

**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT**

**IN THE SIXTH SESSION OF THE FIFTH PARLIAMENT OF THE REPUBLIC OF
TRINIDAD AND TOBAGO WHICH OPENED ON NOVEMBER 27, 1995.**

SESSION 1999—2000

VOLUME 22

HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2000

The House met at 1.32 p.m.

PRAYERS

[MR. DEPUTY SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Deputy Speaker: Hon. Members, with respect to Standing Order 84(1) and (2) the following Members have sought leave of absence and such leave of absence from the sittings of the House has been granted to the Speaker, Mr. Hector McClean, from September 20, 2000 to October 1, 2000; Mr. Gordon Draper, MP for Port of Spain North/St. Ann's West from August 28, 2000 to September 29, 2000; Mr. Razack Ali, Member for Ortoire/Mayaro from September 14, 2000 for 28 days; and Mrs. Camille Robinson-Regis, Member for Arouca South, from today's sitting. Hon. Members, recent events dictate that this be noted.

ABSENCE OF MEMBERS

Hon. Members the rules related to Absence of Members are set out in our Standing Orders, in which Clause 84 states:

- “(1) Any Member who is prevented from attending a meeting of the House shall acquaint the Clerk as early as possible of his inability to attend.
- (2) If, without the leave of the Speaker obtained in writing before the end of the last of the sittings referred to in this paragraph, any Member is absent from the House for more than six consecutive sittings occurring during the same Session, and within a period of not longer than three calendar months, such Member shall vacate his seat in the House under paragraph (2) (b) of Article 23 of the Constitution of Trinidad and Tobago.”

In Trinidad and Tobago, conditions for the refusal of leave of absence are matters that can only be determined by each respective House by way of Statute or Standing Orders. This has never been done.

It is interesting to note that in the United Kingdom to which we often refer on matters of practice, the attendance of Members upon their service in Parliament is

not enforced by either House. But in the past, when any special business was about to be undertaken, steps were taken to secure their presence.

May's Parliamentary Practice (22nd Ed. at page 180) states that in the Commons ensuring attendance has become a function of the party machinery, and the Whips of the various parties make it their duty to secure adequate representation for all important divisions.

In India, each constituency expects that the member it elects will take his seat in Lok Sabha and attend its proceedings, except when it is necessary for him to remain absent on account of unavoidable reasons. It is the right of Lok Sabha to receive from him an account as to why he was absent. The duty of members to the House is paramount and they are expected to remain absent from the sittings thereof only when there are compelling reasons for doing so.

The Indian Constitution provides that if for a period of 60 days a member of either House of Parliament is without permission of the House absent from all meetings thereof, his seat may be declared vacant by the House.

In that jurisdiction, applications for leave of absence have to specify the grounds for leave. The reasons given in the application should be proper, sufficient and convincing. Lok Sabha has laid down that the grounds on which leave could be granted to members can be:

- “(i) Illness of self, including medical check up;
- (ii) Illness, accident or mishap in the family;
- (iii) Death in family;
- (iv) Marriage of self or marriage in family;
- (v) Detention in jail;
- (vi) Pilgrimage or participation in religious celebrations;
- (vii) Visits abroad...;
- (viii) Relief work in natural calamities like floods...;
- (ix) Work connected with delimitation of constituencies or preparation of electoral rolls;
- (x) Work connected with some Commission of Inquiry;
- (xi) Celebrations in constituency. Inauguration of a new Project...in which the member has been assigned a prominent role;
- (xii) Elections or Bye-elections in the constituency;

- (xiii) Participation in Party session or Party meetings;
- (xiv) Agitations or disturbances in the constituency; and
- (xv) Breakdown of communications.”

Lok Sabha has also agreed that some of the grounds mentioned above would not merit grant of leave for long durations, and as such while granting leave not only the grounds but also the duration of leave would be a vital factor.

Lok Sabha further decided that leave need not ordinarily be granted on grounds like:

- “(i) Work in constituency other than those mentioned in the preceding paragraph;
- (ii) Professional or business engagements;
- (iii) Private affairs; and
- (iv) Domestic trouble other than those mentioned above.”

This information is for the benefit of all Members of the House.

Mr. Valley: Mr. Deputy Speaker, just for my own guidance, given that Standing Order 84(2) talks about “if” without the leave of the Speaker and the fact that earlier on you indicated that leave has been granted, does it not suggest that there was discretion to be exercised by the Speaker? I am just looking at the wording of 84(2). On what basis then was leave granted or not granted? Is there not some discretion?

Mr. Deputy Speaker: Member for Diego Martin Central it is wise that you raise that point. The Speaker is not required by any Standing Order or law to refuse leave, and any leave that is requested of the Speaker is granted in order of precedents which have been set. As we have found in *May's*, the party hierarchy of the respective party would be responsible for the extended absenteeism of a Member.

PETROLEUM (AMDT.) BILL

Bill to amend the Petroleum Act, Chap. 62:01, brought from the Senate [*The Minister of Energy and Energy Industries*]; read the first time.

SENTENCING COMMISSION BILL

Bill to provide for the establishment of a Sentencing Commission and for other related matters brought from the Senate [*The Attorney General and Minister of Legal Affairs*]; read the first time.

ARRANGEMENT OF BUSINESS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, we will proceed with Motion No. 2 first.

Agreed to.

JOINT SELECT COMMITTEE REPORT

ADOPTION

CHILDREN'S (AMDT.) BILLS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, I beg to move the following Motion standing in my name.

Be it resolved that this House adopt the Report of the Joint Select Committee of Parliament appointed to consider and report on the Children's Authority Bill, 1999; The Children (Amdt.) Bill, 1999; The Adoption of Children Bill, 1999; The Miscellaneous Provisions (Children) Bill, 1999; and the Children's Community Residences, Foster Homes and Nurseries Bill, 1999.

1.40 p.m.

Mr. Deputy Speaker, the following Members of the House of Representatives were appointed to serve on the committee: Mr. Ramesh Lawrence Maharaj, who was then appointed Chairman by the committee; Mr. Harry Partap; Mr. Manohar Ramsaran; Dr. Fuad Khan; Mr. Fitzgerald Hinds and Mr. Roger Boynes. On Tuesday February 8, 2000 the Senate adopted a similar motion and appointed the following Senators to serve on the committee: Dr. Daphne Phillips; Mrs. Vimala Tota-Maharaj; The Most Rev. Barbara Gray-Burke; Mrs. Joan Yuille-Williams; Mrs. Diana Mahabir-Wyatt and Dr. Eric St. Cyr.

The Members of the House agreed that the Bills should be given closer scrutiny by a committee of Parliament, since the pieces of legislation affect all children, regardless of colour, creed or race. The committee was unable to meet during the stipulated time. Accordingly, the House on August 14, 2000, and the Senate on August 15, 2000 adopted the Motion to give the committee an extension of six weeks in which to complete its deliberations. The committee met and was assisted in its deliberations by officers of the Law Commission and of the Chief Parliamentary Counsel Department.

The Children's Authority Bill is intended to establish a central authority which will have the ultimate responsibility for children, in community residents and

foster homes, and would be capable of affording children, especially in difficult circumstances, the access to the necessary psychological and physical testing and counselling that such a child may require.

The Bill establishes a central independent authority under whose jurisdiction all matters relating to children would fall. The authority would be responsible for providing mechanisms for assuming the parental right and responsibility in need of care. It will also be able to assume temporary care for children who are at risk. The effect of this measure will be that all children who are before the court or who have been found to be at risk due to a number of various factors such as abuse, neglect, cruelty; or who are found wandering or living on the streets, would be brought to the authority.

The authority would assume the parental responsibility and care in respect of such children without denying the parental rights and responsibility of parents. All children who appear to be in need of care will 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 will also provide for the proper functioning of a foster care system to be established by the Minister with responsibility for social and community development. 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 its own, until such time as its family reunites.

The Bill would require that all existing and future children's community residences, foster homes and nurseries, obtain from the proposed authorities, 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 would have been placed in such residences that it would not only ensure quality care, but a safe haven from all forms of abuse.

The Bill would also require parents suspected of seeking to leave Trinidad and Tobago without making adequate provision for their children, to make such provision for them, or they would be prohibited from leaving the jurisdiction until proper provision is made. This is to rectify the current situation with respect to barrel children, as they are called. These children are often left with elderly grandparents or a "tantie" who are unable to properly care for these children.

Consequently, the children usually find themselves in the wrong company or on the streets.

The other Bill which was before the committee is the Community Residences, Foster Homes and Nurseries Bill, 1999. This Bill would repeal the certification requirement under the Children Act which requires that persons who wish to receive children from the court must apply for certification. The Bill now requires that all existing and future orphanages and industrial schools meet specific licensing requirements. All existing and future community residences would be required to apply to the proposed authority for licences to operate. All community residences would now be monitored by the authority to ensure that they can adequately continue to provide care for the children.

The authority would also investigate the allegations of abuse or neglect that have been levied against residences and would be able to enter any residence at a reasonable time to ensure that the children are being properly cared for. The Bill would also allow persons who wish to temporarily care for children to apply to the Minister for such approval, and on the granting of such approval the children who are sent to these persons will be monitored by the authority.

The Bill would also now provide for nurseries in which children under the age of six 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.

The next Bill which the committee had was the Miscellaneous Provisions (Children) Bill, 1999. This Bill 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 obligations under the United Nations Convention on the Rights of the Child, and to amend other laws in keeping with the general reform of legislation affecting children.

The Convention defines a child as a human being below the age of 18 years, unless under the applicable law, majority is obtained 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 "child" in certain Acts to mean a person under the age of 18 years, in keeping with Article I of the Convention.

The Bill would amend the Citizenship of Trinidad and Tobago Act, No. 50 to allow female co-adopters who are nationals of Trinidad and Tobago, to pass Trinidad and Tobago nationality to a person who is under the age of 18 years and

is a non-national of Trinidad and Tobago. Under that Act the present position is that where an adoption order is made by a court in respect of the joint adoption of a person who is under 18 years of age and a non-national of Trinidad and Tobago, the adoptee can acquire Trinidad and Tobago nationality only if the male co-adopter is a national of Trinidad and Tobago. So it really discriminates against female co-adopters.

The effect of the proposed amendment would be 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 her Trinidad and Tobago nationality 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 on a male victim under 14 years of age, or upon any female, an old, infirm 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 18 years of age the protection now afforded to females, the aged, infirm and sickly persons.

