On the said day the Senate approved the following resolution:

‘**BE IT RESOLVED** that the following six Members be appointed to serve with the six Members appointed by the House of Representatives on the Joint Select Committee established to consider and report on the White Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago:

Mr. Wade Mark

Brig. Joseph Theodore

Ms. Carol Cuffy Dowlat

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Mrs. Nafeesa Mohammed

Prof. John Spence

Mrs. Diana Mahabir-Wyatt.’

Yours faithfully

Ganace Ramdial  
President of the Senate”

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, in light of the announcement made a short while ago, at the appropriate time I propose to move the Motion in the House in connection with the first correspondence referred to after consultation with the other side.

**PAPERS LAID**

1. Report of the Auditor General on the Accounts of the Airports Authority of Trinidad and Tobago for the year ended December 31, 1996. [*The Attorney General and Minister of Legal Affairs (Hon. R. L. Maharaj)*]
2. Report of the Auditor General on the Accounts of the Airports Authority of Trinidad and Tobago for the year ended December 31, 1997. (*Hon. R. L. Maharaj*)
3. Third and Fourth Periodic Report of the Republic of Trinidad and Tobago—International Covenant on Civil and Political Rights.

*Papers 1 and 2 to be referred to the Public Accounts Committee.*

[*Interruption*] [*Loud beeping noise heard*]

**Mr. Speaker:** Is that noise coming from inside this Chamber? Could you please check?

**Hon. R. L. Maharaj:** Mr. Speaker, I wanted to make a statement on this report at this stage, if it is possible.

**THIRD AND FOURTH PERIODIC REPORT-  
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I wanted to make a statement on this report at this stage, if it is possible.

Mr. Speaker, I am pleased to lay before this honourable House the Third and Fourth Periodic Report prepared by the Government of the Republic of Trinidad

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and Tobago concerning its compliance with the International Covenant on Civil and Political Rights.

These reports should have been submitted by the Republic of Trinidad and Tobago by March 20, 1990, and June 20, 1995 respectively. Both outstanding reports have been combined into one report, prepared in accordance with the reporting guidelines published by the United Nations Centre for Human Rights.

This report was submitted in August to the United Nations Human Rights Committee established by the International Covenant on Civil and Political Rights. This is the first report to be prepared by the Human Rights Unit of the Ministry of the Attorney General and Legal Affairs.

The Cabinet in November 1998 mandated its Human Rights Committee in the Ministry, as part of the treaty obligations of Trinidad and Tobago, to prepare all reports relating to international human rights agreements to which Trinidad and Tobago is a state party.

The International Covenant on Civil and Political Rights entered into force in 1976. The Republic of Trinidad and Tobago ratified the covenant on December 21, 1978. The covenant mirrors many of the fundamental rights and freedoms we hold dear and which are guaranteed by our Constitution. Article 2 of the covenant provides that each state party to the covenant undertakes to respect and to ensure that all individuals within its territory enjoy the rights recognized within the present covenant, without distinction on the grounds of race, colour, sex, language, religion or political opinion.

Some of the rights protected by the covenant include the right of a people to freely determine their political status and pursue their economic, social and cultural development, the equal rights of men and women, the right not to be arbitrarily deprived of life, the right not to be subjected to cruel and unusual treatment; the right to liberty and security of the person; the right not to be subject to arbitrary arrest or detention, the right of persons not to be deprived of their liberty and to be treated with humanity, freedom of religion, freedom of speech and expression; the rights of citizens to vote at elections and to have access to the public service, and the rights of ethnic minorities; to practise their own religion and use their own language.

Mr. Speaker, the Republic of Trinidad and Tobago is a party to the following international human rights instruments: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of all forms of Racial

Discrimination; the Convention on the Elimination of all Forms of Discrimination Against Women; the Convention on the Rights of the Child; Optional Protocol to the International Covenant on Civil and Political Rights; and the American Declaration on the Rights and Duties of Man.

Membership of these conventions confers certain obligations upon the state. One of the most important of these obligations is that the state must submit reports on developments in the field of human rights, including measures adopted by it to give effect to the rights recognized in the agreements, and the progress made in the enjoyment of those rights within the state.

Mr. Speaker, these reports indicate the factors and difficulties, if any, affecting the implementation of the agreements. Reports usually have to be accompanied by texts of the relevant legislation and judicial decisions adopted, which are significant in matters of human rights.

When this Government came into office, it was discovered that, in the past, reports from Trinidad and Tobago had been delayed. Little, if any, attempt had been made by the previous governments to comply with the reporting obligations. Human rights conventions had simply been entered into by previous governments without any consideration being given as to the obligations assumed by the state. No mechanisms had been put in place to meet these obligations, and no resources were allocated to ensure compliance with the conventions' obligations.

Mr. Speaker, the following reports were discovered to be overdue: International Covenant on Civil and Political Rights—the Third Periodic Report due on March 28, 1990; the Fourth Periodic Report due on June 20, 1995; the International Covenant on Social and Cultural Rights—the Second Periodic Report due on January 30, 1993; under the International Convention on the Elimination of all Forms of Racial Discrimination—the Eleventh Periodic Report due on November 3, 1994. The Human Rights Unit is now proceeding with the completion of the outstanding reports.

The failure of past governments of Trinidad and Tobago to meet the reporting obligations under the international human rights agreements became a matter of concern of the international community. The international community and, in particular, the Non-Governmental International Human Rights Organization, subjected the human rights record of Trinidad and Tobago to close scrutiny, once the determination and commitment of the government to implement the death penalty became apparent. Attempts were made to have the death penalty considered a human rights issue. It was important, therefore, that Trinidad and

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Tobago was seen to have complied, as far as possible, with the international treaty obligations in the field of human rights.

The Government was aware that unless speedy action was taken to provide these outstanding reports to the United Nations, great harm could be caused to Trinidad and Tobago. If, as was proposed, the United Nations were to send a fact-finding mission to Trinidad and Tobago to investigate the failure of the state to comply with its obligations to prepare these reports, irreparable harm could have been caused to the reputation of Trinidad and Tobago within the international community.

The Human Rights Unit is also advising the Government on the ratification of those international human rights instruments not yet ratified by Trinidad and Tobago. There are several international human rights instruments that have not yet been ratified, including the Convention against torture and other cruel, inhuman or degrading treatment or punishment and the International Convention on the protection of the rights of all migrant workers and members of their families.

In December 1997, the United Nations High Commissioner for Human Rights in a letter addressed to the hon. Prime Minister requested information concerning the steps envisaged by the Government of Trinidad and Tobago for ratifying these human rights treaties. However, unlike previous governments, this administration will not blindly sign agreements which confer international obligations upon the state. It will be necessary, before, ratifying these instruments, for the Human Rights Unit to consider their impact if they are implemented within Trinidad and Tobago. It will be necessary to look at existing and new legislation necessary to meet any new obligations.

The Ministry of the Attorney General and Legal Affairs would also review all the reservations entered by Trinidad and Tobago to international human rights treaties already ratified. Any reservations entered by the state would be reviewed on a periodic basis to ensure their compatibility with the object and purpose of the relevant treaty, and to see if they are still relevant and necessary with a view to advising the Government as to whether they should be withdrawn.

A review of the compatibility of the domestic law of Trinidad and Tobago with obligations under international human rights treaties is also being carried out. When Trinidad and Tobago enters into an international human rights agreement the existing domestic law of the state may require amendment to ensure its compatibility with the obligations accepted by the state under the agreement.

The Government of Trinidad and Tobago is committed to developing the expertise and resources to assist this country and countries of the Caribbean region in the preparation of these reports, so that there can be compliance with the international covenants and conventions. In this respect, the Government of Trinidad and Tobago is hosting, together with the United Nations Development Programme, a week-long conference from Monday 6—10 of December this year. The conference would not only have representatives from selected ministries, but also from other Caribbean countries.

The Government is also committed to the promotion of a greater awareness of the human rights instruments of which Trinidad and Tobago is a party. Human rights can only be protected if individuals are aware of their rights. Accordingly, it is necessary to increase public awareness of the rights under the agreements and the obligations of the state. Such rights cannot be enjoyed by the citizens of the world unless countries take steps to carry out their obligations of reporting on their compliance with international human rights instruments.

Thank you.

**1.45 p.m.**

#### **ORAL ANSWERS TO QUESTIONS**

*The following questions stood on the Order Paper:*

#### **Stadia Contracts (Award to FIFA)**

4. (a) Would the Minister of Social and Community Development and Minister of Sport and Youth Affairs advise the House whether Cabinet awarded to FIFA a contract to project manage the construction of four (4) new stadiums for the 2001 FIFA World Cup Youth Football Championship?
- (b) Would the Minister indicate whether such an award is in keeping with the Central Tenders Board Act and whether FIFA has engaged the firm PW Partnership to undertake the construction management of the project?
- (c) Would the Minister also indicate the criteria to be used by FIFA and PW Partnership to hire contractors to undertake the construction of the four stadiums? *[Mr. Martin Joseph]*

**Community Centres  
(Construction of)**

9. (a) Could the Minister of Social and Community Development and Minister of Sport and Youth Affairs please indicate whether the Government plans in fiscal year 1999—2000 to construct and or rebuild any new or existing community centres in Trinidad and Tobago?
- (b) If the answer to (a) is affirmative, would the Minister please indicate where these are to be located and when they would be constructed? [*Mr. Fitzgerald Hinds*]

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, I request that question No. 4 as well as question No. 9 be deferred for one week.

**Hon. R. L. Maharaj**: I want to announce that I have no problem with that. We are ready to answer the questions.

*Questions, by leave, deferred.*

**PROPOSED LAW REFORM PACKAGE**

**The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj)**: Mr. Speaker, I wish to make a statement to this honourable House on the proposed Law Reform Package dealing with social reforming insofar as children, families, older persons and socially displaced persons are concerned.

There are currently various laws in Trinidad and Tobago which address issues relating to Trinidad and Tobago. There are, however, no laws to deal with the elderly and the socially displaced in our society, or for a unified court system to provide for families. There are no regulations to regulate nurseries for children and the temporary care of children by persons other than their families.

The existing pieces of children's legislation are antiquated and are based on the English law of the time. As a consequence of these outdated laws which deal with our children, and the absence of other laws to deal with other social issues, we experience problems which include, among other things, the growing number of street children; the alleged abuse and neglect of children in children's homes; and the unsuitable and unworkable adoption process for children. The difficulty experienced by families with respect to the resolution of disputes in the existing formal and adversarial system tend to promote tension instead of effecting reconciliation and resolution; the absence of a legal framework to facilitate children who require temporary care with families other than their own; and the

absence of a legal framework with respect to counselling, mediation and advice; and options available to families as part of the court process so that families and children can be saved from the tiring effects of the court process; the increasing number of socially displaced persons in our streets; and the ill-treatment of the elderly in the homes for the aged. A cosmetic approach to redress these problems dealing with our children was made in 1994 when the Children Act was amended to extend the power of magistrates with respect to the circumstances under which they can make care orders for children.

Mr. Speaker, the Ministry of the Attorney General appointed a committee in August, 1998 to examine and review existing laws relating to children and to prepare a comprehensive package of legislation to meet the present social needs. The committee consists of senior officers of the Ministry of Social Development and the Ministry of the Attorney General and Legal Affairs and it also consists of the two Ministers. Consultation was held between the Ministry of Social Development and the various non-governmental organizations and social service agencies concerned.

There are eight measures which make up this package and they are: the Children's Authority Bill, 1999; Community Residential Foster Homes and Nurseries Bill, 1999; Miscellaneous Provision Children's Bill, 1999; Children (Amdt.) Bill, 1999; Adoption of Children Bill, 1999; Socially Displaced Persons Bill, 1999; Homes for Older Persons Bill, 1999; and the Family Court Bill, 1999.

Mr. Speaker, the first three of these have had their first readings in this House. The Government intends to introduce the following measures today. They have introduced these measures today. The Children (Amdt.) Bill, 1999; the Adoption of Children Bill, 1999, and the Socially Displaced Persons Bill, 1999. The Homes for Older Persons Bill will be introduced next week, and the last measure, the Family Court Bill, 1999 will be introduced early in the year 2000.

Having regard to the major reforms which result from these measures, the Government considers this necessary to keep members of the national community informed of the reforms and their effects. The Children's Authority Bill, 1999 establishes a central independent authority under whose jurisdiction all matters relating to children will fall. The authority will be responsible for providing mechanisms for assuming parental rights and responsibility for children in need of care. It will also be able to assume temporary care for children who are at risk. The effect of this measure would be that all children who are before the courts, or who are found to be at risk due to a number of various factors such as abuse,

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neglect, cruelty, or who are found wandering in the streets, or living there would be brought to the authority. The authority would assume the parental responsibility and care with respect to such children without denying the rights and responsibility of the parents.

Also, all children who appear to be in need of care would now be temporarily kept by the proposed authority and would not be immediately taken to certified schools or unregistered children's homes as currently obtains. The Bill would also provide for the proper functioning of a foster care system to be established. The effect of the introduction of this system is that a child who requires temporary care when his family unit temporarily fails could be lawfully cared for in another family unit other than his own until such time as the family reunites.

Mr. Speaker, the Bill would also require that all existing and future children's community, residences, foster homes and nurseries obtain from the proposed authority licences to operate. The certification requirement under the Children's Act has not worked well and we are now faced with numerous uncertified orphanages out of which many reports of abuse and neglect have surfaced. With the authority being given the power to monitor community residences and other institutions, it is hoped that our children who have been placed in such homes would be ensured not only quality care, but a safe haven from all forms of abuse.

Mr. Speaker, the Bill will also require parents suspecting to leave Trinidad and Tobago without making adequate provision for their children to make such provision for them, or they can be prohibited from leaving our jurisdiction until the proper provision is made. This is to rectify the current situation with respect to children who face this kind of crisis.

The Community Residences, Foster Homes and Nurseries Bill, 1999 would repeal the certification requirement under the Children Act and will require all existing and future orphanages and industrial schools to meet specific licensing requirements. All existing and future community residences would be required to apply to the proposed authority for licences to operate. Also, all community residences would be monitored by the authority to ensure that they can adequately continue to provide care for children. The authority would also investigate all allegations of abuse and neglect that have been levied against resident and would be able to enter any residence at a reasonable time to ensure that the children are properly cared for.