The Corporal Punishment Offenders Not Over Sixteen Act, Chap. 13:03 provides for courts to sentence persons under the age of 16 years to be whipped. The Miscellaneous Provisions (Children) Bill would repeal that. The effect of the appeal would be that children who are offenders and under 16 years of age would no longer be liable to sentences of corporal punishment in the prison.

The Corporal Punishment Offenders Over Sixteen Act, Chap. 13:04 empowers the High Court to impose sentences of corporal punishment upon offenders over the age of 16 years. The Miscellaneous Provisions (Children) (Amdt.) Bill will amend that Act to raise the age of offenders over which the court has such power from 16 years to 18 years of age. The effect of the proposed amendment would be that older persons over the age of 18 years, adults, would still be liable to be sentenced to corporal punishment; those under 18 years would not be so liable, since a person under 18 years is considered to be a child. It must be emphasized that the proposed amendments relate only to corporal punishment imposed by the court, and not to corporal punishment at home or at school.

Another Act that the Miscellaneous Provisions (Children) Bill would amend is the Young Offenders Detention Act, Chap. 13:03, which permits the minister responsible for the custody of young offenders to transfer a youth who is incorrigible or exercising a bad influence on other youths at an industrial

institution, such as the Youth Training Centre, from that institution to a prison. The Miscellaneous Provisions (Children) Bill would repeal that provision. The effect of the appeal would be, as far as possible, that the number of children in adult prisons would be reduced.

Mr. Deputy Speaker, another Act which the Bill would amend is the Defence Force Act, Chap. 14:01 which now permits the Defence Force to enlist young persons under the age of 18 years with the consent of parents or guardian. This Miscellaneous Provisions (Children) Bill would amend the Defence Force 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 16 years of age, but not yet 18 years of age, he could only enlist with the consent of his parents or guardian.

The Age of Majority Act, Chap. 46:08 establishes the age of majority as 18 years and *inter alia* makes provision for 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 the court if his 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 the wards of the court, and such orders would have effect regardless of the status of cohabitation of the parents.

The Family Law (Guardianship of Minors Domicile and Maintenance) Act, Chap. 46:08, to which I would refer 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. 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, 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 for the educational expectations 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.

When the Magistrates' Court in the exercise of its matrimonial jurisdiction under section 25 of the Family Law 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. Also, there is 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 amendment would empower the magistrate when exercising the court's matrimonial jurisdiction under section 25, to extend the maintenance order beyond the age of 18 years for educational purposes. Where the court is satisfied that there are special circumstances, this would justify the making of such an order. Further, a maintenance order for a child will not cease upon the death of one of its parents.

The other Bill that this Miscellaneous Provisions (Children) Bill amends, and it is the final Bill that it amends, is the Liquor Licences Act, Chap. 85:10. It is now an offence to sell any description of intoxicating liquors to any child under the age of 16 years, whether for his or her own use or not. The Miscellaneous Provisions (Children) Bill will amend the Liquor Licences Act by raising the relevant age from 16 to 18 years of age. The effect of this amendment would be that it would be unlawful to sell intoxicating liquors to a person under the age of 18 years.

The other Bill which was before this Joint Select Committee is the Children (Amdt.) Bill. This Bill seeks to do the following things: one, harmonize the Children's Act, Chap. 46:01 with the Children's Community Residences, Foster Homes and Nurseries Bill and the Children's Authority Bill, and to amend certain sections of the Children's Act to meet some of our obligations under the United Nations Convention on the Rights of the Child.

1.55 p.m.

In relation to meeting our obligations under the convention, amendments have been made in respect of, *inter alia*, amending the definitions 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 to be sent to prison, in keeping with Article 37 of the

Convention, which requires signatory states to ensure that children are not subjected to cruel and inhumane punishment; making it an offence to sell cigarettes to a person under the age of 18. Presently cigarettes may not be sold to persons under the age of 16.

The next Bill is 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 and Community Development (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, Mr. Deputy Speaker, the Adoption Board has no discretion to waive the probationary period. This has led to much hardship to persons who live abroad and wish to adopt children in Trinidad and Tobago.

The main effects of the Adoption of Children Bill, 1999 is that 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 domicile in Trinidad and Tobago or not.

The Bill seeks to remove the discrimination against a single male who, under the existing legislation, 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 an adoption order is processed.

The Bill would provide strict measures that would 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 committee raised several concerns during the course of its deliberations, and the relevant Bills were amended accordingly by the legal draftspersons, to give effect to the views of the committee. The amendments are in respect of the Children's Authority Bill, the Children (Amdt.) Bill, the Children's Community Residences, Foster Homes and Nurseries Bill, and the Adoption Bill. No amendments were made to the Miscellaneous Provisions (Children) Bill, 2000. The majority of the amendments which were suggested by the committee, and which were agreed upon, were in respect of the Children's (Amdt.) Bill.

Some concerns raised by the committee were with respect to the consistency between some of the concepts in the Bill and the same or similar concepts in other Bills. Members were also concerned with anomalies which existed in the Act, which needed to be amended. These included provisions with respect to raising the age of a child from 14 and 16 to 18, and the removal of references to apprenticeship in existing legislation. Reference to words such as: "detention" and "detain" cast, in the committee's view, a stigma upon children in institutions. They were also replaced by words which were less offensive.

The committee examined the Children's Community Residences, Foster Homes and Nurseries Bill, 1999, and the definition of "nursery" was expanded to mean "a nursery which is opened 24 hours a day, to provide for night care."

The Adoption of Children Bill was also examined, and it was felt that a few concerns of the committee were not properly addressed in the Bill. These included:

- (i) the right of a child to be heard;
- (ii) the processes involved in a parent adopting his/her child;
- (iii) the responsibilities of the Adoption Board after the adoption of the child;
and
- (iv) the regulations and publications and advertisements for adoption.

The amendments were recommended, considered by the committee, agreed upon, and they were made.

With respect to the Miscellaneous Provisions (Children) Bill, the committee was satisfied with the provisions of that Bill. Therefore, no recommendations for amendments were made.

With respect to the Children's Authority Bill, 1999 it was examined by the committee and certain amendments were recommended in respect of ensuring that

a child's grievances as to care are heard. It was also felt that a specific time limit, for the reception of children should be put in the Bill. Based on the recommendations of the committee, amendments to the relevant Bills were made, and the amendments are contained in the report.

Another amendment which I want to propose, but was not before the committee, concerns Trinidad and Tobago's accession to the Hague Convention on the Civil Aspects of International Child Adoption. Trinidad and Tobago deposited its instrument of accession to the convention on June 07, 2000 and, as such, is required to establish a central authority to discharge the duties imposed by the convention in respect of co-operation with other competent authorities to secure the prompt return of children to persons having their legal custody and charge.

It was felt, Mr. Deputy Speaker, that the Children's Authority will be rightly placed to be the central authority having regard to its general responsibility with respect to children in Trinidad and Tobago. It is, therefore, necessary to amend the Bill to make the Children's Authority the central authority for the purposes of the convention. These amendments have been circulated.

I would like to pay tribute to the members of the committee. Firstly, I would like to pay tribute to the Opposition Members for their co-operation and for the manner in which we were able to deal with these matters very quickly. It was recognized, by the Opposition, the Independent Senators and the Government that these reforms have been long overdue and, therefore, we should attempt to sit—and we did sit very long hours—in an effort to complete the matters. I would also like to pay tribute to the Independent Senators who sat on this committee. They also co-operated fully with these measures. I would like to pay tribute to the secretary of the committee and the Parliament staff for the full co-operation they gave in making this exercise possible.

I should mention, Mr. Deputy Speaker, there is one other Bill to complete this package: that has to do with the Family Court Bill, which has been redrafted and which is before Cabinet. One would recall that there has been a Family Court Bill drafted, and it is being talked about for some time. What that Family Court Bill did, was merely to create a family court within the existing structure. What we have done with the Ministry of Social and Community Development is that we have examined family courts throughout the Commonwealth, and we have come up with a model for Trinidad and Tobago in which there would not be these adversarial rules and an adversarial atmosphere in a court. We would be a court equipped to provide the necessary services and counselling, *et cetera* to assist the

court. It would not be a court comprising only of a lawyer: it would be a court with a tribunal, comprising other representatives, from other areas of life, who are very familiar with family problems and the promotion of family life.

2.05 p.m.

Mr. Deputy Speaker, we are hoping that within the next week we will be able to introduce that Bill in the Parliament and that it will be passed before Parliament is dissolved.

I think I have assisted hon. Members the best I can in giving them an idea of what these measures were. I think in the procedure that has been given to me, since there have been amendments proposed to the Bill, I would have to move that this report be adopted subject to the recomittal of all the Bills with the exception of the Miscellaneous Provisions (Children) Bill, 1999 to a committee of the whole House.

Mr. Deputy Speaker, I beg to move.

Question proposed.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Deputy Speaker, first of all, listening to the presentation of the Member for Couva South, I think the House ought to be reminded that what we are doing is simply adopting a report from a committee rather than debating Bills.

The Bills, of course, would have to come to the House at some appropriate time to be debated. I am guided by the committee's unanimous report meaning that all Members of the committee agreed to the recommendations and I want to put the recommendations on the table.

It says: based on the discussions and consideration of the Bills, the committee's recommendations are:

1. The report of the joint select committee be adopted and efforts be made to have the Bills debated as a package of family law legislation before the end of the session of the Parliament.

Suggesting of course, that we would have to look at the Bills and debate them.

2. The Members of the committee reserve the right to make additional changes to the Bills as they see fit when the Bills are debated in the House of Representatives or the Senate.

Joint Select Committee Report
[MR. VALLEY]

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Mr. Deputy Speaker, I have noted that the Member for Couva South who acted as chairman of the committee is attempting to propose an amendment to the Motion. I would think that is best done when the Bills are brought here for debate.

Certainly, the committee recommended that a list of rights and responsibilities of parents, children and young persons be prepared so the Parliament can consider whether they should be included in some manner in the legislation.

4. That the Bills be accepted by the House of Representatives subject to the amendments at Appendix 1—4.

I am so guided and we on this side agree to the adoption of the report of the Joint Select Committee as recommended and we look forward to the debate on the package of legislation dealing with these matters.

Thank you.

Hon. R. L. Maharaj: Mr. Deputy Speaker, the Bills have already been read a first time so what is going to happen is that they will go through the committee stage of the Bill. That is the procedure. So it is to adopt the report, but the Bills have already been read the first time, and I am also guided by the Clerk so—
[*Interruption*] The committee recommends that the Bills be debated, but they could be debated in the committee stage, because they have been read a first time and a second time.

Mr. Deputy Speaker, I do not see any useful purpose of having a full debate again on the Bills. We have the Bills here and we can make whatever amendments we want to make and go through them, that is why we have come here today.

Mr. Deputy Speaker, I beg to move.

Question proposed.

Question put and agreed to.

Report adopted.

Resolved:

That this House adopt the Report of the Joint Select Committee of Parliament appointed to consider and report on the Children's Authority Bill, 1999; Children (Amdt.) Bill, 1999; The Adoption of Children Bill, 1999; Miscellaneous Provisions (Children) Bill, 1999 and the Children's Community Residences, Foster Homes and Nurseries Bill, 1999 subject to the recomittal of all the Bills

with the exception of the Miscellaneous Provisions (Children) Bill, 1999 to a committee of the whole House.

Mr. Deputy Speaker: May I put on the record that these Bills have already been through the House in the following manner: the First reading was on November 19, 1999 and the Second reading was on January 14, 2000.

Hon. Members, we would first deal with the Bill to which no amendments are proposed, that is, the Miscellaneous Provisions (Children) Bill, 1999.

MISCELLANEOUS PROVISIONS (CHILDREN) BILL 1999

Mr. Deputy Speaker: Hon. Members, in accordance with Standing Order 57(2), the question is that a Bill to amend certain laws affecting children be now read a third time and passed.

Question proposed.

Mr. Valley: Mr. Deputy Speaker, I am sorry. We sent these Bills to a committee and the hon. Attorney General was the chairman of this committee. Either the Committee report makes sense or it does not.

The first recommendation states, quite clearly, that the Bills be dealt with before the end of this session.

The second recommendation says that Members of the committee reserve the right to make additional changes to the Bills as they see fit when they are debated in either the House of Representatives or the Senate.

I was not a Member of this committee, but I am guided by the committee's report. If the chairman of the committee is aware that we were at the stage where no further debate could have taken place, then he should have so informed the committee at that time. The suggestion here is clear, that further amendments can be made and we thought that we were coming here today to adopt a report and have the Bills debated subsequently at whatever stage they were at.

Mr. Deputy Speaker: Hon. Members, in view of the concerns of the Member for Diego Martin Central, I would like to suspend the Sitting for 15 minutes until 2.30 p.m for discussion on this matter between the—

Mr. R. L. Maharaj: Before you suspend, may I respond? I want to put on record that nothing prevents the Opposition from proposing further amendments to the Bills, but the Standing Orders must be complied with. This Bill was debated

Miscellaneous Provisions (Children) Bill
[HON. R. L. MAHARAJ]

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at the second reading, everybody made contributions in full and, on the request of the Opposition, it went to a Joint Select Committee. The Opposition was represented, they agreed and reserved the right to make any further amendments they want, and that is still possible. At the committee stage there can be debate on clauses of the Bills and there would be no problem if he wants to go through each Bill and each clause. I have no problem with that.

Mr. Deputy Speaker: Hon. Members, I am advised that I can suspend the House for 15 minutes for discussion between the Opposition Chief Whip and the Leader of Government Business to come to some agreement on this matter.

2.17 p.m.: *Sitting suspended.*

2.30 p.m.: *Sitting resumed.*

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, there are certain amendments which the Committee recommended, and which both the Government and the Opposition agreed to at the Committee. In my contribution, I said that I was proposing an additional amendment which I would not deal with today at all.

Bill committed to a Committee of the whole House.

House in Committee.

Clauses 1 to 23 ordered to stand part of the Bill.

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

CHILDREN (AMDT.) BILL, 1999

Mr. Deputy Speaker: Hon. Members, the House shall now go into Committee to consider the Children's (Amdt.) Bill, 1999, clause by clause.

Bill committed to a Committee of the whole House.

House in Committee.

Clauses 1 to 2 ordered to stand part of the Bill.

Clause 3

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

Mr. Maharaj: Mr. Deputy Speaker, I beg to move that clause 3 be amended as follows:

3 A. Delete paragraph (c) and substitute the following:

‘(c) amending the definition of ‘place of safety’ by inserting after the word ‘means’ the words ‘the Children’s Authority,’; and

B. Delete paragraph (d) and substitute the following:

‘(d) deleting the definition of ‘young person’ and substituting the following definition.

‘young person’ means a child who is over the age of fourteen years of age and under the age of eighteen years.’”

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 to 6 ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 7 be amended as follows:

“7. Insert after clause 7 the following:

Section 9 amended 7A. Section 9 of the Act is amended by deleting the word ‘sixteen’ and substituting the word ‘eighteen’.”

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clauses 8 to 9 ordered to stand part of the Bill.

Clause 10.

Question proposed, That clause 10 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 10 be amended as circulated.

10 Clause 10 is amended in paragraph (b) by deleting the word “fourteen” and substituting the word “ten”.

Question put and agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 11 be amended as circulated.

11 Delete clause 11 and substitute the following:

“Section 24 11. The Act is amended in section 24 by amended

- (a) Deleting the word “sixteen” and substituting the word “eighteen”;
- (b) Deleting the words “one hundred dollars”, “two hundred dollars” and “four hundred dollars” and substituting the words “five hundred dollars”, “one thousand five hundred dollars: respectively.”

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 12 be amended as circulated.

12 Delete clause 12 and substitute the following:

“Sections 12. The Act is amended by repealing sections 29 29 to 42 to 42 inclusive. repealed

Question put and agreed to.

Clause 12, as amended, ordered to stand part of the Bill.

Clause 13.

Question proposed, That clause 13 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 13 be amended as circulated.

“13 Delete clause 13 and substitute the following:

“Section 13. Section 43 is amended by deleting the word “sixteen” 43 and substituting the word “eighteen”.” amended

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Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14.

Question proposed, That clause 14 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 14 be amended as circulated.

“14 Delete this clause and substitute the following:

“Section 14(1) Section 44 of the Act is
44 amended in subsection (1)—

amended

(a) by deleting the word “fourteen” and substituting the word “eighteen”; and

(b) by deleting paragraph (f) and substituting the following:

Act No. 27 of
1986

“(f) is the child of a person who has been convicted of an offence under section 6 or section 12 of the Sexual Offences Act in respect of his children.”.”.

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Clauses 15 to 18 ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 19 be amended as circulated.

19 Clause 19 of the Act is amended by deleting the word “beginning” and substituting the word “after”.

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill

Clause 20.

Question proposed, That clause 20 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 20 be amended as circulated.

20 Clause 20 of the Act is amended by deleting the word “beginning” and substituting the word “after”.

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Clause 21.

Question proposed, That clause 21 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 21 be amended as circulated.

21 Delete the words “Sections 64 and 65 of the Act are” and substitute the following “Section 65 of the Act is”.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clauses 22 to 24 ordered to stand part of the Bill.

Clause 25.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 25 be amended as circulated.

25 Clause 25 is amended by deleting the word “87(3)” and substituting the word “87”.

Question put and agreed to.

Clause 25, as amended, ordered to stand part of the Bill.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 26 be deleted.

Question put and agreed to.

Clause 26, deleted.

Clause 27 ordered to stand part of the Bill.

Clause 28.

Question proposed, That clause 28 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 28 be amended as circulated.

28. A. Insert after paragraph (c) the following:
- “(d) deleting the words “detention order”, “detention” and “detained” wherever they occur and substituting the words “placement order”, “placement” and “placed” respectively.
- B. Delete subclause (2).

Question put and agreed to.

Clause 28, as amended, ordered to stand part of the Bill.

Second Schedule, Part A.

Question proposed, That Second Schedule, Part A stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that Second Schedule, Part A, be amended as follows.

**“Second Schedule
Inserted**

**Second Schedule
Part A**

Parental Rights

Every biological or adoptive parent of a child in Trinidad and Tobago has rights in respect of that child under the laws of Trinidad and Tobago including but not limited to:

1. the right to give the child a name of the parent’s choice;
2. the right to pass on the nationality of the parent to the child;
3. the right not to be separated from the child without the parent’s consent unless the relevant Authorities decide that this would be in the best interest of the child;
4. the right to provide religious direction and guidance to the child;
5. the right to request state assistance in caring for the child where the parents are unable to do so themselves;

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6. the right to send the child to a state-supported school at the state's expense, or to a private or denominational school at the parent's own expense.

Question put and agreed to.

Second Schedule, Part A, ordered to stand part of the Bill.

Second Schedule, Part B.

Question proposed, That Second Schedule, Part B be amended as circulated.

Mr. Maharaj: Mr. Chairman, I beg to move that the Second Schedule, Part B, be amended as circulated.

Second Schedule Part B

Every person in Trinidad and Tobago who is parent of a child, or who acts in *loco parentis*, has responsibilities under the law in respect of the parenting function including but not limited to:

1. the responsibility to register the birth of the child with the relevant authorities;
2. the responsibility, within the parents' abilities and financial capacities, to secure the conditions of living adequate for the child's physical, mental, spiritual and moral development;
3. the responsibility to send the child to school, or to provide for education at home of an equal standard;
4. the responsibility to guide and direct the child without the use of any cruel, inhuman or humiliating punishment;
5. the responsibility to ensure that the child has time for rest, recreation, creative expression and play;
6. the responsibility not to arbitrarily interfere with the child's privacy;
7. the responsibility to protect the child from unlawful physical violence and all forms of physical or

emotional abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the parent's care;

8. the responsibility to make arrangements for the care of the child when the parent is absent from the child;
9. the responsibility to ensure that the child under 12 is not engaged in labour.

Second Schedule, Part C.

Question proposed, That the Second Schedule, Part C, stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that the Second Schedule, Part C be amended as follows:

**Second Schedule
Part C**

Every person under the age of 18, born in Trinidad and Tobago, or born to, or adopted by, parents who are citizens of Trinidad and Tobago is a child and is subject to care and protection under the law including but not limited to:

1. the right to live, survive and grow;
2. the right to be registered at birth or upon adoption, and to be a citizen of Trinidad and Tobago;
3. the right not to be discriminated against the law on the basis of age, race, origin, colour, religion or sex;
4. the right not to be discriminated against or punished because of the beliefs or actions of one's family members;
5. the right to know and, as far as possible, to be cared for by one's parents;
6. the right not to be separated from one's parents against one's will, other than by a court of law;
7. the right to privacy in one's own family, home, and in respect of one's correspondence;

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8. the right to hold ideas of one's own, including religious beliefs and to express those views freely in matters affecting themselves;
9. the right to associate with other people for peaceful purposes.
10. the right not to be treated with violence by a family member, a teacher, a public officer or by any other person;
11. the right to free education up to the age of twelve;
12. the right not to have to work at anything that is dangerous or that will interfere with education;
13. where the child has broken the law and is in custody, the right not to be subjected to inhuman or degrading punishment. A child under the age of eleven giving evidence in a court matter shall not be subject to the laws governing perjury and shall have the option of giving evidence by electronic means;
14. the right not to be subject to capital punishment, nor to life imprisonment without the possibility of release;
15. the right of a child offender not to be placed in custody with adult prisoners.