The Bill would allow persons who wish to temporarily care for children to apply to the Minister for such approval and on the granting of such approval, they

would be sent to these persons who would be monitored by the authority. The Bill would also now provide for nurseries in which children under the age of 6 years are kept and looked after for the day for reward. These nurseries would require licences to operate, such nurseries would be monitored and regulated by the authority.

Mr. Speaker, the Miscellaneous Provision Children Bill, 1999 is an omnibus Bill which seeks to amend several Acts at the same time. The main purpose of the Bill is to amend certain laws in order to bring Trinidad and Tobago more in line with its obligation under the United Nations Convention and the Rights of the Child and to amend certain other laws in keeping with the general reform of legislation affecting children.

The convention defines a child as a human being below the age 18 years, unless under the applicable law, majority is attained earlier. In Trinidad and Tobago, the age of majority is 18 years. To comply with the requirements of the convention, therefore, several Acts would need to be amended. The Bill therefore seeks to amend the definition of the word "child" in certain Acts to mean a person under the age of 18 years in keeping with Article 1 of the Convention. The Bill will amend the Citizenship of Trinidad and Tobago Act to allow female co-adopters who are nationals of Trinidad and Tobago to pass Trinidad and Tobago nationality to the person who is under 18 years of age and a non national of Trinidad and Tobago.

Mr. Speaker, under that Act, the present position is where an adoption order is made by a court in respect of the joint adoption of a person who is under 18 years and a non-national of Trinidad and Tobago, the adoptee can acquire Trinidad and Tobago citizenship only if the male co-adopter is a national of Trinidad and Tobago. The effect of the proposed amendment is that in such a joint adoption where the female co-adopter is a national of Trinidad and Tobago and the male is not, the female would now be able to pass a Trinidad and Tobago citizenship to the young adoptee. This would remove the existing discrimination against female co-adopters.

The Summary Offences Act, Chap. 11:02 is also amended. Under that Act a male person who commits assault or battery of a particularly aggravated nature upon a male victim under 14 years of age, or upon any female, or any old, infirmed or sickly person is liable on conviction to a term of imprisonment for such an offence. The proposed amendment would extend to all male victims up to the age of 18 years the protection now afforded to females, the aged, infirmed and sickly persons.

The Corporal Punishment Offenders not over 16 Act, Chap. 13:03 provides for courts to sentence persons under the age of 16 to be whipped. This Bill would repeal that Act. The effect of the repeal would be that children who are offenders and under 16 years of age would no longer be liable to sentences of corporal punishment.

The Corporal Punishment Offenders over 16 Act, Chap. 13:04 empowers the High Court to impose sentences of corporal punishment upon offenders over the age of 16 years. This Bill would amend that Act to raise the age of offenders over which the court has such power from 16 to 18 years of age. The effect of the proposed amendment would be that older persons over the age of 18 years would still be liable to be sentenced to corporal punishment, those under 18 years would not be so liable.

It must be emphasized that the proposed amendments relate only to corporal punishment imposed by the courts and not to corporal punishment in homes or schools.

Mr. Speaker, the Young Offenders Detention Act, Chap. 13:05 permits the Minister responsible for the custody of young offenders to transfer a youth at an industrial institution to prison. This Bill would repeal that provision. The effect of the repeal would be that as far as possible, the imprisonment of children in adult prisons would be reduced.

The Defence Force Act, Chap. 14:01 now permits the Defence Force to enlist young persons under the age of 18 years with the consent of parents or guardians. This Bill will amend that Act to ensure firstly, that no young person under the age of 16 years may be enlisted, and secondly, where a young person is over the age of 16 years, but not yet 18 years of age, he could only enlist with the consent of his parents or guardian.

Mr. Speaker, the Age of Majority Act, Chap. 46:08 establishes the age of majority as 18 years and *inter alia* makes provision for a wardship as well as for maintenance for children who are wards of the court. Under that Act, the court cannot make a maintenance order for the benefit of a child who is a ward of court if its parents are residing together. Further, where such a maintenance order has been granted, the order ceases to have effect where the parents have resumed living together for a period in excess of three months. The proposed amendment to the Age of Majority Act would remove this restriction so that the court would be empowered to make maintenance orders for wards of court and such orders would have effect regardless of the status of co-habitation of the parents.

The Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08 to which I will refer to as the Family Law Act now provides for the guardianship, custody and maintenance of minors. Under that Act, the court cannot extend a maintenance order beyond the age of 18 years if the parents of the child are residing together.

**2.00 p.m.**

Further, where such an order has been made, it ceases to have effect if the parents subsequently reside together for a period of six months. The proposed amendment would remove this restriction thereby ensuring that a young person would not be deprived of the right to seek maintenance when he needs financing to complete his education because his parents are residing together.

Again, Mr. Speaker, under the Family Law Act, when granting a maintenance order for the benefit of a child whose parents are not married, the court is not required to have regard to the educational expectation which parents may have for that child or to the financial resources of the parents. The proposed amendment would direct the court to consider these factors. The effect of this proposed amendment would be to ensure that the same factors are considered when the court grants a maintenance order to any child, regardless of whether the parents are married or not.

Still with the Family Law Act, when a Magistrates' Court in the exercise of its matrimonial jurisdiction under section 25 of that Act grants a maintenance order for a child, such an order ceases to have effect on the death of either of the parties to the marriage. There is also no provision for the Magistrates' Court to extend an order for maintenance granted in the exercise of its matrimonial jurisdiction beyond the age of 18 years to the age of 21 years. The proposed amendments would empower the magistrate, when exercising the court's matrimonial jurisdiction under section 25, to extend a maintenance order beyond the age of 18 years for educational purposes, or where the court is satisfied that there are special circumstances to justify the making of such an order. Further, a maintenance order for a child will not cease upon the death of his parents.

Mr. Speaker, under the Liquor Licences Act, Chap. 85:10, it is now an offence to sell any description of intoxicating liquors to any child apparently under the age of 16 years, whether for its own use or not. This Bill would amend the Liquor Licences Act by raising that age from 16 to 18 years. The effect of this amendment would make it unlawful to sell intoxicating liquors to a person under the age of 18 years. As I have mentioned previously, there are other Bills and the

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Children (Amdt.) Bill seeks to do the following things. To harmonize the Children Act with the Children's Community Residences Foster Homes and Nurseries Bill, the Children Authorities Bill would amend certain sections of the Children Act to meet some of our obligations under the United Nations Convention on the Rights of the Child.

In relation to meeting our obligations under the Convention, amendments have been made in respect of some of the following things: amending the definition of "child" and "young person" to mean a person under the age of 18. Previously, a child was defined as a person under the age of 16 and a young person was defined as a person between the ages of 14 and 16; removing from the court the power to order a child to be whipped or be sent to prison in keeping with the Article of the Convention; making it an offence to sell cigarettes to a person under the age of 18 years. [*Desk thumping*] Presently cigarettes may not be sold to persons under the age of 16 years.

Mr. Speaker, the Adoption of Children Bill, 1999. The law governing adoption of children in Trinidad and Tobago dates back to 1947 when the Adoption of Children Ordinance was enacted. As far back as 1976 the Adoption Board expressed dissatisfaction with the legislation and recommendations were made for change. Additional recommendations were also made by the Ministry of Social Development and Family Services. Generally, the existing legislation places undue restriction on prospective adopters in relation to nationality, residence and domicile. It also discriminates against the child to be adopted since it provides only for adoption of children who are Commonwealth citizens. Under the existing law, the Adoption Board has no discretion to waive a probationary period and this has led to much hardship for persons who live abroad and wish to adopt children in Trinidad and Tobago.

The effects of the Adoption of Children Bill, 1999. The Bill would provide for the Adoption Board to have a discretion to waive the six-month probationary period, thus eliminating the hardship suffered by persons who live abroad and wish to adopt a child in Trinidad and Tobago. The Bill reflects the provisions contained in the United Nations Convention on the Rights of the Child and seeks to ensure that the best interest of the child is always of paramount concern. The Bill addresses the question of overseas adoption and gives the court the power to make adoption orders whether the applicants are resident and domiciled in Trinidad and Tobago or not.

The Bill seeks to remove the discrimination against a single male who, under the existing law, cannot adopt a child. The concept of freeing the child for

adoption is introduced to allow the Adoption Board to obtain a court order freeing a child for adoption, thus making provision for the Children Authority to legally assume temporary care of the child to be adopted until an application for adoption is processed. Mr. Speaker, the Bill would provide strict measures to be put in place to ensure that no person or agency, other than the Adoption Board, is allowed to make arrangements to send a child abroad for adoption.

The Socially Displaced Persons Bill, Mr. Speaker. At present there is no specific legislation to address the growing problem of vagrancy in this country. Under the Mental Health Act, persons who are mentally ill may be removed from the streets and taken to a hospital, but this piece of legislation does not adequately address the wider problem of social displacement and the need to provide mechanisms for rehabilitation and reintegration of the socially displaced. The Socially Displaced Persons Bill, 1999 seeks to address the problem of vagrancy and social displacement.

The primary objective of the Bill is to provide a comprehensive legal framework for removing destitute persons off the streets and to contain, if not eradicate, the problem of vagrancy. The Bill will provide not only for voluntary and involuntary removal but, in addition, it provides for the assessment, treatment, care and rehabilitation of socially displaced persons. The establishment of assessment and care centres is proposed and the Bill emphasizes the rehabilitative aspect of care by requiring those who are there to work.

The Homes for Older Persons Bill, 1999, Mr. Speaker. Quality care for the elderly has long been neglected in Trinidad and Tobago. Due to growing public concern in this area, in 1999 there was a call for an examination of the legal status of institutionalized housing and care for the elderly. The need was recognized for a more comprehensive piece of legislation addressing homes for the elderly. The Homes for Older Persons Bill, 1999, therefore seeks to reform the law in relation to the care of our elderly population which has increased in this country and gives effect to this recommendation.

The Bill would provide for a strict licensing regime for homes for older persons and provides for the following. Categories of homes depending on the level of care which is provided; the establishment of minimum standards of care; inspection of premises to ensure compliance with the standards set by the regulation; the establishment of policies and procedures governing the operation of these homes; the requirement of a resident manager who will be responsible for the day-to-day operation of the home.

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The effect of the proposed Homes for Older Persons Act, Mr. Speaker, will be the setting of minimum standards of care for the elderly. There will be the promotion of respect for the dignity and privacy of older persons. There will be strict observation of standards relating to health and safety, diet, nutritional care, sanitation and equipment and overall quality care in the homes for older persons; and the introduction of requirements for the inspection, storage and disposal of medication in homes for older persons.

Mr. Speaker, the Family Court Bill, 1999. The main purpose of this Bill would be to establish a family court which will have two divisions, the upper and the lower division, which will have similar jurisdiction to the High Court and the Magistrates' Court respectively, with exclusive jurisdiction in all family matters inclusive of all matters relating to children. The court will not consist of the traditional judges. The court will consist of judges who are experienced and trained in family matters. The court will not have the normal adversarial rules. Those rules would be abolished.

The rules would be so geared that people would not even have to retain a lawyer and would be able to fill out the forms themselves. It is hoped that the effects of the Bill would reduce delays, inconvenience and, most of all, the expense involved in the resolution of family matters while providing a more efficient and effective system of assisting in resolving family disputes. The family court would be very informal with emphasis on advice, counselling and mediation and in the resolution of disputes. Every possible assistance would be given through the Children's Authority and the court to settle family disputes without any expense to the parties involved.

Mr. Speaker, it must be noted in concluding that the Government is committed to effectively promoting social and legislative reforms. We recognize that legislation alone cannot solve the problem, but we must also recognize that without legal reforms you would not have the necessary legal framework in order to effect these reforms. Thank you very much, Mr. Speaker. [*Desk thumping*]

#### **ADOPTION OF CHILDREN BILL**

Bill to make provision for the regulation of procedures governing the adoption of children and to give effect to the International Convention on the Rights of the Child, 1990, [*The Attorney General and Minister of Legal Affairs*]; read the first time.

*Socially Displaced Persons Bill*

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**SOCIALLY DISPLACED PERSONS BILL**

Bill to provide for the assessment, care and rehabilitation of socially displaced persons and for related matters, [*The Minister of Social and Community Development and Minister of Sport and Youth Affairs*]; read the first time.

**CHILDREN (AMDT.) BILL**

Bill to amend the Children Act, Chap. 46:01 [*The Minister of Social and Community Development and Minister of Sport and Youth Affairs*]; read the first time.

**NATIONAL TRUST OF TRINIDAD AND  
TOBAGO (AMDT.) (NO. 2) BILL**

*Order for second reading read.*

**The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips):** [*Desk thumping*] Mr. Speaker, I beg to move,

That a bill to amend the National Trust of Trinidad and Tobago Act, 1991 be now read a second time.

Mr. Speaker, the purpose of the Bill is to effect miscellaneous amendments to the National Trust of Trinidad and Tobago Act, 1991 so as to fill various lacunae in the law and thus complete the Act prior to its proclamation. The Act was assented to on August 14, 1991 and it provides at section 12 that it shall come into operation on a date to be fixed by the President by proclamation. The Act establishes the National Trust of Trinidad and Tobago as a body corporate with responsibility for listing and acquiring properties of interest including monuments, fossils, places or sites of natural beauty, or national, historical, scientific and archaeological interest. Also, the trust is responsible for advising the Government on conservation and preservation of properties of interest. The Act also confers on the trust extensive powers to deal with listed properties, subject to the approval of the Minister and to the rights of appeal by persons aggrieved.

It is appropriate that we pass this legislation to protect our heritage before the dawn of the third millennium. We are all aware of our country's rich and varied national heritage which is vulnerable to destruction unless protected. This heritage includes works of nature such as our swamps and wetlands, wildlife, our forests, our rivers, streams, exotic trees, parks, playing fields and so forth. It also includes works of man, that is our built heritage, tropical architecture, monuments of historical antiquity, our outstanding architectural creations which were developed

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by our past and present inhabitants. It also includes sites of historical significance and structures which have played a part in our national development. All these need to be protected.

Of special interest as well, Mr. Speaker, there are some special monuments of history which need to be protected; one such is the Banwarie Trace site. Several years ago the Government of Trinidad and Tobago moved to acquire this site for the nation. It is perhaps one of the most important archaeological sites in the Caribbean. The decision to acquire this site has not yet been implemented because of the lack of legislation. Therefore, adequate steps to protect the site have not been undertaken. Two other important monuments which perhaps need special mention are one at Point Gourde and the other is the Scarborough Harbour. These are two examples of sites which are in danger of destruction and/or spoilage if not protected.

All our national and cultural heritage which need to be protected are in danger of destruction, either by the deterioration or disappearance with the passage of time, or by attempts by individuals to profit by destroying or exporting items or claiming items for private gain.

**2.15 p.m.**

These activities, of course, impoverish our society. There are items which are also in private ownership which may be damaged; lost or destroyed; improperly maintained; improperly secured, either through ignorance, lack of resources or lack of concern.

There are items, too, which represent loss of a pre-historical past through the activities of knowledgeable, curious-seeking visitors who sometimes come in the guise of tourists. Some of them are very knowledgeable, many of them are professionals and they know exactly where the sites are; they know where to go, and some of them may and do take these artefacts as curios. Pieces of pottery are removed, stone and other materials are moved to foreign lands. These are, indeed, part of our Amerindian history. There is also the removal of precious items of nature or items of our past history from below the sea.

Mr. Speaker, all these dangers to our assets which contribute to our national and cultural heritage can be averted if they are protected by legislation. In addition, we have signed certain international conventions which we need to address.

Trinidad and Tobago has become party to the 1970 United Nations Educational Scientific and Cultural Organization (UNESCO) Convention on the

means of prohibiting and preventing illicit import, export or transfer of ownership of cultural property. Trinidad and Tobago deposited an instrument of ratification with the Director General of UNESCO in accordance with Article 19 of this Convention. Legislation is, therefore, necessary to implement the 1970 UNESCO Convention to which I just referred.

For all these reasons, Mr. Speaker, it is necessary that our national and cultural heritage be protected by this National Trust Act and it is extremely important that we move to proclaim this Act. Indeed, as an independent state, it is the responsibility of the state to ensure that the wide variety of national, natural and cultural objects which constitute the patrimony of our people are preserved, protected and kept in trust for the enjoyment of all our people and for future generations.

However, the National Trust Act of 1991 was not proclaimed because of certain problems in it. The main functions of the National Trust of Trinidad and Tobago are to acquire property, that is, property which is considered to be appropriate to be maintained in trust for the people of Trinidad and Tobago. It is also expected to preserve land, retaining its natural features.

The Trust will also conserve animal and plant life, preserve property other than lands and buildings. It is also responsible for providing access and enjoyment to the public, of these items that are listed and are in its control. The National Trust of Trinidad and Tobago encourages research into property and interest, including associated plant and marine life, and it is also responsible for making the public aware of the value and beauty of the heritage of Trinidad and Tobago.

Finally, the Trust advises Government and other agencies on conservation and preservation of property which is of interest. It also has powers to raise money through borrowing, through soliciting and through fees. It also gives powers to operate the business of the Trust; to employ, either on a temporary or permanent basis, professional, clerical and technical services. The Trust also has the power to impose charges for viewing of artefacts and it administers the property with which it is vested.

By way of history, the 1991 Act contained certain errors or omissions, or certain lacunae which needed to be addressed and corrected. Some of these were: firstly, the need for improvement of the wording and structure of subsections, and the correction of typographical errors.

Secondly, the need for clarification of the power of the Trust to constitute itself as guardian of listed monuments, especially if the monument is occupied as a dwelling house.

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Another problem with the Act is that of the size and composition of the council. The Act was also silent on the issue of resignation and removal of council members. There is also the need for clear distinction between the subcommittees of the Trust and the advisory committees of experts.

Next, there is need for the provision of exemption of personal liability of council members and, finally, the need for the inclusion of local works of art in the exemptions from duties and taxes.

Mr. Speaker, when the Bill was passed in 1991—and this was under the NAR government, and it was in formulation since 1987—it was passed by a three-fifths majority but, because of these problems identified, it was not proclaimed. There is a history of activity in relation to attempting to improve the Act.

On March 31, 1994, a committee was appointed comprising representatives of special interest groups and special other professionals involved in the physical aspects of cultural heritage of Trinidad and Tobago. This committee was appointed to review the Act. Upon completion of this exercise, such amendments as the committee recommended, were to be enacted and the Trust was to be made operational.

However, in its report of May 1995, the committee recommended that certain amendments to the Act be made, but no action was taken. In December 1995, Cabinet appointed an inter-ministerial committee which met between January and May 1996 to examine the list of unproclaimed Acts and this was one of them. The committee, in its report in May 1996, recommended that the Act be amended prior to its proclamation.

In November 1997, a Bill to amend the National Trust of Trinidad and Tobago Act was brought before the Parliament and, subsequently, debated at a sitting of the Senate held on Tuesday, March 10, 1998. The Senate adopted a motion that a Select Committee of the Senate be appointed to consider and report on that Bill. The Select Committee deliberated between March and May, 1998.

Its deliberations and discussions were based on three broad areas: one was the definition of the National Trust; secondly, the composition and functioning of the council; thirdly, the overlap in jurisdiction between the National Trust and various other organizations and agencies.

In carrying out the committee's mandate, a comparison of the National Trust legislation in various jurisdictions was compiled and studied. The committee sought and obtained written and oral submissions from various experts, as well as

from the general public. Thereafter, a number of organizations were invited to sittings of the committee to assist in its deliberations. Concerns were raised by most representatives relating to the composition of the council and the overlap in jurisdiction between the National Trust and various organizations or agencies.

The committee recommended six modifications or elaborations to the 1997 bill. The Senate committee submitted its report dated July 10, 1998 containing recommendations of the committee but, in the interim, the bill lapsed. The bill was subsequently amended in accordance with the recommendations of the Select Committee, reintroduced into Parliament and subsequently passed in the Senate.

Mr. Speaker, I will now go through the clauses of the Bill and indicate the changes that were put in place.

Clause 1 provides the short title of the Bill and clause 2 defines the Bill as the National Trust of Trinidad and Tobago Act, 1991.

Clause 3 amends section 8 of the Act. In these amendments, minor changes are first made in subclause (a); subclause (b) introduces a register of the listed items and subclause (c) establishes the procedure by which the Trust shall notify the owner of property, or where the owner is unknown, the general public, of the listing of the property. Subclause (c) states that where a property is owned by an individual, the individual shall be notified:

“personally or by post, addressed to the last known place of abode, if within a special district...”

or if the owner is unknown, the notice shall be published:

“...in at least three issues of a daily newspaper...where nobody is in possession or the owner is not known.”

So, the Act provides that proper notification be made.

Clause 4 repeals and replaces section 9 of the Act. The amendment sets out the procedure to be followed where the owner is aggrieved by the listing of the property by the Trust. It states that:

“A person aggrieved by the listing of...”

his or her property or—

“...any property may within three months of the date of the listing, appeal to the Minister in writing...”

**Miss Nicholson:** Why the Minister?

**Sen. Dr. The Hon. D. Phillips:** We will come to that.

The Minister, once having received this written appeal:

“(a) shall consider the appeal within six weeks...”

and,

“(b) may dismiss the appeal...”

or,

“(c) may direct the Trust to revoke the listing...”

(3) Where the Minister dismisses an appeal...the person aggrieved...may...appeal to a Judge in Chamber...”

And the judge may:

“...make such interim order as he sees fit, to preserve the respective interest of the appellant...”

or the judge may:

“(b) dismiss the appeal...”

(4) The Judge’s Order amending or revoking a listing shall be deemed to be a list for the purposes of section 8...”

So, the aggrieved person has avenues of redress right up to the Appeal Court.

### **2.30 p.m.**

Clause 5 amends section 10 of the Act. It stipulates the requirements to be filled where property is occupied as a dwelling house, and the trust proposes to become guardian of the said property. In this case, where property is occupied as a dwelling house, according to clause 5:

- (a) arrangements satisfactory to the Trust are made for the continuing occupation of the property as a residence by the owner; or
- (b) the owner agrees in writing to give the Trust vacant possession of the property.

So, there are arrangements for those conditions where the property is occupied as a dwelling house.

Clause 6 effects four amendments to section 12 of the Act and it inserts, as well, a new subsection (7A). This clause creates a council which will run the trust. The council is responsible for the administration of the trust.

Subsection (2) of the said section 12 is amended by increasing the membership of the council from nine to 11. In the original Act of 1991, the membership of the council was nine members. It has now increased to 11 persons. The Minister appoints six of the 11 Members.

In subsection (4) of the said section 12, this is amended by extending the selection pool from which appointed members of the council can be selected. That pool includes associations, agencies or institutions which have, among their stated objects, objects which are similar to the purpose of the trust, as specified in section 5. So, whereas there are 11 members of the council now with the Minister appointing six, there is a particular pool of persons from which those members must be selected.

Subsection (4) of section 12 is also amended by making provision for the representation of the interest of Tobago. This section (4A) says that one member is to be nominated by the Tobago House of Assembly and shall represent the interest of Tobago.

Subsection (6) of the said section 12 is amended to make expressed provision for the Chairman of the council to be appointed by the Minister.

Subsection (7) of section 12 is amended to increase the quorum from five to six. A quorum, therefore, is now six members.

A new subsection (7A) is inserted to include that the decisions of the council are to be taken by a two-thirds majority. This, of course, is a new provision.

Clause 7 of the Bill inserts a new section 12A which sets out the procedure for the resignation of members of the council. It says in subsection 12A:

- “(1) A member of the Council, other than the Chairman, may resign his office by instrument in writing addressed to the Minister through the Chairman who shall cause it to be forwarded to the Minister.
- (2) The Chairman may resign his office by instrument in writing addressed to the Minister.
- (3) Where a member of the Council—
  - (a) is absent without leave of the Council for more than three meetings of the Council;
  - (b) has been declared bankrupt;
  - (c) is incapacitated by physical or mental illness; or

- (d) is otherwise unable or unfit to discharge his function as a member of the Council,

he shall vacate his office.”

Clause 8 repeals and replaces section 13(1) of the Act. The new section 13(1) recognizes and addresses the need to make clear distinction between working sub-committees of the trust and any advisory committees of experts. One of the problems we found in the committee deliberations was that there may be need for information, professional services outside of the membership of the council. Here, this clause provides for committees of experts, as well as sub-committees of the trust. It reads:

“...the Council may appoint such Standing Advisory Committees and sub-committees as it considers necessary and may delegate to any member of the Trust or to any sub-committee the power and authority to carry out on its behalf such of its functions as it may determine.”

Clause 9 inserts two new sections. Section 15A exempts the members of the council from personal liability for any act or omission executed in good faith in the cause of the operation of the trust. This is more or less a normal provision in such legislation.

Clause 15B is new and it is an important one. It sets out the arrangements with other entities whose operations may overlap with those of the trust and it permits the creation of memoranda of understanding between these entities. Because of the wide range of areas over which this trust is responsible, we find that it overlaps with the responsibilities of many institutions. For example, the Environmental Management Authority, the Ministry of Agriculture, Land and Marine Resources, the National Museum and various other agencies. So, there may be overlap and some confusion over who is responsible for what.

Section 15B provides for memoranda of understanding. It reads:

“The Trust shall initiate consultations with other government and non-governmental entities performing various functions pertaining to the preservation of any property of interest or to the protection and management of the environment with the objective of formulating memoranda of understanding or other arrangements between the Trust and such other entities, which shall establish the mechanisms for co-ordination across jurisdiction lines and provide for the implementation of integrated programmes for the preservation of monuments or the protection and management of the environment.”

So, this allows for collaboration between agencies in preservation and conservation of our heritage.

Clause 10 exempts the trust from certain taxes and duties on goods imported for its official use and works of art originating in Trinidad and Tobago.

Clause 11, which is the final clause of the Bill, amends the Second Schedule in regulation 4 by correcting typographical errors.

**Mr. Manning:** Mr. Speaker, I thank the hon. Minister for being kind enough in giving way. The question arises in circumstances where a property is deemed to be under the control of the trust. What about the possible disenfranchisement of the owner of that property and, is there any provision for compensation of one type or the next in those circumstances?

**Sen. Dr. The Hon. D. Phillips:** The original Act was passed by a three-fifths majority. Therefore, it took into account the whole matter of the rights to property. As I said, clause 4 outlines the procedure for a person aggrieved by the listing of his or her property and it goes right up to the Appeal Court where the person can get the judgment of the court. Also, it outlines what happens to a person who still resides in the property which is listed by the trust as a property of interest. The owner will agree in writing to give the trust vacant property or, arrangements satisfactory to the trust are made if the property is occupied.

The thinking is that the person still owns his property, but there are certain arrangements whereby, for example, the public, at certain days and certain times of the month or year, may have access to view certain artefacts, or what have you, of the trust. In committee stage, the legal advisors will perhaps clarify that a little further.

Mr. Speaker, these are the provisions of the National Trust (Amdt.) (No. 2) Bill. I beg to move.

*Question proposed.*

**Mr. Hedwige Bereaux (La Brea):** Mr. Speaker, the very name of this Bill, the National Trust of Trinidad and Tobago, encourages and, in this day and age, requires some comment from Members of Parliament. I thought I would be remiss in my duty if I did not make some comment on this trust today.

The hon. Minister, in her very quiet and detailed manner, dealt with this amendment to the National Trust of Trinidad and Tobago Act which was passed in 1991 but did not become law. I definitely agree with her when she indicated

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that there are certain treasures belonging to Trinidad and Tobago which need to be protected, particularly, from persons who may be coming from abroad and who are knowledgeable persons as to these treasures. They would try to—just out of being collectors or, maybe even wanting to make a little profit—remove these treasures from the country. We need to protect them.

Mr. Speaker, the original Act was passed by a two-thirds majority, but I noticed that the drafters of this amendment tried, to some extent, to veer away from the need for a three-fifths majority. They tried to do it. I am not so sure as to how successful they have been, but we will deal with that. The Minister telegraphed the point that we may have to deal with that in the committee stage. I do not want to get into the legal argument at this time. We will do that at another time in another place, if necessary.

As I was coming to Parliament today, I saw the wreckage of the Union Club—some will say, a bastion of colonialism, but nonetheless, a bastion of our past—and I mused that it would have been good if we could have kept that building there, preserve that building. Therefore, the need to have this particular Act proclaimed and given the necessary teeth is quite clear. However, Mr. Speaker, as you yourself, having been legally trained, when I hear “National Trust”, I tend to have visions of a wider and more profound and deep responsibility.