Question put and agreed to.

Second Schedule, Part C, as amended, ordered to stand part of the Bill.

Second Schedule, Part D.

Question proposed, That Second Schedule, Part D stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that the Second Schedule, Part D, be amended as follows:

Second Schedule
Part D

Every person under the age of 18 in Trinidad and Tobago, having the special protection under the law granted to a child, has responsibilities under the law which shall be observed subject to their age and understanding including but not limited to:

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1. respect and to obey the law;
2. not to take or to harm the property of other people without that person's permission;
3. to learn about human rights and to respect the rights of others;
4. to respect the guidance of parents, except where the law says otherwise;
5. to attend school until the age of twelve;
6. to learn about and to respect one's culture, language and country;
7. to express one's views about matters which affect oneself;
8. to respect the environment;
9. to respect one's own religious beliefs and the religious beliefs of others.

Question put and agreed to.

Second Schedule, Part D, ordered to stand part of the Bill.

New Clause 3A

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 3A be amended as follows:

“New clause 3A	Insert after clause 3 the following:
Section 2A inserted	3A. The Act is amended by inserting after section 2 the following:

New Clauses 9A and 9B.

Question proposed, That New Clauses 9A and 9B stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clauses 9A and 9B be amended as follows:

responsibilities 2A.(1) The guiding principles for parents in relation to their children are contained in Part A and B of the Second Schedule respectively.

New clauses 9A and 9B Insert after clause 9 the following:

“Section 18 amended 9A. Section 18 of the Act is amended by deleting the words “life or health of the child” and substituting the words “life or physical, mental or psychological health of the child”.

“Section 19 amended 9B. Section 19 is amended in subsection (7) by inserting after the words “A child” the words “,over the age of ten.”

10 Clause 10 is amended in paragraph (b) by deleting the word “fourteen” and substituting the word “ten”.

New Clause 10 A

Question proposed, That New Clause 10A stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that New Clause 10A be amended as follows.

New clause 10A

Insert after clause 10 the following:

“Section 22 amended 10A. Section 22 of the Act is amended—
(a) by renumbering section 22 as 22 (1); and

(b) by inserting after section 22(1) as renumbered the following subsection:

“(2) Reasonable punishment referred to in subsection (1), in relation to a teacher, does not include corporal punishment.”.

New Clauses 11A, 11B and 11C.

Question proposed, That clauses 11A, 11B and 11C stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clauses 11A, 11B and 11C be amended as follows:

New clauses 11A, 11B and 11C Insert after clause 11 the following:

“Section 25 amended 11A. Section 25 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”.

“Section 26 amended 11B. Section 26 of the Act is amended by deleting the words “two hundred dollars, and to a further fine of forty dollars” and substituting the words “one thousand dollars, and to a further fine of two hundred and fifty dollars”.

“Section 28 amended 11C. Section 28 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”.

Question put and agreed to.

New Clauses 11A, 11B and 11C, as amended, ordered to stand part of the Bill.

New Clause 14A.

Question proposed, That New Clause 14A stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that New clause 14A be amended as follows.

“Section 45 amended 14A. Section 45 is amended by deleting the word “fourteen or fifteen” and substituting the words “seventeen or eighteen”.

Question put and agreed to.

New Clause 14A, as amended, ordered to stand part of the Bill.

New Clause 18A.

Question proposed, That New Clause 18A stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 18A be amended as follows:

New clause 18A

Insert after clause 18 the following:

“Sections 18B. The Act is amended by repealing
60, 63, sections 60, 63, 64 and 66.”
64 and 66
repealed

Question put and agreed to.

New Clause 18A, as amended, ordered to stand part of the Bill.

New Clauses 22A and 22B.

Question proposed, That clauses 22A and 22B stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that New Clauses 22A and 22B be amended as follows.

New clauses 22A and 22B Insert after clause 22 the following:

“Section 22A. The Act is amended by repealing
70(1) sections 70(1) and substituting the
repealed following:
and
substituted “70(1) The Minister may, for the
purposes of this Part, make rules with
respect to all matters and things as may
appear necessary and expedient for
effectually carrying into operation the
provisions of this Part.”

“Sections 22B. The Act is amended in sections 71
71 and 72 and 72 by deleting the word “sixteen”
amended and substituting the word “eighteen”.”

Question put and agreed to.

New Clauses 22A and 22B, as amended, ordered to stand part of the Bill.

Question put and agreed to.

New Clauses 3A, 9A,9B, 10A, 14A, 22A and 22B and the Second Schedule.

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Preamble stands part of the Bill.

Question put and agreed to.

Mr. Imbert: Mr. Chairman, in a previous version of an amendment there was a clause that prohibited or restricted the movement of parents. There was a provision where parents could be stopped at the airport and so on. Has this been addressed?

Mr. Maharaj: The Committee had dealt with it.

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

Bill reported, with amendments; read the third time and passed.

Question put and agreed to.

CHILDREN'S AUTHORITY BILL

Bill committed to a committee of the whole House

House in committee.

Clauses 1 to 2 ordered to stand part of the Bill.

Clause 3.

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

Mr. Maharaj: Mr. Deputy Speaker, I beg to move that clause 3 be amended as follows:

- 3
 - A. In the definition of 'foster care' insert after the word 'child' the words 'under Part IV of the Children's Community Residences, Foster Homes and Nurseries Act,';
 - B. In the definition of 'Community Residence' delete the words ", and Industrial Schools and orphanages referred to in the Children Act,,"; and
 - C. Delete the definition of 'young person' and substitute the following:

"young person' means a child over the age of fourteen years and under the age of eighteen years."

Question put and agreed to.

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Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 to 6 ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 7 be amended as follows:

- 7 In subclause (2)—
- A. Delete the word ‘ten’ and substitute the word ‘eleven’; and
- B. Insert after paragraph (j) the following:
- ‘(k) a representative of a Non-Governmental Organisation which has as its objectives the promotion of the welfare and protection of children.’.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clauses 8 to 10 ordered to stand part of the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 11 stand part of the Bill.

11. A. In paragraph (c) delete the word ‘and’; and insert after paragraph (d) the following:
- ‘(e)any other unit which the Authority determines is necessary for its effective functioning.’.

Question put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clause 12 ordered to stand part of the Bill.

Clause 13.

Question proposed, That clause 11 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 3 be amended as follows:

- 13 Insert after the words ‘the Administrative Unit shall’ the words, “include qualified social workers and shall’.

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Wednesday, September 27, 2000

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14.

Question proposed, That clause 14 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 14 be amended as follows:

- 14 A. In subclause (4) insert after the word ‘medical’ the words ‘and other qualified’.
- B. In subclause (6) delete the word ‘three’ and substitute the word ‘six’.

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Clauses 15 to 25 ordered to stand part of the Bill.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 26 be amended as follows:

“26 In paragraph (c) delete the word ‘relative’ and substitute the word ‘parent’.”

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

Clauses 27 to 33 ordered to stand part of the Bill.

Clause 34.

Question proposed, That clause 34 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 34 be amended as follows:

“Insert after the words ‘in its care’ the words, ‘as provided for under the Children’s Community Residences, Foster Homes and Nurseries Act.’”

Question put and agreed to.

Clause 34, as amended, ordered to stand part of the Bill.

Clauses 35 to 43 ordered to stand part of the Bill.

Clause 44.

Question proposed, That clause 44 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 44 be amended as follows:

“Delete the word ‘person’ and substitute the words ‘child; under the care of the Authority”.

Question put and agreed to.

Clause 44, as amended, ordered to stand part of the Bill.

Clauses 45 to 49 ordered to stand part of the Bill.

Clause 50.

Question proposed, That clause 50 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 50 be amended as follows:

“50 Renumber this clause as 50(1) and insert the following thereafter:

‘(2) All such rules shall be subject to affirmative resolution of Parliament and when so affirmed shall have the same force and effect as if they were contained in this Act.

(3) The Minister may also prescribe the forms to be used for the purposes of this Act and all such forms so prescribed shall be published in the *Gazette.*’”.

Question put and agreed to.

Clause 50, as amended, ordered to stand part of the Bill.

2.40 p.m.

Mr. Imbert: Mr. Chairman, does this Bill require a special majority?

Mr. Maharaj: Yes.

Mr. Imbert: Would the Attorney General tell me, with regard to the amendment to clause 50 where it says “rules shall be subject to affirmative resolution”, would those rules be subject to a special majority?

Mr. Maharaj: No.

Mr. Imbert: So that the Bill requires a three-fifths but the rules do not, although they would have the same force and effect as if they were contained in the Act?

Mr. Maharaj: They are made under the Bill.

Mr. Imbert: I understand that, but if the Bill requires a special majority—
[*Interruption*]

Mr. Maharaj: The Constitution talks of an Act requiring a special majority.

Mr. Imbert: Yes, but the way this is drafted it says, when so affirmed they shall have the same force and effect as if they were contained in the Act. They could pass rules to offend the Constitution. Does it require a special majority?

Mr. Maharaj: Mr. Chairman, can I explain? The primary legislation is the Act and the Act authorizes the rules to be made to give effect to the Act, so the subsidiary legislation, which are the rules, would not require a special majority because they are authorized by the Act. In any event, the Constitution says that an Act of Parliament requires a special majority. Rules do not require a special majority. If rules take away fundamental rights they have to be by an Act of Parliament.

Mr. Imbert: So that the rules would not change the principles of the Act?

Mr. Maharaj: No. The rules could only give effect to what is contained in the Act, and if rules contravene fundamental rights they will have to be passed by a special majority.

Mr. Imbert: That is where I am coming from.

Mr. Maharaj: They will have to be a primary—they will have to be a Bill.

Mr. Boynes: Member for Couva South, the Member for Diego Martin East had mentioned a short while ago that clause 32 of the Children’s Authority Bill said that if there is an objection:

“The Chief Immigration Officer on receipt of such objection may refuse to permit the person...”

Or the parent or whoever:

“...to leave Trinidad and Tobago.”

You had mentioned that could only be done by Order of the court, but I am not seeing in the Bill anything about an Order of the court. I have looked at the amendments—*[Interruption]*

Mr. Maharaj: I was told so by the—but let me check that.