**2.45 p.m.**

The definition of “trust” says:

“When a person has property or rights which he holds or is bound to exercise for or on behalf of another or others, or for the accomplishment of some particular purpose or particular purposes, he is said to hold the property or rights in trust for that other or those others, or for that purpose...”

Mr. Speaker, when I hear national trust and when I think of national trust—I am dealing with the name itself—I do not necessarily think about section 4(1) of the original Bill which states:

“For the purpose of this Act, The National Trust of Trinidad and Tobago is hereby established a body corporate...”

Not necessarily, Mr. Speaker. I think, on a wider scale, about the trust which this country has bequeathed—has placed in the hands of the Government and the Ministers of Government of Trinidad and Tobago. I want to look at this whole question of national trust, in the context of the position held by the Minister of Finance.

When the property of this country—the wealth or otherwise, any property in this country—belongs to the people of Trinidad and Tobago, the Ministers, the Government and Corporation Sole; they all hold it in trust for the people of Trinidad and Tobago. It is my considered opinion that that is the National Trust of Trinidad and Tobago and this Act, in fact, is mis-named because that is not the national trust. This Act is a trust that has been put in place to deal with certain national treasures. I shall get to that in due course as to how we should rename this whole Act, because the National Trust of Trinidad and Tobago is the trust that is placed in the hands or under the control and powers of the Ministers of this Government.

I am going to go further, for those of them who may not be Ministers or who may not be the Minister of Finance, I want to define what a constructive trust is. It says:

“A constructive trust arises when, although there is no express trust affecting specific property, equity considers that the legal owner should be treated as a trustee for another. This happens, for instance, where one who is already a trustee takes advantage of his position to obtain a new legal interest in the property...”

This whole thing is very relevant to what we have been experiencing in Trinidad and Tobago in respect of the behaviour of the Ministers of this Government.

When a Minister of Government operates in a manner which permits certain properties which belong to the state and which he controls as trustee—be it expressed or constructive, and he permits a benefit to go to a friend, colleague, an associate or party supporter, there is breach of that trust. I am particularly concerned about pointing that out here today.

We have dealt, in this honourable House, with the Limitation of Certain Actions Act which provides that after a certain number of years one cannot bring action in respect of certain misdeeds which may have been perpetrated. I want to point out to the Members of this Government that in breach of trust, the limitation is 12 years. I say no more in respect of that, for the time being.

I now deal with some of the matters which this particular National Trust Act is supposed to deal with. Section 5 says:

“The Trust is established for the purpose of carrying out the functions given to it by this Act, which include—

- (a) listing and acquiring such property of interest as the Trust considers appropriate;

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- (b) permanently preserving lands that are property of interest and as far as practicable, retaining their natural features and conserving the animal and plant life;”

Mr. Speaker, I want to pause there.

You will recall—I think it is common knowledge in Trinidad and Tobago—that the Peschier family—if I am mistaken in the name of the family I stand to be corrected—gave to Trinidad and Tobago a savannah: a large expanse of land for use for recreation and so forth. I think some of their relatives are buried on that site. What happens? Under the watch of this Government a misguided person—apparently wishing to please his masters, or hearing his master’s voice and not properly interpreting it—turned around and graded, defaced, desecrated a portion of that savannah: that expanse of land that was given to be preserved for the benefit of the people of Trinidad and Tobago. Now that we know about the ozone layer and the benefit of open and green spaces to the health of the people of Trinidad and Tobago and to mankind, we realize what sacrilege was committed there. Sacrilege for which we, the people of Trinidad and Tobago, had to pay \$2.8 million without the benefit of a contract for the tendering procedures. [*Desk thumping*]

Mr. Speaker, I will tell you, I weep not only for the country but I weep in shame for those on the opposite side: those elected Members of this honourable House and even for the hon. Minister who, although, not elected has serious responsibilities which I believe she would like to carry out in a proper and responsible manner.

**2.55 p.m.**

However, that degradation of an historic site, a site that was given to the people of Trinidad and Tobago, took place while the particular site was under her control or under the control of the Member of Parliament for Princes Town when he was the Minister of Agriculture, Land and Marine Resources. It was done by a non-elected person, trampled over without consultation and without even any consideration whatsoever to the Ministers themselves or to the wider benefit of the community.

You see, Mr. Speaker, therein lies the problem when we say on this side that this Government has no legislative agenda, or if it has a legislative agenda, there is no rationale to the legislative agenda. Because on the one hand, it brings a Bill before this honourable House to talk about preserving national trust, permanently preserving lands that are property of interests and as far as practicable, retaining

their natural features and conserving the animal and plant life and, on the other hand, in one fell swoop, it destroys five acres of the very land that was preserved and given in trust for the people of Trinidad and Tobago. [*Desk thumping*] So, Mr. Speaker, the ambivalence of this Government goes on.

I am concerned when that happens. What do I say? How do I rationalize that? If I look at the contract—and we get back to true national trust—that was awarded without tendering and without even knowing where the money was coming from, and caused the Minister of Finance to say he does not know anything about any contract or where any money is coming from, I come to the conclusion that that was only because, knowing the competence or presumed competence of the individual in financial matters and knowing his position in the party to which they belong in respect of fundraising; that such a matter was done and such a tender was given because it would bring back certain benefits. Who is to be blamed if I come to that conclusion, Mr. Speaker? I can see no other rational basis for doing it. So, Mr. Speaker, we have that.

I was talking about trust and I want to look further in respect of the original Act which we are amending here to see what this national trust is supposed to do: preserving, maintaining, repairing and servicing or arranging of the preservation of property of interests other than land and where such property of interest comprises buildings, augmenting the amenities of such buildings. I think they would say having spent all that money to refurbish Whitehall, that is what they were doing. I am not going against that. I do not know how all the money was spent and I am not satisfied it was properly spent.

Mr. Speaker, we all know that the Pitch Lake, the Lake of Asphalt, from which the village and the constituency of La Brea received its name, some say it is a wonder of the world; those of us like myself who have some small exposure to geology, we say it is low, API crude coming to the surface and solidifying when it reaches the surface.

**Mr. Manning:** Viscous.

**Mr. H. Breaux:** Viscous. Thank you, I bow to your superior knowledge in this matter.

It is well known that Lake Asphalt—historically that was where Sir Walter Raleigh corked his leaking ships. For years the roads in England, the airport, elsewhere, the roads in Trinidad and Tobago, were all surfaced, were all paved with the asphalt from that lake, to the economic benefit of Trinidad and Tobago.

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However, I read on the newspapers quite recently that this Government claims that because of a \$44 million debt owed by Lake Asphalt to Petrotrin—which owes US \$260 million to the Government of Trinidad and Tobago—it has decided to privatize Lake Asphalt, to give away the national trust, to give away something that has given its name to a village, that has given its name to a constituency, that is part of our cultural heritage; we in Trinidad and Tobago are known for Lake Asphalt. I understand and I heard—I am not going to get into it. I have promised my children not to pay attention to fools and I am definitely not going to be distracted by anybody from the gallery or elsewhere, not referring to any Member of the House, although one or two on the other side will qualify quite easily.

As I was saying Petrotrin owes the Government \$260 million, but you see how we have different strokes for different folks. You could compare the behaviour of this Government with the behaviour of the PNM. Although, their support comes from Caroni (1975) Limited, the PNM wrote off \$2.4 billion of Caroni (1975) Limited's debt. This Government has Caroni (1975) Limited as a ward of the Treasury and every Monday morning they are coming here for \$30 million and \$40 million here and there. Then the Member for Nariva has the audacity to tell me about losing money! So since he has told me that, I am going to answer him in dealing with this.

That is because there was a policy in place whereby in any road surfacing activity going on and paid for by the Government of Trinidad and Tobago, 33 per cent of the material used was supposed to come from Lake Asphalt. The hon. Minister of Works and Transport still mouths that. If you wonder why roads that are recently surfaced are breaking up like that, it is because they are no longer enforcing the rule that 33<sup>1</sup>/<sub>3</sub> per cent of the road paving material in this country must come from Lake Asphalt. You see, Mr. Speaker, it would appear that material that is good enough to have on the autobahn in Germany and to pave the airports of the world is not good enough for this Government and its friends. Therefore, they have contrived to put Lake Asphalt in a position where it is losing money.

Now, when I go on to say that they are going to sell it to their friends and family, I do not want to accuse anybody improperly. You see:

“Were it not for the intervention of our proactive Prime Minister with an entrepreneurial spirit, our company today would not have been able to develop its inventions.”

This is Garnet Mungalsingh, Chairman of Powdered Asphalt of Trinidad and Tobago Limited speaking. He is speaking here about something to which I

alluded in my budget contribution and he is speaking about the intervention of the Prime Minister in making Lake Asphalt people deal with him. This is also the man who is saying:

“In order for our company to exploit the invention, it is necessary to obtain shared mineral rights before the financing will be made available for plant equipment and machinery which we have already designed.”

So, he does not have any money to put into any plant, but he wants Lake Asphalt, Trinidad and Tobago's natural, national patrimony, to mortgage and to pledge, so that he could get into business. He has the audacity to say Lake Asphalt ought not to be permitted to continue to monopolize a natural resource.

Mr. Speaker, Lake Asphalt is owned by the people of Trinidad and Tobago! It is a national treasure! I am glad the hon. Member for Oropouche, the Minister of Agriculture, Land and Marine Resources, is back here, and I was glad to hear when he said that Caroni (1975) Limited will not be divested. I am saying that they also have no right to divest Lake Asphalt. I am going to tell you, when I spoke about this matter in La Brea some time ago, I pointed out that any investor must have—I have no particular aversion to some company coming in to Lake Asphalt as a partner, as a shareholder, provided they come with money, technology and markets. Here we have already evidence that this crew, led by Garnet Mungalsingh as Chairman of Powdered Asphalt of Trinidad and Tobago, cannot even raise the money to buy the machinery. So you could imagine. They do not have any money.

I was pleased to see in the advertisement they said investors should demonstrate the ability to provide capital, state-of-the-art technology, research and development, and marketing expertise, as well as the ability to develop the community and create job opportunities.

You see, Mr. Speaker, I have tilted their whole cart. I understand that Price Waterhouse has come out with a valuation and valued the shares of Lake Asphalt for \$2 million. Tell them, if that is \$2 million, I will buy it!

**Mr. Partap:** *[Inaudible]*

**Mr. H. Bereaux:** You hear, Mr. Speaker? You do not worry about that.

**Mr. Partap:** You have the La Brea constituency to buy.

**Mr. H. Bereaux:** That is not easy to buy.

**3.10 p.m.**

Mr. Speaker, that is a trick. I make no apologies whatsoever! Anybody who says that Lake Asphalt's shares are valued at \$2 million, is a collaborator and a conspirator, to rob the people of Trinidad and Tobago and to make destitute, too, the people of La Brea. I condemn it in the most strong language that I am permitted to use without being unparliamentary and I will not be unparliamentary!

You see, Mr. Speaker, we have a Government here and Ministers who seem not to understand the meaning of the word "trust." That is why I said, maybe, what we need to do in this country, is to change the name of this Act from National Trust—let us have an Act called National Trust where we point out that Ministers of Government and other persons in high positions who have charge of the property of the people of Trinidad and Tobago; how they are required to behave and identify them as trustees. Mr. Speaker, I know there are those hon. Members on the other side who told me that I cannot win a case—but that is all right. But I am looking at them and I am satisfied that in their positions—as Ministers of this country—they are constructive trustees, at least. I warn them, again, about the situation with respect to breach of trust. It is a serious thing. In that case, as you well know—seeing that you are not a stranger to the law—we can go after the personal property. So if a Minister arranges for certain relatives to get certain contracts improperly, or to sell them state property at a value that is improper, that amounts to a breach of trust.

I have evidence that the hon. Prime Minister himself indicated—and they should deal with these people who have confessed in this letter to the press, that they cannot raise the money to get the machines unless they have the mining rights. They are not saying unless they have a secure source of supply. That is a different thing. A secure source of supply means that there will be a locked contract for a certain quantity of material at a certain price and for a certain length of time. It is not that this Government does not know that it is not supposed to do that!

In the oil industry, they changed the regime—in 1972, if I am not mistaken—from leases to licences in order to prevent people from mortgaging, hypothecating or in any way pledging the right to mine oil or any other thing in this country. Yet those companies come in with their money; they come in with their technology; they are required to pay signature bonuses; they are required to do a number of things in order to show that they have the financial capability to deal with the manufacturing or whatever they choose to do.

I want to get back to the \$44 million they are talking about. When I left Petrotrin in 1996 the debt was only \$10 million. So in four years they brought it up to \$30 million and now they are saying it is losing money they are going to sell it. It took, from the time it started—when Trintoc owned it—to reach at a \$10 million debt, which for a company of that size, is nothing big. And instead of moving to fund it properly—because they know it can make money—they are seeking to dispose of it, to a person who has said the only time they would get a chance is when the Prime Minister intervenes.

Mr. Speaker, Lake Asphalt is an historic site. There are rare birds; there are trees; and if one is not careful when one goes there one will return to the womb of the earth because one will sink. We have a number of things there and also resilient people. We have history in that area and it deserves to be preserved; not only preserved, but preserved and owned by the people of Trinidad and Tobago and anybody. When I say Trinidad and Tobago, I am not saying dealing with foreigners only. No! No single Trinidadian and Tobagonian should be allowed or given the position that he or she should exploit Lake Asphalt. You can exploit it, but it has got to be done in a way above board and you must come with your money; your technology and your markets.

Having dealt with that, I am still on the question and on the point of trust. As I look at my notes here I just want to make this aside: I heard the hon. Minister talked about the third millennium, and that she would not like us to suffer in the third millennium, and I think it is imperative that I make this correction to what I am hearing all the time. I get upset about it. The year 2,000 is the final year of the second millennium; the year 2,000 does not begin the millennium; it is 2001.  
[*Interruption*]

**Miss Nicholson:** Mr. Speaker, there are different schools of thought.

**Mr. H. Bereaux:** Mr. Speaker, I am giving my school of thought because 1 to 100 is where the century ends. The century did not start from zero; there was no year as zero. So I just wanted to put across that point. On December 31/January 01, 2000 is the beginning of the last year of the millennium. Additionally, I want to point out that—I am just going through this quickly—take, for instance, when people so arrange contracts their friends get them. When they misuse public funds to buy mills that cannot work; they brought rice that could not be found; and we found bicycles in it. All of those things—bicycles in some and you cannot find the others. Mr. Speaker, we are dealing with the people's

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money. I go further to say that if you see and you observe things going wrong and nothing is being done about it then you are also in breach of the national trust.

So I want to conclude by saying that I understood very clearly the detailed position taken and the explanations by the hon. Minister, but I also want to know whether there will be any penalty to be paid for people who have already desecrated national sites.

**3.20 p.m.**

I want also to tell the hon. Minister that except for some cleaning up work, I support the thrust of this legislation, this amendment to the Act, and I believe that we have to move quickly to create a number of sites for fear that people will handle them in a certain way. I do not like the name of the Act. I think the name “National Trust” should be reserved for an Act which deals with how people behave when they have control of national funds and provide stiff penalties for breaches thereof.

Thank you.

**The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips):** Thank you. Mr. Speaker, concerning the comments of the last speaker, the Member for La Brea, the interpretation of the trust, perhaps, in my view, may represent something of a misreading of the purpose of the Bill itself, in the broader interpretation of the term “trust”. I am afraid I am not able to address the issues raised by that speaker. However, those issues raised in relation to the Bill were very positive.

The question about whether there would be penalties for desecration of the National Trust that have already occurred, it appears to me that the Bill is not retroactive. On whatever day it is proclaimed, it starts at that date. But I do take the sentiments that there is support for the Bill, that the importance of bringing this legislation into effect is held by everyone, and that the Bill is largely supported in terms of its intentions and the need to have the Act proclaimed as soon as possible.

Mr. Speaker, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 to 11 ordered to stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, the hon. Minister in moving the Bill indicated that at the committee stage an explanation would be given in respect of the legal matter.

It is true that the original Act, No. 11 of 1991, was passed with a specified majority, a three-fifths majority, and it had to be so passed because it provided for the listing of properties and there could have been the argument that it required a specified majority. This Bill, however, does not need a specified majority. The reason being that this Bill is not dealing in any way with taking away anybody's property without compensation.

As a matter of fact, section 9 of the Act which is being repealed is dealt with in clause 4 of the Bill and expressly states that an appeal from the Minister would go to the court and, in effect, would go right through the appeal process, so there is the appeal mechanism. It is the same mechanism which was provided for in the original Act with the exception that we provided a greater mechanism under this Bill for challenge. [*Interruption*] That aspect did not require a special majority, because that aspect was protecting.

**Mr. Manning:** The other question is, whether the minute a property is deemed to be part of the national trust a conflict immediately arises or whether there is some other kind of mechanism by which this matter can be settled.

**Mr. Maharaj:** The way it is stated is as soon as the property is listed you have three months within which an appeal could be filed.

**Mr. Manning:** In short, is there room for negotiation between somebody whose property has been listed, and the authorities, to come to an amicable conclusion or do all such matters have to go through a certain process?

**Mr. Maharaj:** No, you can always negotiate, because you first have to get a notice that it is going to be listed. This policy was really passed in August of 1991 under your government.

**Mr. Manning:** Let me give you an example; take the Roodal House, one of the Magnificent Seven, a private property obviously part of a national trust. You could list that and you have 30 days to protest, no minister would say that is not part of a national trust. But then what happens? You list it, a dispute immediately arises or something else may happen; people have to be compensated for their property. Will the state acquire it?

**Mr. Maharaj:** You have three months within which to appeal, there is nothing that will happen.

**Mr. Manning:** What is not in dispute is whether it should form part of the national trust. What is in dispute is what happens after they decide that.

**Mr. Maharaj:** There are three months in which people could negotiate, but if there is a decision—

**Mr. Manning:** So if they wanted to sell the property within the three months they cannot because it has an encumbrance.

**Mr. Maharaj:** But they would not sell the property within three months because you have an appeal process for three months.

**Mr. Manning:** In other words, while the appeal process is in place you cannot sell.

**Mr. Maharaj:** No. In effect, since you are entitled to go to court, the High Court has not lost its jurisdiction you could always get an injunction.

**Mr. Manning:** Let me tell you what I mean: if I own a property and the state wants to list it as a trust, it is free to acquire it from me. Do you understand? In other words, one ought not to be able to do, disenfranchising me and putting through a long legal process which has costs associated with it, in circumstances where I have no liability in the matter. It is my property and you decide that you want to take it, well, take it, but take it at a cost.

**Mr. Maharaj:** As a matter of fact, this is more accommodating than even the acquisition process that you have under land.

**Mr. Manning:** That does not make either right, both are wrong.

**Mr. Maharaj:** The fact of the matter is that you can have situations where they take the property and situations where you preserve the property. But it has been recognized since 1991 that this is something the state must have in order to preserve. Anybody's property that is taken, there must be a price for it.

**Mr. Manning:** What you are saying is that the state does not take the property, it merely lists the property, which places a restriction on you in the enjoyment of the property once it is listed, which is a fundamental right.

**Mr. Maharaj:** But you can have other instances too. [*Crosstalk*]

**Mr. Manning:** Again, I am not so sure whether that provision requires a special majority.

**Mr. Maharaj:** I think Members ought to look at the original Act under section 7 which gives the power of the trust. The substance of that section which

gives the power is really not being amended in any way. It is to acquire, purchase, transfer, donate, exchange, demise, regress, grant or give it. It is very wide so you can have all kinds of situations and you cannot take people's property without adequate compensation. That is a right guaranteed in the Constitution.

**Mr. Manning:** Where in the legislation—

**Mr. Maharaj:** But who decides? The compensation ends up in the court. This Bill does not take away the constitutional rights of an individual to challenge if his property is taken by state without compensation.

**Mr. Manning:** But there is the question of equity. It is not a question of not having access to the courts, but even if you have access to the courts there is a cost associated with that. Why must you be put in a position where you have to incur costs to get equity in circumstances where you have no liability in the matter? Somebody wants your property, they come and take the property but then you have to incur costs to preserve your own rights! That does not sound right.

**Mr. Maharaj:** The trust is responsible to preserve and upkeep the property.

**Mr. Manning:** I have a house, it is determined by somebody that this should form part of the national treasure and, therefore, we want to list it as a property under the control of the national trust. The minute they do that, then I am immediately restricted in my ability to enjoy my property. I cannot repair it; I cannot adjust it. I could trade in it if I want but I would be trading in it with an encumbrance.

**Mr. Maharaj:** But you could get compensation for that. Do you want it within 48 hours?

**Mr. Manning:** No, but where is the compensation provided for in the legislation? Is it there?

**Mr. Maharaj:** This Act does not take away the right of a person to get compensation from the state if the property is taken away. Under the Constitution anybody whose property is taken or interfered with, this Bill provides—in the original Act—the mechanism that he or she can go to the court. You can appeal to the Minister and you can go to the court. [*Interruption*]

**Mr. Manning:** But if you have to go to the court, what about the costs involved?

**Mr. Maharaj:** That is a different matter:

**Mr. Manning:** No, it is not a different matter. It is very much the same matter.

**Mr. Maharaj:** Then we would not pass any legislation because the cost of litigation would be too heavy.

**Mr. Manning:** No. I have my house—in other words, if you want to be equitable you could put into the legislation a mechanism that brings equity in the thing. You can do it; do not tell me to leave it to the courts and I end up paying \$1.1 million.

**Mr. Maharaj:** Mr. Chairman, this Bill is not unlike other bills that have been passed dealing with matters like this. Even the Land Acquisition Bill which was passed by the last administration in which it recognized there is an overriding public interest that the state, in relation to certain matters, public interests, public purposes, can take property. The only condition is that the procedure must be fair and compensation must be adequate.

**3.35 p.m.**

**Mr. Manning:** In the Acquisition Bill, it is a question of acquisition which means you have to compensate. There is no room for compensation in this legislation—is there?

**Mr. Maharaj:** I do not know how again to explain it. There can be no doubt there will be inconvenience, but if you acquire, you have to pay. If you acquire, it is either you purchase and if there is a listing, the trust would have to pay. That is quite clear in the Bill.

**Mr. Manning:** No, that is not clear.

**Mr. Maharaj:** Do you have any amendments you want to put?

**Mr. Manning:** Please, I am not fighting you. I am just trying to ensure that you make good law. I am just trying to discuss the matter to see whether we can—if there is a defect in our own thinking, then I would, with respect, suggest you point it out to us. We do not know.

**Mr. Maharaj:** I have said it, I do not know what I can say again.

**Mr. Manning:** What I am saying is that you cannot just go and list my property and that is the end of the matter.

**Mr. Maharaj:** That is not what is in the Bill.

**Mr. Manning:** What is there?

**Mr. Maharaj:** With the greatest respect, you have not read the Bill. The listing of the property is not the end of the matter. There is a situation in which the trust would purchase, and if the property is listed, the trust would be responsible.

**Mr. Manning:** The trust would be responsible for what?

**Mr. Maharaj:** For looking after the property and maintaining it.

**Mr. Manning:** This is the point I do not understand.

**Mr. Imbert:** If a property is listed and the trust does not buy it, or it cannot afford or does not want to buy it?

**Mr. Maharaj:** Mr. Chairman, the only thing I could say is this is so clear that nobody's property is being taken away without compensation. In the other place, the Opposition supported the Bill, they said it was fair, they had no problem with it. Here, it is quite clear, this does not take away anybody's constitutional rights, but we are just looking for red herrings and I am not prepared to say the same thing over and over. I have given an explanation, and I have said it, there have been no amendments for us to amend anything, so I do not know what again I must explain.

**Mr. Manning:** Mr. Chairman, I think I would suggest to the hon. Attorney General—

**Mr. Maharaj:** A joint select committee?

**Mr. Manning:** No. That the Opposition has a right to ask questions and the Government has a responsibility to answer—

**Mr. Maharaj:** We have answered, I am not doubting that at all.

**Mr. Manning:** —in the event the Attorney General is not aware of that responsibility. Secondly, Mr. Chairman, the mere fact that a group of persons in another place may have agreed to something in no way prevents us from asking questions in this place. That is what we are here for. In other words, when we make law, we must satisfy ourselves that we are making proper law. If you have a problem with that, then let us know, let us do something else.

**Mr. Maharaj:** Mr. Chairman, I agree with him, but the Opposition must read, they must study and come prepared. This Bill went through the Senate, it went through the committee stage here clause by clause and the Opposition raised no point about it. It is after they have raised it that we have answered, but the Member wants us to sit and explain the same thing over and over. We have a

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responsibility to answer, but he must read the Bill and study it, there are lawyers on the other side. They cannot come here and ask the same questions over and over. They are obstructionists!

**Mr. Manning:** Mr. Chairman, now that the hon. Attorney General has vented his plea, perhaps he would like to tell us if the National Trust has the authority to list somebody's property and take no other action?

**Mr. Maharaj:** It does not list the property and does not take any action, the Bill provides the machinery. They list the property and within 30 days, they would take action to execute whatever they are listed for; whether it is to acquire it, lease it, whatever it is.

Mr. Chairman, I cannot help but feel offended that the Leader of the Opposition has come here asking all these questions and he has not read the Bill. He had it from 1991 to 1995 and did nothing about it. At clause 7 it says exactly what it is, it is in black and white and he wants me to read for him, and I am not prepared to read it for him, Mr. Chairman, I am not prepared to read it.

**Mr. Manning:** Mr. Chairman, the outburst of the Attorney General in no way changes—if the Attorney General does not wish to discharge his responsibilities properly in this Parliament, he can take his leave of us. He is free to do that.

**Mr. Maharaj:** I know what is my responsibility. You have not read it and have come here to argue nonsense.

**Mr. Chairman:** Does the Member for Tobago West want to raise an issue?

**Miss Nicholson:** No, Mr. Chairman.

**Mr. Imbert:** Mr. Chairman, I would like to revisit clauses 3 and 6.

*Clause 3 recommitted.*

*Question again proposed, That clause 3 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, clause 3 talks about sending a notice by post, since this is so serious could that be registered post? Forget the word “personally” suppose you decide you are not going to deliver it personally and you say you sent me a letter but I never got it. What evidence would there be—*[Interruption]* No that is if the owner cannot be determined you list it in the press. It says:

“(b) ...where nobody is in possession and the owner is not known.”

You put it in the press, where you feel you know who the person is, you deliver it personally or by post. I cannot see the problem with making that registered post. How many properties are you going to list? There are not going to be many properties listed. I would like to make the post registered post. That is all.

Attorney General, could I add the word “registered” before the word post?

**Mr. Maharaj:** This is not unusual in similar kinds of legislation and personally or by post, addressed to the last known place of abode and it does not have to be registered post, but it can be.

**Mr. Imbert:** What is the problem with making it registered? You are not going to be doing a lot of listings.

**Mr. Maharaj:** You have postings in such place conspicuously and advertising.

**Mr. Imbert:** That applies if nobody is in possession, Mr. Attorney General, or where the owner is not known that is when it is put in the newspapers.

He refused?

*Question, on amendment, put and negatived.*

*Clause 3 again ordered to stand part of the Bill.*

*Clause 6 recommitted.*

*Question again proposed, That clause 6 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, the decision of the council being two-thirds majority. Is that of the entire council, or those present?

**Dr. Phillips:** There is a quorum.

**Mr. Imbert:** I am asking: is it two-thirds of the quorum, or two-thirds of the entire membership of the council?

**Dr. Phillips:** Once there is a meeting because there is a quorum, two-thirds of those present.

**Mr. Imbert:** It could be four persons? Four persons could list a property and then send it to an address by unregistered post? Okay. Very good.

*Clause 6 again ordered to stand part of the Bill.*

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

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

**CHILDREN'S AUTHORITY BILL**

*Order for second reading read.*

**The Minister of Social and Community Development and Minister of Sport and Youth Affairs (Hon. Manohar Ramsaran):** Mr. Speaker, I beg to move,

That a Bill to establish a Children's Authority of Trinidad and Tobago to act as the guardian of the children of Trinidad and Tobago be now read a second time.

On today's Order Paper there are two pieces of legislation concerning the well-being of the children of Trinidad and Tobago. While the Bills would be presented separately, they are inextricably linked as part of a package of revolutionary legislation offering more comprehensive coverage for our children's multi-faceted needs. These Bills are the Children's Authority Bill, and the Children's Community Residences Foster Homes and Nurseries Bill.