Mr. Boynes:—but I am not seeing it in the Bill or the amendment.

Mr. Maharaj: No, it seems as though I was misinformed and I misinformed you. It is not by order, it is:

“Where at any time reasons for an objection no longer exist the Authority shall advise the Chief Immigration Officer.”

No, it is not an Order of the court. The Chief Immigration Officer has the power to prevent the person from going.

Mr. Imbert: Mr. Attorney General, do you intend to make amendments in the future to this thing in the other place?

Mr. Maharaj: Can I tell you I will look at it in the other place?

Mr. Imbert: Yes.

Mr. Maharaj: Okay. I will look at it. It seems that it should be looked at. I was under the impression that—what I am being advised is that the Chief Immigration Officer already has that power but I understand the point you are making that if you are preventing people from leaving the country it should be by judicial—*[Interruption]*

Mr. Imbert: Well, on these grounds.

Mr. Maharaj: Yes. Thank you very much, hon. Members.

New clause 35A.

Mr. Maharaj: Mr. Chairman, I propose a new clause 35A which reads as follows:

<p>“Land for site for residences</p>	<p>35A.(1) The President may convey, lease, or otherwise assure land for the site of a Community Residence to be established under this Act to such persons as managers, upon such terms and subject</p>
--	--

to such conditions and stipulations relative to reconveyance, forfeiture, and resumption of such land or otherwise as to him shall seem fit.

(2) Upon the withdrawal of any licence for a Children's Community Residence as provided for under the Children's Community Residences, Foster Homes and Nurseries Act, in respect of land referred to in subsection (1), the President or any person authorised by him may make entry upon and resume possession of all lands which may have been conveyed, leased, or otherwise assured to any person under this section, and all buildings and erections thereon.

(3) The entry upon and resumption of any such lands and buildings by the President or any person so authorised by him under subsection (1) shall operate as a reconveyance or surrender thereof, as the case may be, to the State by the person to whom the same shall have been conveyed, leased, or otherwise assured; and such lands and buildings shall from time onward become absolutely vested in the State.””

New clause 35A read the first time.

Question proposed, That the new clause be read a second time.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 35A added to the Bill.

Schedule ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendments; read the third time and passed.

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

The House voted: Ayes 25

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maharaj, Hon. R. L.

Rafeeq, Dr. The Hon. H.

Assam, Hon. M.

Job, Dr. The Hon. M.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Ramsaran, Hon. M.

Sharma, C.

Valley, K.

Imbert, C.

Narine, J.

Hart, E.

James, Mrs. E.

Sinanan, B.

Boynes, R.

ADOPTION OF CHILDREN BILL

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 2 be amended as follows:

“A. In the definition of ‘adopter’ insert after the word ‘applies’ the word ‘or’;

B. Insert the following new definitions:

‘No. 30 ‘cohabitant’ has the meaning assigned to it under section 2 of the of 1998 Cohabital Relationships Act;

‘spouse’ means the husband or wife of a person or the widow or widower of a deceased person.’”

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 3 be amended as follows:

“A. In paragraph (h) of subclause (5) delete the words ‘deals with children’ and substitute the words ‘has as its main objectives the promotion of the welfare and protection of children’.”

B. In subclause (12), insert after the word ‘Board’ occurring in the second line the words ‘without the consent of the Chairman,’.”

Question put and agreed to.

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Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 to 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 8 be amended as follows:

“A. In paragraph (d) delete the word ‘and’ and

B. Insert after paragraph (e) the following:

‘(f) listen to the views of the child.’”

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clauses 9 to 11 ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 12 be amended as follows:

“In paragraph (a) of subclause (2) insert after the word ‘is’ the words ‘the spouse or cohabitant of’.”

Question put and agreed to.

Clause 12, as amended, ordered to stand part of the Bill.

Clauses 13 and 14 ordered to stand part of the Bill.

Part IV.

Question proposed, That Part IV stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that Part IV be amended as follows:

“In the heading delete the words ‘FREEING CHILD FOR ADOPTION’ and substitute the words ‘MAKING A CHILD AVAILABLE FOR ADOPTION’.”

Question put and agreed to.

Part IV, as amended, ordered to stand part of the Bill.

Clause 15.

Question proposed, That clause 15 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that Clause 15 be amended as follows:

- “A. In subclause (1) delete the words ‘free for adoption’ and substitute the words ‘available for adoption’
- B. In subclause (3) delete the words ‘free for adoption’ and substitute the words ‘available for adoption’.”

Question put and agreed to.

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

Clauses 16 to 21 ordered to stand part of the Bill.

Clause 22.

Question proposed, That clause 22 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 22 be amended as follows:

“In subclause (1) delete the words ‘who is over twelve years of age’.”

Question put and agreed to.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23 ordered to stand part of the Bill.

Clause 24.

Question proposed, That clause 24 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 24 be amended as follows:

“In paragraph (c) of subclause (1) delete the words ‘freeing the children for adoption’ and substitute the words ‘making the child available for adoption’.”

Question put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clauses 25 to 28 ordered to stand part of the Bill.

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Clause 29.

Question proposed, That clause 29 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 29 be amended as follows:

“Delete and substitute the following:

‘29(1) Except with the written consent of the Board, no advertisement shall be published indicating—

Prohibition on Advertisement (a) that the parent or guardian of a child desires to cause the child to be adopted;

(b) that the person desires to adopt a child.

(2) No advertisement shall be published indicating that any person is willing to make arrangements for the adoption of a child.

(3) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section commits an offence and is liable on summary conviction to a fine of three thousand dollars and imprisonment for six months.’”

Question put and agreed to.

Clause 29, as amended, ordered to stand part of the Bill.

Clauses 30 to 42 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendments, read the third time and passed.

**CHILDREN’S COMMUNITY RESIDENCES,
FOSTER HOMES AND NURSERIES BILL**

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 23 ordered to stand part of the Bill.

Clause 24.

Question proposed, That clause 24 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 24 be amended as follows:

“Renumber this clause as 24(1) and insert thereafter the following:

‘(2) An approval referred to in subsection (1) shall be given or refused within three months of the notification being given.’”

Question put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clause 25.

Question proposed, That clause 25 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 25(1)(b) be amended as follows:

“Insert after the words ‘such child’, the words ‘where they can be ascertained’.”

Question put and agreed to.

Clause 25, as amended, ordered to stand part of the Bill.

Clauses 26 to 41 ordered to stand part of the Bill.

Clause 42.

Question proposed, That clause 42 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 42(3) be amended as follows:

“Insert after the words ‘the day’ the words ‘or night’.”

Question put and agreed to.

Clause 42, as amended, ordered to stand part of the Bill.

Clauses 43 to 52 ordered to stand part of the Bill.

Clause 53.

Question proposed, That clause 53 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 53 be amended as follows:

“Renumber clause 53 as 53(1) and insert the following thereafter.

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- '(2) All such rules shall be subject to affirmative resolution of Parliament and when so affirmed shall have the same force and effect as if they were contained in this Act.
- (3) The Minister may also prescribe the forms to be used for the purposes of this Part and all such forms so prescribed shall be published in the *Gazette*.'"

Question put and agreed to.

Clause 53, as amended, ordered to stand part of the Bill.

Clause 54.

Question proposed, That clause 54 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 54 be amended as follows:

"Delete clause 54(1) and renumber subclause (2) as clause 54."

Question put and agreed to.

Clause 54, as amended, ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendments.

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

The House voted:. AYES 24

AYES

Maharaj, Hon. R.L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maharaj, Hon. R. L.
 Rafeeq, Dr. The Hon. H.
 Assam, Hon. M.
 Job, Dr. The Hon. M.
 Singh, Hon. G.
 Nanan, Dr. The Hon. A.
 Partap, Hon. H.
 Mohammed, Dr. The Hon. R.
 Singh, Hon. D.
 Ramsaran, Hon. M.
 Sharma, C.
 Valley, K.
 Imbert, C.
 Narine, J.
 James, Mrs. E.
 Sinanan, B.
 Boynes, R.

Bill accordingly read the third time and passed.

2.55 p.m.

ARRANGEMENT OF BUSINESS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, the Opposition has made a request for me to do the Justice Protection Bill before the first one on the Order Paper because they are not ready, so I will do that one now.

Agreed to.

JUSTICE PROTECTION BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, I beg to move,

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That a Bill to provide for the establishment of a programme for the protection of certain witnesses and other persons; and to provide for matters incidental thereto, be now read a second time.

Mr. Deputy Speaker, the Bill before us is modelled on a draft regional justice protection programme enabling bill which has grown out of a Caricom region's response to the threat to its justice systems brought about by the escalation in the Caribbean of organized criminal activities. This escalation has been accompanied by the interference with the administration of justice in the form of intimidation and elimination of witnesses and judicial and law enforcement personnel. The enormity of the threat was recognized by the Conference of Heads of Government at its 17th meeting in 1996. The heads of government were unanimous in the view that a regional approach was necessary to find a solution to the problem. The conference therefore endorsed a proposal by the Government of Trinidad and Tobago that consideration be given, firstly, to domestic reforms to improve the protection of witnesses and, secondly, to the conclusion of agreements which would provide for regional cooperation in the area of witness protection. Mr. Deputy Speaker, at its 18th meeting of the Conference of Heads of Government, the heads of government considered the recommendations of a panel of experts and mandated the standing committee of ministers responsible for legal affairs of the Caribbean Community, in consultation with the relevant national security agencies, to examine the recommendations of the panel of experts and proceed with their implementation. Among the recommendations was the widening of the concept of the protection for witnesses, and the inclusion of all the major players in the criminal justice systems of the region, as well as their families. It was also recommended that the concept of protection was just as applicable in civil matters as it was in criminal matters.

The need to widen the scope of protection was also endorsed by the Caribbean United States Summit held in May 1997, in Barbados. In September 1997, therefore, the standing committee, by then renamed the Legal Affairs Committee of the Caribbean Community, agreed *inter alia* that the programme further be renamed the Regional Justice Protection Programme to include jurors, judicial and law enforcement personnel and their families, as agreed by the heads of government and to be effective in relation to civil as well as criminal matters.

Mr. Deputy Speaker, the legal affairs committee agreed to the engagement of a consultant to draft an inter-governmental agreement. The draft agreement would *inter alia* identify agreed elements of a regional justice protection programme and establish procedures and mechanisms to facilitate the relocation of protectees to

other countries including guidelines for the establishment of national justice protection programmes. The draft agreement was approved and commended for signature by heads of government at its 20th meeting of the Conference of Heads of Government in July 1999. Seven member states of Caricom have already signed this agreement.