Mr. Speaker, today I have the honour of speaking to you on the Children's Authority Bill. This Bill seeks to regulate all matters with respect to the children of Trinidad and Tobago to ensure that a comprehensive package of social and legal services is provided and delivered in a co-ordinated and integrated manner. This piece of legislation will address the care and protection of children in the context of the family situation and the community.

The children's authority as proposed will investigate suggested cases of child abuse, initiate and follow up matters where necessary. The Bill also seeks to repeal the certification requirement under the existing Children's Act No. 4 of 1925. In so doing, it mandates that such residences meet specific licensing, monitoring and regulatory requirements. Additionally, the ambit of the Bill will extend to the establishment of a formalized foster care system, a revised adoption bill to facilitate international adoptions and to oversee nursery, child care services and the work of all other agencies offering services to children.

The Children's Authority will also be required to develop standards and operations to be established by way of regulations and will act as an advocate in respect of all children's issues. We are all very familiar with the saying: "Children are our future." And if we fail to prepare, then prepare to fail. It is my view, therefore, that on the close of this 20<sup>th</sup> Century, Trinidad and Tobago has an obligation to ensure that national policies and programmes must prepare our youths for their role as adults if our country is to successfully enter the next millennium

[MR. DEPUTY SPEAKER *in the Chair*]

My Government, therefore, joins the clarion call to children first which underlines both the United Nations Convention on the Rights of the Child and its companion document, the World Declaration to the Survival, Protection and Development of Children. The recent celebration of the International Day against Violence to Women and Children and the month of activities to commemorate the 10<sup>th</sup> Anniversary of the United Nations Convention of the Rights of the Child, present a fitting background for the introduction of these critical pieces of legislation.

Additionally, the fact that Trinidad and Tobago is scheduled to assume a position on the executive board of United Nations International Children's Emergency Fund in January 2000 for two of a three-year rotation period is certainly a catalyst for improving conditions for the healthy development of our children.

**3.50 p.m.**

The ravages brought about by poverty consequent on structural adjustment, retrenchment and unemployment, poor parenting practices, mental illness, domestic violence, disability, the HIV/AIDS pandemic and substance abuse have all contributed in differing degrees to family disintegration, resulting in a growing number of children needing care and protection from the state and growing numbers of children in conflict with the law. This, in turn, contributes to overcrowding in certified homes and the placement of children in alternative care situations. Whereas there are many agencies offering help there is, at times, a notable absence of adequate physical space and, more importantly, of trained personnel at all levels to address the diverse needs of these traumatized children.

Mr. Deputy Speaker, the Children's Act No. 4 of 1925 for years has been the major instrument for guiding intervention in the life of children of the state. This Act prescribed, *inter alia*, various offences against children or young persons, provided for the safety of children, establishment of industrial schools and orphanages and restrictions on the employment of young persons. There are also many other scattered pieces of legislation relevant to the myriad needs of children.

Following the country being signatory to the United Nations Convention on the Rights of the Child, the study commissioned by Stephanie Daly reported that, whereas in many aspects the laws complied with basic requirements of the convention, there was need for their review and update and for enactment of new

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legislation to cater for deficiencies and gaps in the existing machinery. Since the inception of this Act of 1925, more than 12 amendments have been made but none has been comprehensive enough in scope to afford radical changes needed to complement the Convention on the Rights of the Child. To ameliorate the situation, it is thus proposed that the Central Children's Authority be established to have jurisdiction over all children who are defined as all persons under the age of 18 years according to the United Nations Convention which this country ratified in December 1991.

Mr. Deputy Speaker, the concept of a children's authority is not new. From as early as 1973 a committee reviewing services for children recommended the creation of such an entity. Over the years, various Cabinet appointed committees, including those of 1985, 1987, 1991 and 1997, as well as numerous research studies and reports from practitioners, have been unanimous in their findings and recommendations that an umbrella organization be charged with the responsibility of administering matters relating to children. Practitioners in the field also attest to numerous instances of duplication and overlap with some cases receiving attention from as many as four agencies at the same time with little or no inter-agency collaboration and networking.

Such practices result in a fragmented approach to service delivery with poor utilization of scarce material and human resources, sometimes to the detriment of the child or family. A holistic approach to meeting the needs of children is of paramount importance to their lives. These needs include physical security and protection from hostile environments, adequate housing, clothing and nutrition, the need for positive self-esteem and a sense of belonging, all of which assist the child in positive healthy development. Adequate stimulation, including opportunities for play and education and supportive systems are also essential.

The Bill is divided into seven sections for ease of reference and clarity of coverage. Part 1 of the Bill names the new entity and defines terms to assist in operationalizing the business of authorities. Part 2 provides, *inter alia*, for establishment of the children's authority. The authority will be a state organization but will function according to the legislation establishing it. It shall be an independent body subject only to the lawful directions of the Ministry responsible for Social and Community Development. Its mission will be to promote healthy, functioning children and families in Trinidad and Tobago.

The powers and functions of this authority will be to advise the Minister on issues pertaining to the well-being of the nation's children. This will determine

national policy and programme directions. The authority will ensure that a comprehensive package of social and legal services, preventive, curative, rehabilitative and remedial is delivered in a co-ordinated and integrated manner for the child's well-being. Through a system of licensing and periodic monitoring of agencies and the investigation of complaints about children in the general community, the authority will regulate the operations of childcare agencies.

To correct further deficiencies, the powers of the authority will ensure, in the best interest of the child, that detailed investigation into all aspects of his or her psychosocial situation will be considered in making decisions related to his or her well-being. The composition of the authority is detailed under this section as are the functions of the following various units which have been identified for effective delivery of services. The consultative arm, the management board, will advise on developing policy strategies and provide guidelines for policy implementation. This unit will monitor overall operations of the authority and ensure that the mission of the authority is carried out without compromise. It shall be the authority in which, ultimately, care and protection of any child at risk will be vested. All members of the board will be appointed by the President, including the chairman whose duty it will be to ensure the effective administration of the Act.

Mr. Deputy Speaker, under this legislation there will be a co-ordinated unit which shall comprise social work professionals. It will be responsible for the co-ordination and monitoring of all services to be provided by the authority. It will serve as a networking arm, monitoring matters referred by or to the authority, or to and from any of the support services deemed to be necessary for the particular matter. All such agencies, governmental or otherwise, dealing with the particular issue involving a child and his family, will be mandated to report on that involvement to the authority. This is to prevent duplication of services by various agencies and, alternatively, to ensure that all appropriate services are being provided in a cost effective manner.

There will also be an administrative unit which will be responsible for the registration and licensing of all centres offering care to the vulnerable, the monitoring and inspecting of all centres, the establishment and maintenance of reception centres, maintenance of registers and children in care and the financial affairs of the authority. A technical unit comprising the intake and reception centres will be responsible for intake, assessment, investigation, advice, counselling and referral, as necessary, of individual cases coming to the attention of the authority. Under the proposed Act, all agencies and professionals will be

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mandated to report on and provide information to the technical unit on suspected cases of abuse. This unit will also be engaged in ongoing preventative work to promote healthy family life and also in the advocacy work for the highlighting of significant issues affecting children and families.

This Bill, Mr. Deputy Speaker, introduces a new concept, namely, reception centres. These centres will be staffed by social workers, psychologists, psychiatrists, medical personnel, including a paediatrician, to be employed by the authority who will carry out initial physical examinations, diagnostic assessments, formulation of treatment plans and make recommendations for resolution of matters of longer term placements. Any support service deemed to be necessary for the well-being of the child might be accessed directly by the reception centre. A research unit will be responsible for statistical data collection and analysis to inform on policy formulation and programming. At the present time, Mr. Deputy Speaker, there is no co-ordinating body to collect such national data. This contributes to the lack of quantitative reporting to Government ministries and international agencies on the status of our children.

Part III of this Bill provides for children in need of care and protection. Power is conferred on the authority to receive in its care children in need of care and protection and the conditions attached to such powers are detailed. The Bill underscores the importance of intervention by the authority in the best interest of the child. Other provisions under this section of the Bill include penalties to persons assisting runaways, to parents failing to inform of their whereabouts, it gives precedence to previous legal decisions and grants to the authority, parental responsibility and rights for children afflicted with mental problems. The Bill likewise enables the authority to request consideration of the Chief Immigration Officer to deter parents leaving the country without making prior adequate arrangements for the care of their children.

Mr. Deputy Speaker, owing to the frequent reports on the poor quality of care of children within the national community, Part IV of the Children's Authority Bill, 1999 authorizes the authority, either with its resources or with assistance from private agencies, to support or provide for accommodation of children in its care, to provide hostels for abandoned children over 16 years while addressing their training needs and to provide for disposal of the bodies of children who may have died while under the care of the authority. In this latter instance the authority can, wherever possible, reclaim disposal expenses from parents or guardians to ensure that they continue to meet parental obligations.

Mr. Deputy Speaker, Part V of the Bill seeks to ensure that while children may be in the care or detention of the authority as youthful offenders, parents shall not be relieved of their responsibilities to maintain their children. In other circumstances where children may be engaged in remunerative work, the authority is further empowered to consider receiving contributions from these children which will assist them to develop a sense of responsibility on their path to adulthood. Part VI of this Bill covers the financial provisions of the authority by creating a Children Authority Fund to legitimize the application of moneys collected. It provides guidelines for accounting and audit and compels the authority to prepare and submit to Parliament an annual report for each financial year.

Mr. Deputy Speaker, it is clear from the foregoing that this children's authority legislation comprehensively seeks to protect our children. I am sure that the Members of this honourable House will agree that the children of the nation are our business and will provide full support for the Bill which is long overdue. To invest in our children will be investing in the future of Trinidad and Tobago. Support for this Bill will reflect the tenets of the United Nations Convention on the Rights of the Child and support national policy initiatives with regard to human development goals and objectives by providing extensive services to the vulnerable, especially our children.

In implementing this legislation, the Government will consider provision of additional infrastructure which will become necessary for maximum effectiveness with particular reference to human resource, ongoing training and capital and current expenditure costs as dictated by the measures in this Act. Over the years there has been a strong call from our communities and professionals who daily deal with children's issues for a body or entity to deal with all children's issues in a holistic manner. As I have outlined, I expect that the Opposition will support this Bill, as will all Members of this House because we want to be sure that we protect the future of our children. I beg to move.

*Question proposed.*

**Mr. Edward Hart** (*Tunapuna*): Mr. Deputy Speaker, first let me congratulate the Government on its attempt to establish an authority to act as a guardian of the children of Trinidad and Tobago. They have informed us that there is a need for an institution or authority to regulate all matters with respect to the children of Trinidad and Tobago.

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**4.05 p.m.**

They claimed that we have abandoned our children socially to a rapidly changing world of social ills, whatever that means, hence the need to offer protective measures via the legislative process. All these things, it seems to me, are good and noble.

Mr. Deputy Speaker, approximately 350,000 of our young ones are under 15 years of age, and 50 per cent of the population falls under 25 years of age. This means that Trinidad and Tobago is a nation of predominantly young people. The amazing reality is that it took many hundred years for the population of the world to reach five billion people and the estimates are that in 50 years' time, the population would increase to 10 billion. There is not only a scientific, technological and information explosion; there is also a population explosion.

Trinidad and Tobago, as part of the global village, would not be spared this phenomenon of a rapid increase in population. In fact, the developing world has always led in this area.

No one on this side of the House takes it lightly that children are either abandoned by their parents or, for that matter, are not protected adequately by law. As we view this legislation, however, before I make any substantive comment, it is important that Government understands that when we speak of children, their relationship with their parents, or *vice versa*, we are not talking about how many pounds of fish we want to buy, or how much wild meat we eat for dinner.

**Mr. Maraj:** Wild meat?

**Mr. E. Hart:** Yes. We are not talking about how much rice we seek to purchase from a foreign government, or how many dollars we may wish to give to our friends for a contract here or there.

**Mr. Sudama:** How does that come in?

**Mr. E. Hart:** I will let you know how it comes in.

When we speak of the relation between children and parents and the roles and responsibilities of each group in a society, we are speaking about the values that sit at the heart and soul of our civilization. This is one reason why "caution" ought to be our watchword.

**Hon. Member:** Is that your handwriting there?

**Mr. E. Hart:** I repeat, caution rather than hate, gimmickry and bad faith.

Mr. Deputy Speaker, it is our humble submission that this is not a matter particularly to be debated by legislation alone. It must engage every group in the society, all the stakeholders—parents, guardians, teachers church workers, neighbours, relatives; particularly those groups whose responsibilities have to do with children's care; those who are concerned about the values we instill in our citizens, and those who seek to guard the social, moral and spiritual well-being of our citizens.

That brings me to my first objection of the Bill. The Members on the other side offered the following assumption as a rationale for the Bill. The Explanatory Note states:

“Recognising that children have rights in relation to their parents, the Bill would require parents to maintain contact with their children while such children are in the care of the Authority.”

Firstly, before we can talk about children's rights vis-à-vis their parents, we must talk about children's rights in and of themselves and their attendant responsibilities.

Secondly, before we talk about children's rights, we must talk about how we define children, particularly in this technological and information age, or as the Bill says, in this rapidly changing world of social ills.

While we have put an arbitrary end to childhood at the age of 18, what is the social and scientific evidence that children become adults when they reach the age of 18? Moreover, if children are defined as rationale, autonomous, emotionally self-sufficient information processing marvels, as one authority on children described them—

**Mr. Sudama:** Who write that for you, Eddy?

**Mr. E. Hart:**—then what is the role of parents, and how much responsibility is he or she to take for his or her development and his or her behaviour? To call a person under the age of 18 years a child, seems preposterous, especially when the Bill defines a “young person” as a person between the ages of 15—17 years. So, we have the preposterous position of someone being a child and young person at the same time.

He or she is a young person up to the age of 17 and, suddenly, becomes a child during his or her 18th year. On future occasions, we have much to say on these matters. For instance, we have another bill coming up where it is proposed to reduce the age of young persons getting into the Army to age 16, so then we will be faced with a situation of children in our Army.

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Today, I am concerned about sketching out the parameters of our concerns. For example, nowhere in this Bill are the rights of parents outlined, nor, for that matter, do we define what constitutes proper parenting. That is to say, what do we mean when we say a parent deviates from a particular norm, so that he or she is considered a bad parent and which, in fact, gives the state a right to intervene in what we understand to be a fundamental right of a parent, the right to decide how best to bring up a child?

Of course, things get even worse when we enter into the sacred terrain of morals when Part III of the Bill at clause 22(1)(d) sees a child in need of care and protection when he or she:

“is exposed to moral danger;”

Now, any sensible person can see what difficult terrain we are getting into. Certainly, that which might be moral or of moral danger to my colleague opposite, the Member for Chaguanas, may be immoral for me.

**Mr. Sudama:** Really?

**Mr. E. Hart:** Yes.

For instance, I am not going to take a motor car and block a school gate, or threaten the teachers. I, definitely, would not do that. Certainly, the values that inform his behaviour may be quite different from those that inform mine.

So that, in the first instance, we are concerned with three basic issues. One, what are children's rights and responsibilities? Two, how do we define children in this day and age? And, three, what are parents' rights and how are they protected in this Bill?

Our first contention is, one cannot talk about children's right in relation to their parents before one answers the three basic questions which I just raised. There are a second set of questions to which we must pay some attention. As I have contended, the issues of children's rights and the arbitrary abridgement of parents' rights to bring up their children, go to the heart of civilization. These issues are particularly discomfoting in an age when we are not too sure about how children are to be taught meaning and values and how moral and ethics are instilled in them.

As a society, we are faced with a further problem. How do we prepare young men and women—children, according to the language of the Bill—who bring children into this world for their roles as parents, particularly at a time when the

age of becoming parents is decreasing? Right now, we have reached the point where children are making children, and if we do not answer these questions, this Bill only criminalizes the role of parents as the heavy hand of the state tells us what constitutes moral values and what constitutes abandonment.

I know about abandonment because I have a close friend who suffered that fate. He was lodged on the doorsteps of some people. They took up this unfortunate child and kept him. I am proud to say that this guy did extremely well in life; he did extremely well in school; he is very bright; he went on to higher learning and so forth and even ended up getting a scholarship.

But, I know the reverse side of that. I know a child who was abandoned; was taken to the orphan home; from there he went on to the Youth Training Centre; from there to the Royal Goal and right now, he is languishing in Carrera.

So, we have to be very, very careful when we are speaking about taking these children, what we are going to do with them and the manner in which we are going to proceed.

In other words, the Bill is more punitive than corrective; more concerned with criminalizing the activities of parents than seeking to set up a situation in which parents are educated about the skills of parenting and how to become better parents. We should be really concentrating on that, Mr. Deputy Speaker. Education of parents and children is an inescapable aspect of this Bill if it is to succeed.

In this sense, the Bill could almost be read as a class action suit against parents. I mean, why else, in the Explanatory Note of the Bill, would the authors emphasize the hazards caused by parents who emigrate to make a better living. This is the language of the Bill.

“Further, in view of the prevalent situation where children are left in Trinidad and Tobago while their parents venture to foreign countries, often without proper arrangements being made for their care and protection, the Bill seeks to ensure that those parents make adequate arrangements for the care of their children before they leave the jurisdiction.”

Mr. Deputy Speaker, that is the most troublesome aspect of the Bill, the language. I do not know that it is the prevalent situation that children are left in Trinidad and Tobago, while parents venture to foreign countries. If the Government has some empirical evidence on this matter, or if it has done a study that proves that to be true, I would like to know about it.

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Certainly, when a government makes such a statement, it cannot be taken from thin air; it must be supported by concrete evidence. What, may I ask, is the Government's evidence that such a situation exists?

Mr. Deputy Speaker, my second question has to do with the term "venture". According to *Webster's New World College Dictionary*, the term "venture" means:

[MR. SPEAKER *in the Chair*]

- "a. a risky or dangerous undertaking, especially a business in which there is danger of loss, as well as chance for profit.
- b. something on which a risk is taken as the merchandise in a commercial enterprise or a stake in gambling."

Again, we come to the question of evidence and, again, I ask: What evidence does the Government have, that the majority or even the minority of these persons who leave this country, are leaving to participate in a risky or dangerous adventure?

**4.20 p.m.**

Again, Mr. Speaker, we come to the question of evidence, and again I ask, what evidence does the Government have that the majority or even minority of those persons who leave this country are leaving to participate in a risky or dangerous adventure? I did not know that the United States of America—one of the major centres to which our people emigrate—allows people to set out on risky and dangerous undertakings. Secondly, it is almost insulting—mark the word "insulting"—to see those who go abroad to get jobs and to study, things they could not do here, being defined as so many pieces of merchandise who simply go abroad on chance and for profit.

A few questions follow from this assumption. Is it not a fact that the Caribbean has depended on immigration to deal with its economic problem for the last Century? Is it not a fact that many parents who emigrate to these foreign countries relieve the state of a large financial burden, since it has no longer to provide employment, health and other such amenities for these citizens? And is it not a fact that these parents who emigrate are unable to take care of their families and thus see emigration as a way out of a bad situation?

Is it not a fact that substantial sums of moneys are returned to the economy as a result of the risky and dangerous undertakings of these parents? Mr. Speaker, is it not a fact that the very case they seek to make against these said parents, as

contained in clauses (g), (h) and (i), of children in need of care and protection are a direct result of joblessness and poverty that exist in this society? Or, is the Government suggesting that children become destitute, beg for alms or loiter because it is a nice thing to do?

Indeed, Mr. Speaker, many of these conditions can be attributed to the poverty in this nation and the growing unemployment that the policies of this Government have engendered. So, here we have a case, not only of social engineering, but of a Government wishing to say that it will prevent citizens from leaving this country if they have not made proper arrangements for the care and protection of their children before they leave the jurisdiction.

Incidentally, I believe that our Constitution and probably the Geneva Convention guarantee the freedom of movement of people. Secondly, the Government has not told us what constitutes adequate arrangements. I suspect the Children's Authority will decide that, nor for that matter has it told us how such an intervention will be made. Should a parent just call up the authority a week or a month before she is expected to leave to tell them what arrangements are being made for her children? Is the authority supposed to rely on informers? That is to say, can someone call up the authority and say that Mr. and Mrs. X or Y have not made adequate arrangements, or is this function to be performed by a routine visit of someone from the state?

Let us just take a look at the ludicrous nature of this Bill. An estranged husband hears that his wife is going abroad. Maybe she is venturing abroad to better the condition of the home or she is trying to get away from her spouse who is abusive. We have a lot of that these days. Seeing this opportunity to foil her attempts to better herself, he calls the authority. What does the authority do?

To make the scenario even better, she has purchased a ticket that says she must leave this country on a particular date. If she does not use that ticket, she will lose her money. Let us suppose that there is an interview or an employment opportunity she must pick up on a certain date. The abusive spouse knows that, so what does he do? The authorities intervene, she is detained for three months, she loses her ticket and her job, and then the information of the informer turns out to be false.

How is this woman to recuperate this loss? How is she going to be compensated? How does the authority prevent these kinds of injustice from taking place? Of course, the question remains, why pick on the person who wishes to emigrate? Why are they the main targets of this Bill? If the emigrant is

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the target now, when do we use the same legislation to attack those who remain within this island trying to make two ends meet? For most of us who are poor, we know the experience of our mothers having to go to the shop or work and asking the neighbour to look after the children for them please.

When I was growing up, the words “babysitter” and “childcare centre” were not a part of my vocabulary. As a community, every member of the community had an obligation to protect the children of the village. Hilary Clinton has been recognized widely as saying that it takes a village to bring up a child. Mr. Speaker, although I never heard of Hilary Clinton until about seven years ago, the people of Tacarigua, where I grew up, knew that it took more than a village to bring up a child.

My wife was a teacher. Years ago, when this society was still innocent, if she saw a child misbehave after school hours she could reprimand him when he came to school the next day or even give him a little spanking. Today, this is not so. This Bill merely seeks to impose the values of other societies upon us. All I see in this Bill is punitiveness and an attempt to fill a lacuna that exists in the law to set strict guidelines for our social systems. In other words, the Bill is concerned about law and the qualification of law, rather than the well-being of children and parents. I do not see one phrase that says, “Let us speak to a parent and find out what is happening before we act”. The burden of proof is on the parent rather than the person who makes the complaint. You are guilty until we find you innocent!

With all due respect to the Attorney General, good law always results when we are concerned about people and the well-being rather than the mere codifying of regulations which, as I contend, is disastrous when we deal with the social habits and cultural mores of a people. Let me reiterate that:

- a. This Bill is class-based. It is concerned more with hurting poor people than it does rich, well-to-do people.
- b. It is punitive. It criminalizes the act of parenting and opens up the way for unscrupulous persons to harm innocent people or those with whom they have a grouse.
- c. It discriminates against a class of Trinidadians and Tobagonians, those who wish to emigrate, as opposed to those who choose to remain at home. All citizens are equal before the law. No one should be discriminated against.

- d. It comes close to infringing one of our fundamental rights, that of freedom of movement, an aspect of the Geneva Convention that gives citizens the right to live wherever they choose.
- e. The language of the Bill should be amplified. It begins with a bias. It sees those who leave the island to further their education, which is a lifelong process, or to seek employment abroad as adventurers who are pursuing a risky and dangerous course. For this they are being punished.
- f. There needs to be an empirical basis for our conclusions before we proceed further.

Mr. Speaker, we cannot proceed with legislation that takes away people's fundamental human and civil rights without the benefit of empirical information or sociological studies in this area.

- g. Since laws are intended to codify behaviour that contributes towards making us better persons, it ought not to be premised on merely filling a lacuna. It must be premised on the development of our spiritual and social lives.

The Children's Authority Bill, does not do this, and so, we on this side are suggesting that we set up a joint select committee to deal with this piece of legislation.

Mr. Speaker, as you will note, I have only confined myself to what is supposed to be an explanatory note, but after careful scrutiny, it raises more questions than it does answers. I would say that it is imperative that we carefully define terms such as "in the best interest of the child", and so forth. I would not leave that to the discretion of any board. We on this side will not want to vote until we are clear that we have the same understanding of what we mean by "the best interest of the child" or "the moral damage of the child". Such definitions are particularly important in a society where there are Hindus, Muslims, Christians and, even atheists.

**Mr. Speaker:** Hon. Members, the sitting of the House is suspended for half an hour.

**4.30 p.m.:** *Sitting suspended.*

**5.02p.m.:** *Sitting resumed.*

#### ADJOURNMENT

**The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I thank the hon. Member for Tunapuna for

*Adjournment*  
[HON. R. L. MAHARAJ]

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giving way, to interrupt his contribution. I am sure he would prefer to continue another day.

**JOINT SELECT COMMITTEE  
HUMAN REPRODUCTIVE AND GENETIC TECHNOLOGIES  
(ESTABLISHMENT OF)**

Before I move the adjournment of the House, there is a Motion which I indicated that I would move:

*Be It Resolved* that a Joint Select Committee be established to consider and report on the Bill respecting human reproductive technologies and commercial transactions relating to human reproduction; and

*Be It Further Resolved* that the following six Members of the House of Representatives be appointed to serve with an equal number from the Senate on a Joint Select Committee:

Dr. Hamza Rafeeq

Dr. Fuad Khan

Mr. Chandresh Sharma

Mr. Razack Ali

Mrs. Camille Robinson-Regis

Mr. Roger Boynes.

Mr. Speaker, I beg to move that the House do stand adjourned to Friday, December 10, 1999 at 1.30 p.m. on which date we will complete the debate on this matter.

*Question put and agreed to.*

**Mr. Speaker:** Before we get to the question of the Adjournment, I wish to remind you that there are some matters in respect of which I had given leave to Members to raise on the Motion for the Adjournment. Is it agreed that those two will be dealt with today?

**Hon. R. L. Maharaj:** Mr. Speaker, I am sorry, I should have mentioned this to you at the same time. I indicated to the Opposition Chief Whip that in respect of question No. 2 by the Member for Tunapuna, next week the Minister of National Security will respond to that Motion. I understand that in respect of question—

**Mr. Valley:** Motion.

**Hon. R. L. Maharaj:** In respect of Motion No. 4—[*Interruption*]

**Mr. Speaker:** You are misleading him, it is not a Motion, it is a matter raised on the Motion for the Adjournment. I see that a lot of mistakes are being made by Members and they keep referring to matters to be raised as Motions. It is not a Motion, it is a matter to be raised between only one Member and the Minister concerned. If one looks at the Standing Orders, it is not a Motion at all. It arises at the time when the Motion for the adjournment of the House is moved.

**Hon. R. L. Maharaj:** The other matter which has been raised on the Motion for the Adjournment is a matter raised by the hon. Member for La Brea, in respect of the grossly inadequate water supply being experienced, as he alleged. I understand, by agreement, that matter is not being pursued.

There would be two matters this afternoon: the matter for the Member from Tunapuna to be responded to by the Minister of Education; the matter from the Member for La Brea to the Minister of Local Government and the matter from the Member for Tunapuna in respect of the Special Reserve Police; that matter would be dealt with next week Friday.

**Mr. Speaker:** I take it that we are dealing with two of the matters now.

### **Tunapuna Government Primary School (Deplorable Sewer Condition)**

**Mr. Edward Hart** (*Tunapuna*): Thank you very much, Mr. Speaker, for giving me this opportunity to raise a matter on the Motion for the Adjournment which deals with the closure of the Tunapuna Government Primary School.

This school was built over 100 years ago—a long time. This school, as all the others in Tunapuna, has produced many prominent citizens from the area. I recall one—unfortunately deceased now—Mr. Arthur Jack Brown who attended that school and made a name for himself and the country internationally on the football field. We also have the Seetaram Brothers, they all attended the Tunapuna Government Primary School—and so many others.

However, about one month ago, the night classes brought to the attention of the principal of this school that, there was a stench emanating from the children's toilet. On investigation, it was found that the soakaway was overflowing to the extent that faeces was seen floating to the level of the yard. This is fact, Mr. Speaker. However, the principal got the Tunapuna/Piarco Regional Corporation to

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empty the soakaway, but by the next two weeks the same thing occurred. While the female toilet was also found to have problems, such as a leaking roof while water flows from all the toilets and pipes in that part of the building.