The Government of Trinidad and Tobago, in 1998, undertook to prepare for the consideration of the legal affairs committee a draft model bill that could be enacted in member states to give effect to the provisions of the then proposed regional agreement. At the regional level the legal affairs committee has submitted its draft bill and it is also in the process of completing consideration of that draft which is called the Draft Regional Justice Protection Bill.

Mr. Deputy Speaker, both Jamaica and Trinidad and Tobago have already opted to enact enabling legislation. The agreement establishes a framework for regional cooperation in the protection of witnesses, jurors, judicial and legal officers, law enforcement personnel and their associates. The objectives of such cooperation articulated in Article IV of the agreement were as follows:

“to promote and ensure the proper administration of justice by providing participants with such protection, assistance and security as would enable them to perform their functions with efficiency/ confidence when there is a threat to their lives, safety or property arising from or directly or indirectly related to the performance of the duties or obligations in the administration of justice.”

However, since such cooperation would have had to be an extension of arrangements in place at a national level, and could only succeed if these arrangements were based on the same principles at the core of the agreement, the requirement is that the justice protection programmes be established at national levels.

Mr. Deputy Speaker, there is a situation where, in the countries of Caricom, there would be a national justice protection programme but you will also have a regional justice protection programme in which the region would be linked with the national justice protection programme in order to provide whatever assistance in addition to whatever bilateral arrangements countries may have.

The agreement also recognized that to ensure that the necessary standards of security and confidentiality are established and maintained across the region, national programmes must be of similar but not necessarily of identical structure;

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must employ similar operational procedures and must be governed by similar regulatory frameworks.

The agreement, therefore, prescribes the essential elements of a national programme. Instead of envisaging the creation of new identities it seeks to create new relationships between existing identities that are relevant to the operation of a national programme, and to enhance the capabilities of these entities through technical assistance and training specific to such programmes. So that instead of creating new entities the plan is to look at the existing entities and see whether they can be adapted to suit the situation. The relevant technical assistance and training are already an offer for the development of a regional justice protection programme through the Barbados plan of action and the Bridgetown declaration.

Mr. Deputy Speaker, in order to assist hon. Members of the House to appreciate what the agreement contains, basically, may I say that it contains provisions as follows:

- it assigns overall responsibility to the minister with responsibility for national security;
- it defines in detail who can be participants in a programme and establishes objective criteria for risk and threat assessments—two practical indications of eligibility for participation;
- it identifies the agencies which must play major roles in the operations of a programme and outlines the functions of each agency in relation to a national programme;
- it requires state parties to take such measures as are necessary and reasonable to protect the safety, health and general welfare of participants.
- it provides for the relocation, in the territory of another state party, of participants already admitted into the national programme of the sending state party.

3.05 p.m.

Mr. Deputy Speaker, the agreement requires state parties to take such measures as are necessary and reasonable to protect the safety, health and general welfare of participants. It provides for the relocation in the territory of another state party, of participants already admitted into the national programme of the sending state party. Such relocation would be the subject of bilateral arrangements

between the sending and receiving states, which determine the rights and obligations of the party and of the participants.

It requires state parties to adopt the legislative and other measures necessary to discharge their obligation under the agreement, including the establishment of offences and sanctions for unauthorized disclosure of information, corruption and other unethical practices, and provision for the viability of the state and its representatives resulting from acts or omissions causing injury to participants.

It establishes a regional monitoring and control mechanism comprising ministers responsible for national security, and it provides for participation by member states of the Caribbean Community as well as for accession by any other territory which in the opinion of the Conference of Heads is able to enjoy the rights and assume the obligations established by the agreement.

It provides for the entry into force of the agreement on the deposit of three instruments of ratification with the Secretary General of the Caribbean Community. Jamaica and Trinidad and Tobago will deposit instruments of their ratification after their legislation has been enacted. While the agreement provides a framework for cooperation through entities established at the national level, it is the proposed enabling legislation that establishes the national programme and provides the legal basis for its operation.

Mr. Deputy Speaker, at the regional level it is expected that in those states which elect not to enact this legislation, the model Bill will be the basis upon which administrative procedures would be put in place by Executive decision if necessary. The agreement does not require that legislative measures be taken, but it requires that if legislative measures are not taken the administrative framework must be in place to comply with the agreement.

In giving effect to Trinidad and Tobago's obligation under the agreement, establishing the regional Justice Protection Programme, the Justice Protection Bill 2000 will, *inter alia*:

- (1) Stipulate the offences in respect of which protection or assistance may be offered;
- (2) Detail the rights and obligations of both the state and the participants;
- (3) Stipulate the contents of the memorandum of understanding which must be signed by the state and the participant;
- (4) Establish the agencies having roles to play in the operation of the programme;

- (5) Establish offences and penalties applicable to participants and officials of the state who engage in unethical practices;
- (6) Establish conditions for disclosure and procedures associated therewith on the part of an official of the state;
- (7) Establish procedures for dealing with matters which may arise in relation to a participant in the programme.

Mr. Deputy Speaker, the interpretation clause is fairly straightforward and self-explanatory. In the definition of “approved authority” the Attorney General is included to facilitate action where protection may be necessary in relation to a civil matter. The programme would be established by the Minister under clause 4 with the establishment of an administrative centre, an investigative agency and a protective agency.

The administrative centre would be entrusted with the sole responsibility for the management of the Justice Protection Programme. It would have the primary authority for determining the level of protection to be provided, for example, short-term, long-term, temporary or permanent relocation and the suitability of the prospective protectee based on the reports and assessment received from the relevant agency.

Clauses 5, 6, 7 and 8 would set out the functions of the administrative centre. Its major functions would include the development of guidelines for the effective operation of the programme; the arrangement for the provision of safe houses on the written recommendation of the investigative agency or the protective agency on the basis of threats and risk assessment; and the conclusion of a memorandum of understanding between the prospective participant and the administrative centre, detailing the terms and conditions of the former’s participation in the programme.

If we look at the Bill—[*Interruption*—]—one would see in clause 4 that the Minister, meaning the Minister of National Security, would establish the programme:

“...for the purpose of providing to participants, subject to this Act, protection or assistance or both.”

Then one sees under clause 4 that in order to administer the programme the Minister shall by regulations provide for the establishment of the different agencies, that is:

- “(a) an Administrative Centre;

- (b) an Investigative Agency; and
- (c) a Protective Agency.”

Clause 5 deals with the Administrative Centre:

“...the Administrative Centre shall develop, manage and maintain the Justice Protection Programme and shall be responsible for deciding whether a prospective participant is to be afforded protection or assistance...”

In performing those functions in subclause (2) it says what the centre shall do:

- “(a) liaise with other approved authorities...
- (b) liaise...with appropriate authorities ...”

In the territories of the region, other countries or other regions. It will have to determine the participants in the programme and:

“determine after consultation with the Investigative Agency and the Director of Public Prosecutions, the level and duration of protection or assistance for a prospective participant...”

based on the assessments that have been made, and must:

“obtain such information as may be required to determine:

- (i) the financial implications of admitting the prospective participant to the programme; and
- (ii) the actual or potential civil and criminal liability of the prospective participant;

In subclause (f) it states:

- “(f) require the prospective participant to conclude a Memorandum of Understanding with the Centre, detailing the terms and conditions of his participation in the Programme;
- (g) arrange for the provision of safe-houses on the written recommendations of the Investigative Agency or the Protective Agency on the basis of threat and risk assessment;”

It goes on to say, again, additionally what it should do, because this is the Agency that would have to be able to develop the guidelines for the effective operation of the programme, to establish the requirements of the budgetary constraints, make payments in connection with the programme and also the general administrative functions.

Mr. Deputy Speaker, in the performance of its function in accordance with this section:

“the Administrative Centre shall—

- (a) in relation to criminal matters, make a determination on the basis of written assessments received from—
 - (i) the Investigative Agency;
 - (ii) the Director of Public Prosecutions; and
 - (iii) the Protective Agency;”

Mr. Deputy Speaker, a decision as to whether somebody should be within the programme would have to be made after the Director of Public Prosecutions, the Protective Agency and the Investigative Agency make their report and an assessment is made. [*Crosstalk*] [*Interruption*]

- “(a) in relation to criminal matters, make a determination on the basis of written assessments received from—
 - (i) the Investigative Agency;
 - (ii) the Director of Public Prosecutions; and
 - (iii) the Protective Agency;”

You will have to get that, bearing in mind that the Bill provides in case of emergencies that a decision can be made.

In subclause (b) it states that the Administrative Centre shall:

“in relation to civil matters and enquiries under the Commissions of Enquiry Act, make a determination on the basis of written assessments received from—

- “(i) the Investigative Agency;
 - (ii) the Attorney General; and
 - (iii) the Protective Agency.
- (4) The Administrative Centre shall, in deciding whether to include a prospective participant in the Programme, have regard to—
 - (a) any criminal record of the prospective participant, particularly in respect of crimes of violence, and whether that record indicates a risk to the public if he is included in the Programme;

- (b) the results of any medical, psychological or psychiatric examination or evaluation of the prospective participant conducted to determine his suitability for inclusion in the Programme;
- (c) the seriousness of the offence to which any relevant evidence or statement relates;
- (d) the nature and importance of any relevant evidence or statement;
- (e) whether there are viable alternative methods of protecting or assisting the prospective participant;
- (f) the nature of the perceived danger to the prospective participant;
- (g) the nature of the prospective participant's relationship with other prospective participants being assessed for inclusion in the Programme;
- (h) the expected duration of the protection or assistance to be provided; and
- (i) any other matters that the Centre considers relevant."

Mr. Deputy Speaker, if for example, there is a claim that a person who is a witness in a matter needs protection or it is felt that this person's life may be in jeopardy and the state's case may be compromised, one, therefore, sees that the Investigative Agency cannot just make that decision merely because somebody is a state witness or because it is said that the person's life is in danger. What has to happen is that you can make that decision in the case of emergency on an interim basis, but you have to have all these reports and consider all these factors before a decision is made, because there would be financial implications. In other words, you want to ensure that you give protection to the protectees who warrant protection.

In clause 5(5) it says:

"Action which may be taken by the Administrative Centre to facilitate the safety and security of participants may include the following:

- (a) providing any documents necessary—
 - (i) to establish a new identity for the participant;
 - (ii) to protect the participant;
- (b) permitting a participant to use an assumed name in carrying out his duties in relation to the Programme and to carry documentation supporting the assumed name;

- (c) providing payments to or for the participant for the purpose of—
 - (i) meeting his reasonable living expenses including, where appropriate, living expenses of his family; and
 - (ii) providing, whether directly or indirectly, other reasonable financial assistance;
- (d) providing payments to the participant for the purpose of meeting costs associated with relocation;
- (e) providing assistance to the participant in obtaining employment, access to education and health care;
- (f) providing other assistance to the participant with a view to ensuring that the participant becomes self-sustaining.”

I think we have to face the fact that witness protection under this scheme, or justice protection in relation to all the persons involved, would not mean only protecting the person until the duration of the court proceeding. You can have a situation where the protection may have to continue for months or years thereafter, or maybe forever, depending on the nature of the situation.

We have seen in Trinidad and Tobago in a recently concluded murder trial which was very high profile, that a witness whose evidence was responsible for the conviction of the person, was under protection, although the person was in custody. So you can have situations where even if a person is in custody, you can have some protection.

What this protection programme is expected to achieve is that the programme would be on a much more structured basis and the state would be able to make decisions quickly as to whether even a person who may have assisted the state should be in prison for protection or whether he should be at another place.

Mr. Deputy Speaker, the Bill in clauses 5, 6 and 7, as I said, sets out the functions of the Administrative Centre. Under clause 7 it states:

“the Administrative Centre shall not include a prospective participant in the Programme unless—

- (a) it is satisfied that the person has provided the Centre with the information required of him under subsection (2);
- (b) it receives such other information as may be required in the case or under this Act.”

3.20 p.m.

- “(2) A prospective participant shall disclose to the Centre—
- (a) details of all of his outstanding legal obligations;
 - (b) details of all of his outstanding debts including amounts outstanding in respect of any tax;
 - (c) details of his criminal history;
 - (d) details of any civil proceedings that have been instituted by or against him;
 - (e) details of—
 - (i) any cash balances in bank accounts; and
 - (ii) property, real or personal held anywhere by him in his own name or jointly or severally with any other person or persons as the case may be;
 - (f) whether any of his property, real or personal, is liable to forfeiture or confiscation under any other law;
 - (g) details of any enterprise whatsoever in which he is involved, that may yield him a monetary return;
 - (h) details of receivables and all sources of income;
 - (i) details of his general medical condition;
 - (j) details of any dependants and related obligations;
 - (k) details of any court order relating to sentences imposed on him or to which he is subject in relation to criminal prosecutions;
 - (l) details of any relevant court orders or arrangements relating to his custody of or access to children; and
 - (m) details of any arrangements that he has made for—
 - (i) the service of documents on him;
 - (ii) representation in proceedings in any court;
 - (ii) enforcement of judgments in his favour; or
 - (iv) compliance with the enforcement of judgments against him.”

I think Members would understand why this has to be given. If you, for example, have a person who would have an assumed name, then the authority would have to know what obligations they would have to upkeep. Before a decision is made, they should have all these matters within their control.

“(3) The Centre shall make such other inquiries and investigations as it considers necessary for the purpose of assessing whether the prospective participant should be included in the Programme.”

Clause 8 of the Bill shows how the prospective participant applies. There is a prescribed form, which is to be filled out.

“(b) the Centre is satisfied that he understands the implications of being included in the programme;

(c) he understands and signs a Memorandum of Understanding in accordance with the provisions of this Act or if he is under eighteen years of age or otherwise lacks legal capacity to sign the Memorandum—

(i) it is signed by a parent or guardian; or

(ii) if there is no such parent or guardian, it is signed by a person appointed by the High Court to be his guardian.”

Mr. Deputy Speaker, if we look at the Act, we would see the First Schedule deals with the offences which give rise to protection, and the Second Schedule deals with the Memorandum of Understanding. One would see in the Schedule which gives rise to protection under the programme, the offences are:

- (i) murder;
- (ii) manslaughter;
- (iii) treason;
- (iv) sedition;
- (v) piracy or hijacking;
- (vi) possession or use of firearms and ammunition with intent to injure;
- (vii) possession or use of firearms in furtherance of any criminal offence;
- (viii) aggravated assault;
- (ix) shooting or wounding with intent to do grievous bodily harm;

- (x) robbery;
- (xi) robbery with aggravation;
- (xii) armed robbery;
- (xiii) arson;
- (xiv) any sexual offence;
- (xv) any drug trafficking offence;
- (xvi) kidnapping;
- (xvii) any money laundering offence; and
- (xviii) any domestic violence offence.

One would see that in respect of the Memorandum of Agreement, the contents of the Memorandum of Understanding would be:

“The basis on which a prospective participant is to be included in the Justice Protection Programme.

The details of the protection or assistance that is to be provided.

The terms and conditions upon which protection or assistance shall be provided to the prospective participant.

An undertaking that the participant will not compromise, directly or indirectly, the security of, or any other aspect of the protection or assistance, or both, being provided.

An undertaking that the participant will comply with all reasonable directions of the Centre in relation to the protection or assistance, or both, provided to him.

An undertaking that the prospective participant or participant, as the case may be, shall, if required to do so by the Administrative Centre—

- (a) undergo medical tests or examinations and psychological or psychiatric evaluations by medical officers approved by the Centre for those purposes;
- (b) undergo drug or alcohol counselling or treatment, and authorize that the results be made available to the Centre.

A list of all outstanding legal obligations and a statement by the prospective participant of the arrangements which have been made to meet those obligations.

A financial support arrangement.

An undertaking by the prospective participant to disclose to the Centre, details...”

The importance of having such an agreement is that both the state and the participant would know exactly what is being offered, given, or what are being owed in this programme. There can be situations where participants to a programme expect more, or they are misunderstanding. If participants are dissatisfied and they believe that they have been cheated by the state, that can undermine the safety, security and benefits of the programme. How these things operate in other countries is that they have a Memorandum of Agreement.

Mr. Deputy Speaker, what has been happening in Trinidad and Tobago is that there has been an *ad hoc* witness protection programme, started by the last administration, and continued by this administration. What it is hoped for is that, with the legal framework being put in place, and with the regional programme, this programme can be much more effective. Since it was an *ad hoc* programme, one did not have written agreements: one had situations where it was dependent on the word of mouth of the officer of the state and the witness, or whoever may be in the programme, would also depend on what was offered.

I must say, Mr. Deputy Speaker, the *ad hoc* programme—and Members would understand that for many reasons the facts of these matters cannot be disclosed — has worked very well. There have been some problems, but it has worked very well. It continues to work very well. A serious handicap in such a programme, obviously, is the lack of a regulatory or legal framework in order to deal with the matter.

Mr. Deputy Speaker, the investigative agency under the Bill—if one looks at clause 9, one would see:

“In relation to the possible inclusion of a prospective participant in the Justice Protection Programme, the Investigative Agency—

- (a) shall make investigations and submit to the Administrative Centre, the application referred to in section 8(a) which shall be accompanied by the following documents prepared by the Investigative Agency—
 - (i) an assessment of that application;
 - (ii) a threat assessment including a prison report where the prospective participant is in prison;
 - (iii) a risk assessment.

3.30 p.m.

Mr. Deputy Speaker, this is very important because sometimes people believe they need protection when there is no threat or risk and you can have several witnesses who are saying that they cannot give evidence because they are under threat. So you need to have an agency to investigate this in order to assess if there is any threat or any risk involved and by having a risk assessment done the administrative centre will be able to make the decision.

The investigative agency also will provide protection for the prospective participant in the period prior to the determination and in cases of emergency, apply to the administrative centre for a provisional entry into the programme for a prospective participant prior to the determination of the risk assessment.

The Director of Public Prosecutions.

- “10(1) In relation to criminal matters, the Director of Public Prosecutions shall, where he is satisfied that circumstances so warrant, prepare and submit an application in the prescribed form to the Administrative Centre for a prospective applicant’s entry into the Justice Protection Programme.
- (2) An application referred to in subsection (1) shall be made after the Director of Public Prosecutions has—
- (a) In the case of a prospective participant who is likely to be a witness—
 - (i) determined that the testimony of the prospective participant is credible and essential; and
 - (ii) formed the opinion that the prospective participant can be relied upon to give the testimony;
 - (b) determined that a juror, judicial officer, legal officer, law enforcement officer or any of their associates, is in need of protection or assistance or both.”

Mr. Deputy Speaker, this is very important because if a witness wants protection, but his evidence is not credible, that obviously is a factor which the Centre must consider in determining whether the person should be part and parcel of the justice protection programme.

If he is not speaking the truth, he is not credible, then that must shake the confidence in the prosecution’s case and the question which would arise is: should the state protect that person?

The programme would not only protect witnesses, it would protect jurors, judicial officers, legal officers, law enforcement personnel, associates of such persons and any other person to whom protection or assistance or both is given under this programme.

The Director of Public Prosecutions would also have to assess whether the legal officer and the law enforcement officers are in need of protection and give the information as to the significance of the case, the prospective defendant, the testimony of the prospective participant, the anticipated benefits of a successful prosecution so that an assessment can be made.

In clause 11, the Bill deals with the protective agency.

“11(1) For the purposes of this Act, the Protective Agency shall—

- (a) submit a report to the Centre on the suitability of a prospective participant for entry into the Programme and for that purpose shall—
 - (i) interview the prospective participant with a view to establishing his suitability for entry into the Programme;
 - (ii) examine the threat and risk assessments submitted to the Administrative Centre...
 - (iii) require a prospective participant or a participant, as the case may be, to undergo, for the purpose of determining his physical and mental health, medical tests or examinations and psychological or psychiatric evaluations and to authorize the results to be made available to the Protective Agency;”

It goes on.

- (b) relocate participants
- (c) carry out periodic reviews...

Mr. Deputy Speaker, those parts deal with the agencies and Part III of the Bill deals with the Memorandum of Understanding which must be signed by the prospective participant and it is mentioned in subclause (3).

In subclause 5 it says:

“(5) The Memorandum of Understanding may be varied by the Minister—

- (a) after consultation with the Administrative Centre and with the participant's consent; or
- (b) upon application by the participant for a variation."

And it gives the procedures for that.

Part IV deals with the register of participants. Clause 13(1) says:

"The Administrative Centre shall maintain a register of participants which shall be accorded a security classification not below 'Top Secret'.

(3) The Centre shall include in the register, the following details..."

And it sets out what details should be mentioned which Members would see and subclause (4) states:

"The Centre shall keep the following documents..."

- (a) the original of each Memorandum of Understanding;
- (b) in respect of new identities, copies of each document issued under the Programme;
- (c) the original of each approval granted by the Centre.."

It is very important to have these records, but obviously they would be very confidential and top secret.