The actual school building also has three wooden planks, at that time, that could have fallen down as they had already left the ceiling. Being built over 100 years, the concrete walls of the entire construction are now falling apart. This is a straight case of being torn apart at any time which is dangerous to the staff and pupils.

**5.10 p.m.**

For some strange reason, this state of affairs apparently was not reported to the relevant authorities. It was kept quiet for a while until the children and teachers turned up and met a sign on a board—the sign is still there—“school closed until further notice”. Now I see they have added “(adult classes also)”. Because up to last Thursday afternoon, the adult class in cake decorating was held out in the yard—very, very embarrassing, Mr. Speaker. However, people started to agitate and so, it even reached the stage that the principal himself was locked out of the building by some protesting parents.

Mr. Speaker, when it came to light, publicly, I should say, I saw something in the newspapers, and we realized work started and the roof of the building has now been completely removed. I visited that building, as recent as yesterday, for the third time, but this is the first time that I went while work was in progress on the actual building, the roof this time. What I am seeing is a heavy steel structure being put on top of the school, but the same walls are there: tapia and concrete, *et cetera*. I mean, I am no expert in the construction field, but I feel this is spinning top in mud.

Mr. Speaker, I feel it for the children and the teachers. These poor children who are preparing for the Common Entrance Examination are languishing at home, and for all the other students, no provisions or alternate arrangements are being made for them. The population of the school over the years has been drastically reduced so there are about 100-plus students attending the school. There are other schools in Tunapuna, and I personally feel that they could have tried to get them accommodated there. The community centre is just a stone's throw away. There is the post office that has been recently renovated, I understand the Member for St. Augustine is going to occupy that building. I do not know when, because he is never in the constituency, you know. These children are at home. This is a sad state of affairs.

Then, we come to this House and we hear that there is a revolution in education. I “ain’t” seeing that, Mr. Speaker. What I see, on a national level, is a revolution in corruption. *[Interruption]* Yes, I am saying that, because of the fact that since this school has been closed—this is my information—no senior personnel from the Ministry of Education has seen it fit to visit.

I know in our time, when I was at the Ministry of Education, we had the EMFU, that unit was headed by Mr. Babb. I understand that the present Minister of Tourism stopped that unit, when they had their little contractors who could have gone and fixed certain things. They were working fine. But it is a different ball game now.

Mr. Speaker, I feel that despite the possible plan that I am hearing about to link teachers’ salaries to the performance of their pupils—this is something that I heard about, you know—the performance related pay plan; these teachers are at home. So how are they going to get paid? How are you rating these teachers?

**Mr. Speaker:** I think, without trying to be funny, that this may be a good time to just give some guidance to Members of the House.

This particular item on the Order Paper is intended to bring a state of affairs to the notice of the Minister concerned and elicit a response, in that the Minister may not be aware of what is happening. It is a way in which Members bring to the notice of Ministers, just in case they do not know, a state of affairs and enquire: “Well, now that it is brought to your attention, what are you doing about it, if anything?” So that, there is a misconception generally that a matter raised is a debate. It is not really a debate, it is just the raising of a matter by a Member and one should not widen it too much to deal with issues other than the issue which you want to bring to the Minister’s notice. To widen this issue is going to have a bad effect. You must merely ask the Minister: “Are you aware of it and what are you doing about it?”

Thank you.

**Mr. E. Hart:** Thank you very much, Mr. Speaker, for your guidance.

So, I will now ask the Minister: Is she aware of what is happening at the Tunapuna Government School? What is she doing about these children who are languishing at home? They are out of school, and it is very dangerous at this point in time to have children out of school. Are some remedial measures going to take place swiftly to prevent them from ending up on the streets? If, at any given date, Mr. Speaker you go to a courthouse—randomly, any courthouse—it is pathetic to

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see our young men and women who have been involved in very serious crime. So I am saying that we would like to know, on behalf of the staff, the parents, the pupils, and all the residents of Tunapuna, my constituents, if there are intentions of reopening this school? If so, when? What is really being done there at the present moment? What actions will be taken to ensure that these children continue their education? Are they going to be placed at alternate accommodation and so forth? I now take my seat and I await an answer from the Minister of Education.

Thank you very much.

**The Minister of Education (Hon. Kamla Persad-Bissessar):** Mr. Speaker, you have given us guidance on matters on the adjournment, but there were one or two issues that were raised by my colleague on the other side to which I would like to be given the opportunity to respond, in addition to the what and how.

He started off by saying that this school is 100 years old. He talks about the plans for revolution in the Ministry of Education and so forth. I would like to ask him: over all the years that his government was dealing with the education system, within that 100 years, what plan was ever put in place? He talks about the young people.

**Mr. Hart:** You want an answer?

**Hon. K. Persad-Bissessar:** Mr. Speaker, I gave him his opportunity to speak. I did not speak while he was speaking.

**Mr. Speaker:** Order please.

**Hon. K. Persad-Bissessar:** Mr. Speaker, I am saying, that for 100 years the school has been there. Did they do any repairs when they were in government—any repairs whatsoever? Every school in this country is in a total state of disrepair [*Desk thumping*] and they have done nothing about it! They had absolutely no plan, no vision with respect to the education system. So do not come today to say that this Government has been there for a number of years and it is this Government now which is responsible, when you see young people in the court and involved in crime. What did they do in terms of plans? Mr. Speaker, I can speak from now until tomorrow in terms of plans which we have that are already in place, will be in place, and have already been put in place by the previous Minister of Education. All of those have been in there. [*Crosstalk*]

**Mr. Speaker:** Order please.

**Hon. K. Persad-Bissessar:** Therefore, with respect to the specific matter; yes, we are aware at the Ministry of Education that there is a problem. In fact, we have

already taken action with respect to this. He mentioned the septic tank, the work on that is 100 per cent complete. Work on the roof of the main school is 100 per cent complete. Work on the toilet block is 100 per cent complete. Repairs to the soakaway are 100 per cent complete. What is outstanding are electrical and ceiling repairs.

The Member raised an issue as to the new roof that is put on, whether the structure can take the—*[Crosstalk]*

Mr. Speaker, the hon. Member should stop provoking me and the statement is very, very racist, in my respectful view.

**Mr. Valley:** You provoked me.

**Mr. Speaker:** The Opposition Chief Whip is an experienced parliamentarian who knows that to say something like that is to be provocative. I am sure that you are not trying to be provocative to the honourable lady. I am sure you are not trying to be provocative.

**Hon. K. Persad-Bissessar:** Thank you, Mr. Speaker.

Mr. Speaker, I am saying therefore, that the repairs on this school are well underway.

The question the Member raised is whether the structure can take the new roof. I am advised by the technical people that the existing buildings are structurally sound, this is why they have gone in to deal with the roof. Like yourself, I am not the expert in the matter, but I am so advised. So the repairs should be completed very shortly, but as you also know, school will be closed by the end of the week. I am very certain that the repairs will be completed within next week and, therefore, we should be able to accommodate the students.

Mr. Speaker, I would just like to take this opportunity, through you, to say I have no problems with the cane, and in fact I came from the rice land, not from the cane land.

So, if it is that we have to take remedial action to deal with the issue—

**Mr. Hart:** The children have been home for a month.

**Hon. K. Persad-Bissessar:** I am still speaking. If it is that some remedial work has to be done, we will have to liaise with the principal and teachers in order to ensure that that is done.

In terms of repairs generally, we have at the moment a plan before Cabinet to deal with school repairs in a general fashion for all the secondary schools and all

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the primary schools. So we will not neglect the repair, the construction structurally, plumbing and electrical. In all the schools, these are the problems at the moment. We have a plan of action which we have taken to Cabinet and we should be able to inform Members very shortly as to the decision of the Cabinet with respect to repairs on a general basis.

So whatever loss the children would have suffered in terms of time, I am saying to you it is a matter that would have to be dealt with, with the principal and the teachers to see how they can make up the lost time.

So, Mr. Speaker, with these words, I thank you.

**Secondary Roads in La Brea**  
**(Gross Neglect by Siparia Regional Corporation)**

**Mr. Hedwige Breaux** (*La Brea*): Mr. Speaker, I have been granted permission to raise the gross neglect by the Siparia Regional Corporation of secondary roads in the La Brea constituency.

Mr. Speaker, because of the peculiar geological nature of the village of La Brea, any time I get up here to talk about roads, the usual reply is that it is as a result of the activity of the Lake Asphalt or the pitch. Just for the information of all concerned, those who have come up against me in respect of elections, the La Brea constituency consists of two areas: from Carapal in the south to Scotts Road; and from Aripéro to the borough of Point Fortin; intermittently, that is my constituency.

What we have seen is, and it is not surprising, that when money was voted in this House to take care of the roads in the La Brea constituency or the minor roads in the country; none, not one that I could recall, had been done in the La Brea constituency. As a result of that—the hon. Minister herself, who has lands in the Los Iros area, should know—the roads are terrible. Additionally, Quinam Road is very bad.

I will tell you what they did, Mr. Speaker. They have a few votes that they get from time to time in Agapito Trace. You know what they did? They got Petrotrin to fix only that portion of the road where the few misguided persons worked for them. That has happened throughout the La Brea constituency.

I normally allow my constituents to indicate how they feel and I leave bad behaviour or misguided behaviour, like they normally have, for the Government. I am going to read a letter which I received from a constituent of mine, he sent me a copy, and this is revealing. It is addressed to the Chief Executive Officer, Siparia

Regional Corporation. I just want, for the background. This Siparia Regional Corporation is the corporation where there are four PNM councillors, four UNC councillors, at one time you had two UNC aldermen, and now you have one UNC alderman, one PNM alderman and a crook; not a crook, a man who is a bit—I withdraw that.

He is a man who operates in a certain way that gave them the control of the corporation. Be that as it may, *[Interruption]* Mr. Speaker, the Member for Arima is asking me if there is a place called “stupid trace” and I know that is where he lives. *[Laughter]* So I have nothing to say; I mean, I am answering him. I am very sorry, Mr. Speaker.

**5.25 p.m.**

**Mr. Speaker:** If I were you, I would ignore asides coming from anybody and just deal with the Speaker.

**Mr. H. Bereaux:** Mr. Speaker, the accent being on the first syllable of the word. Mr. Speaker, this letter comes from a gentleman by the name of Brian St. Louis, and it was addressed to the Chief Executive Officer, Siparia Regional Corporation, High Street, Siparia. The address of the person is Bassa Hill, La Brea, dated November 4, 1999. It reads:

“I refer to correspondence from your office dated March 4, 1998, July 23, 1998, November 27, 1998, December 1, 1998, January 8, 1999 and February 5, 1999...”

Those are all correspondence which he received from the Siparia Regional Corporation. I continue to quote:

“It is quite disappointing, disgusting and disturbing that this complaint has been left unattended and incompleated for such a long period.

The term of office of the Council when this issue was raised has come to an end and the problem remains unresolved.

A new Council has come into office and I hate to think that this problem would remain the same throughout the life of this Council as was done by the last Council.

I make this comment against the background of numerous roads and drains rehabilitation being done in various areas in the Corporation as well as other Corporations.

I would not like to put pen to paper re: my thoughts on this matter as well as my observations.

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I am pleading with you to use your good office to have this matter addressed urgently.”

Mr. Speaker, you know, every time you come to this honourable House and read a letter, some persons on the other side usually accuse you of creating these letters. They do that. *[Interruption]* No, I am taking my time because I am waiting. You see, the Speaker indicated a certain behaviour which he expected and I am waiting to see the Members of the Government set the example, but the Minister—who has recently had half of his portfolio taken away—from Arima; I do not know what he is now, and the Minister of Labour and Co-operatives from Nariva, are all misbehaving and I am waiting to see when they will learn to have some decorum in Parliament.

I was saying, I have all of these letters here and they are available so that anyone can see. But the secondary roads, and the main roads, are in a terrible condition and it has to do—because it is not a natural phenomenon. Those roads require maintenance on a more regular basis than roads in other parts of Trinidad and Tobago, and I do not want anybody to tell me it is because of the geography; the geography has caused this country to receive certain benefits from La Brea and I expect that if more money has to be spent on the roads in La Brea, that they would be spent and that people would stop, in my view, victimizing residents of my constituency simply because they find difficulty in penetrating them, politically.

I thank you, Mr. Speaker.

**The Minister of Local Government (Hon. Dhanraj Singh):** Mr. Speaker, the hon. Member for La Brea read from a letter which was sent to him. In our short time in political office here—and I am sure that while they were in office as Ministers they would receive on a daily basis, thousands of letters requesting assistance in some form or the other, with regard to problems that affect people in the community throughout Trinidad and Tobago. We cannot address all the problems at the same time. Financial resources are scarce and problems are prioritized and we handle them as we get finances; as resources are made available. *[Interruption]* I am speaking about the Ministry of Local Government.

The Member for La Brea also, in his statement, spoke about the Siparia Regional Corporation. The Siparia Regional Corporation manages that region under which the La Brea constituency falls. That corporation is divided into eight electoral districts, four of which are controlled by the PNM and four by the Government. The affairs of the corporation are managed by the council of that

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corporation and the councillors sit at their statutory meetings and decide what projects are going to be undertaken on a priority basis. The Member for La Brea should be consulting with his councillors if he feels that this problem is a priority and needs to be addressed urgently.

The Siparia Regional Corporation is one in which I can say that all the councillors unite. There is no in-fighting in that council, and whatever resources are made available to that corporation, they do share it equally and they do their best in addressing problems that they prioritize. So I strongly urge the Member for La Brea to speak to his councillors.

I have here a list of roads that were done over the years in the Siparia region. They are: Boodoosingh Road; Miranta Trace; Sundarsingh Trace; Pableto Trace; Grant Trace Extension; Grant's Road; Point d'Or Road; and the road leading to upper Rousillac Ground.

Mr. Speaker, for the year 2000 they also plan to fix the following roads: Kern Street; Sobo Road; Vessigny Street; National Mining Trace; at a total cost of \$480,000. Mr. Speaker, again, within the budgetary constraints of the corporation, they have listed roads that they have done and roads that they intend to do in this financial year. The Member for La Brea—instead of bringing matters to the honourable House—if he should have a peculiar problem that he thinks he needs help, as was done in the past when he had a water problem, he spoke to the Minister of Public Utilities, he can feel free to call upon me to assist in whatever way I can from time to time.

Thank you, Mr. Speaker.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 5.35 p.m.*