"14(1) Subject to this section, the Administrative Centre shall be the only approved authority that shall have access to the register and to the ancillary documents.

- (2) The Centre may, if it is of the opinion that it is in the interest of the due administration of justice to do so, allow another approved authority to have access to the register and the ancillary documents.
- (3) Where the Centre allows an approved authority access to the register and the ancillary documents, the Centre shall notify the other approved authorities of—
 - (a) the identity of the authority to whom the access was allowed;
 - (b) the information to which the authority was allowed access;
 - (c) the reasons for allowing access; and
 - (d) the date and time of such access."

Mr. Deputy Speaker, we now come to clause 15, protection under the justice protection programme. Under this clause, the approved authority would be obliged to ensure that a participant's rights are protected and his obligations or any restrictions placed on him are performed and complied with respectively.

The authority would therefore provide protection when the participant attends court. It would also on behalf of the participant accept process issued by a court and where the participant who has been provided with a new identity is found to be using the new identity to avoid obligations incurred before he assumed the new identity, or to avoid restrictions placed on him before he assumed the new identity, he will be notified in writing of impending action by the authority to ensure his performance or compliance as the case may require.

Clause 17 sets out the circumstances that would lead to the termination of protection provided to a participant: breach of a term of the memorandum of understanding or of an undertaking to give evidence are two examples of acts or omissions that would lead to such result. This clause would also allow the participant to seek a ministerial review of the centre's decision to terminate protection for the participant.

Under clause 18 where protection is terminated, the centre may restore the former participant's former identity where it considers it appropriate to do so. Again, the former participant would be allowed to seek a review of the centre's decision, and where former identity is restored, the former participant would be obliged to return to the centre all documents establishing the assumed identity.

Clause 19 would permit the administrative centre to provide information to an approved authority where the participant, with a new identity, has been arrested or charged with an offence, the maximum penalty for which is imprisonment in excess of one year.

Part VI, entitled 'Miscellaneous' would deal with miscellaneous matters. Clause 20 would protect officers of the administrative centre from suit with regard to decisions made, or acts done in good faith.

Clause 21 would make unauthorized disclosure of certain information regarding the programme by any person including an officer of the centre. The offering of a bribe or an inducement would also constitute an offence.

Under clause 22, an officer of the centre would not be required to produce in any court or to any approved authority, any document under the centre's control, or to divulge anything that came to his notice as a result of the performance of his

duty. However, if the court decides that it is necessary to know the location of a participant, the officer would be permitted to divulge the information to the judge or magistrate, only in chambers.

Where in any court proceedings the new identity of a participant is in issue, or likely to be disclosed, clause 24 would empower the court to hold the relevant part of the proceedings *in camera* and make an order intended to ensure the non-disclosure of the participant's identity.

Clause 25 would impose upon the administrative centre an obligation to submit to the board of governors of the programme, annual reports on the general operation performance and effectiveness of the national programme. This would be necessary because paragraph 12 of Article 11 of the agreement establishes a reporting requirement at the regional level.

Administrative centres of state parties are required to submit annual reports to the board of governors established by Article 5 of the Agreement. The board comprises Ministers responsible for national security and one of the main functions of the board is the sourcing of funding for the establishment, development and operation of national programmes and regional programmes.

Mr. Deputy Speaker, clause 26 would permit the Minister to make regulations.

Mr. Deputy Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the speaking time of the hon. Member be extended by 30 minutes. [*Hon. G. Singh*]

Question put and agreed to.

Hon. R. L. Maharaj: Mr. Deputy Speaker, I thank hon. Members for the time, but I would not use all the time that has been given.

Clause 26 would permit the Minister to make regulations to give effect to the Act and the Minister may, subject to an affirmative resolution of Parliament, make regulations respecting the establishment of new identities for participants.

Clause 27 would save arrangements for the protection of persons already in place at the commencement of the Act.

Mr. Deputy Speaker, the Bill really attempts to put in place an appropriate and effective infrastructure at the national level in order to safeguard and enhance the credibility and integrity of the criminal justice system by the protection, not only of witnesses, but jurors and other law enforcement officers.

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The Bill also gives effect to the regional plan for justice protection and it is hoped that by the provisions of this Bill, the machinery for the protection of witnesses, jurors and law enforcement officials would be better protected and, therefore, the criminal justice system would not be hijacked by the intimidation, or the killing of state witnesses.

Mr. Deputy Speaker, I beg to move.

Question proposed.

Mr. Roger Boynes (*Toco/Manzanilla*): Mr. Deputy Speaker, we on this side understand the importance of having protection for witnesses involved in legal matters, whether it be criminal matters or civil matters. The reason for this is simply that sometimes in matters of a criminal nature, as one recently before the court, where a fellow colleague of mine, an individual who is in the legal profession like myself, has absconded the shores of Trinidad and Tobago and the matter is so important that, if he were to return, he would be arrested, and if he were to be convicted, or anyone with that offence hanging over him were to be convicted, his entire profession would go down the drain.

In some matters of this nature where persons, if they are convicted, bearing in mind the standard they hold in the society, they tend to lose every single thing; their life depends on it, to an extent. In matters where an individual is being charged for murder, if the witness survives to tell the story, then the accused may encounter the hangman's noose.

3.45 p.m.

Mr. Speaker, in drug trafficking matters, which are plaguing our country, persons tend to lose a lot of money or spend time in jail if they are convicted. They tend to be in a position where their properties may be confiscated, if it can be shown that they used the proceeds of drug trafficking to purchase their house, their vehicle, their car *et cetera*.

So in short, persons who are charged and who appear before the court on criminal matters may find that rather than chance going to the end of the matter and taking competent and capable attorneys—like some of the attorneys on our side—they may, as an alternative to taking solid legal counsel, say that it is cheaper and it is a sure thing to simply take out the witness. Therein lies the problem. If someone feels as though he is going to lose a case, that is a big, big matter.

In defamation of character matters, if the plaintiff dies, more than often, the matter dies with the plaintiff. I need not say more on that particular matter.

Suffice to say, that protection of witnesses is, in fact, needed in our country, and we on this side, understand and appreciate, without a shadow of a doubt, the need to protect our sons and daughters as they come before the court to give evidence that will convict persons who, having done the crime, ought to serve the time.

Clause 5(3) refers to the persons who make the determination and it states:

“In the performance of its functions in accordance with section 2(c), the Administrative Centre shall—

- (a) in relation to criminal matters, make a determination on the basis of written assessments received from—
 - (i) the Investigative Agency;
 - (ii) the Director of Public Prosecutions; and
 - (iii) the Protective Agency;”

I was wondering whether the Protective Agency should not be the Commissioner of Police because the coast guard, the army, and one protective service, I think it is the police we are referring to here. So I suggest a simple amendment. Delete the words “the Protective Agency,” and replace them with the “Commissioner of Police,” in clause 5(3)(a)iii and similarly, in clause 5(3)(b)(iii). That is the simple amendment I am proposing.

But when we look now at subclause 4 it states as follows:

“The Administrative Centre shall, in deciding whether to include the prospective participant in the Programme, have regard to—“

And when I look from (a) to (i), I see it takes into consideration all different types of things as it relates to the defendant himself or to the accused. But no where through this entire legislation have I seen any reference to the defendant’s family. I see one simple thought concerning dependants in another part of the legislation. But in terms of deciding whether or not any protection will be given to his family, I think one has to look at that if one is seriously considering implementing a witness protection programme.

In other countries they take the family into consideration because it is easy for the criminal, or the friends of the defendant or the accused as the case may be, to put pressure on a witness for the state and the prosecution, to ensure that the accused wins his case, by putting pressure not only on the defendant or the accused, but putting pressure on the defendants’ or the accused family members. So depending on the serious nature of the situation, provisions may also have to be put in place for entering the families of the defendants or the accused into the witness protection programme, as well.

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We are strongly asking the hon. Member for Couva South to look at this aspect and to make the necessary amendments so that care and consideration could be taken as it relates to the family of the defendant.

I also wish to find out whether the whole aspect of relocation, as it relates to the witness in the witness protection programme, means relocation in Trinidad and Tobago only, or relocation abroad; to the United States of America; or to Europe. These are some of the questions that we need answered to ensure that we appreciate this Bill. We need to know in instances of serious crimes that persons would be properly protected by being sent to a safe house elsewhere.

Trinidad and Tobago is a very small place. And some Members in this honourable House know and have travelled, I am sure, throughout the length and breadth of Trinidad and Tobago. Some Members know every hole in Trinidad and Tobago. *[Interruption]* It is not that I am watching the Member for Naparima, or the sherriff, or even the Member for Oropouche. But the fact of the matter is that Trinidad and Tobago is so small that we have to ensure that there is the ability to provide proper protection for our witnesses and that they can actually be relocated abroad, as well.

There is also another point that I am very concerned about. Clause 6 deals with the witness having to bare his soul, as it were, before entering the programme. He has to give details of all his outstanding legal obligations; details of his criminal history; cash in the bank, property, real estate and that sort of thing.

I am wondering after he gives details of all his property and if his property is transferred onto a new name that he now assumes, would it be easy for someone who wants to find out the new name of the witness—to go to the Registrar and pull the deed for the property under the old name and if the property is now registered in the new name then there may be, what is called, a paper trail.

I am saying this so that proper measures can be put in place to ensure that there is no paper trail leading to the discovery of the witnesses while they are receiving the protection under the witness protection programme.

3.55 p.m.

Now, I also noticed, Mr. Deputy Speaker, another part of this Bill that deals with storing the information; and the register of participants states in clause 13(1) and (2) as follows:

“The Administrative Centre shall maintain a register of participants which shall be accorded a security classification not below ‘Top Secret’.”

Of course, subclause (2) refers to:

“The register may be maintained by electronic means.”

Now, again I wish to underscore the point, Mr. Deputy Speaker, that if this information has to be stored by electronic means, there are very good persons called hackers who can tap into any computer system and break codes to find out information about anything that they want. So much so, that if the revealing of a new identity may cost the life of an individual, I strongly suggest that we ensure that proper security is in place to prevent, again, the potential hackers tapping in and obtaining this very much guarded information and secrets. So one has to be a bit careful about that, Mr. Deputy Speaker.

I now wish to go on to clause 22 subclause (2) and it states as follows:

“Where, in the determination of legal proceedings it becomes necessary for the judge or magistrate presiding to be advised of a participant’s location and circumstances, an officer referred to in subsection (1) shall disclose the relevant information to the judge or magistrate in chambers but the officer shall not disclose the information if any person other than the judge or magistrate is present.

(3) The judge or magistrate shall not disclose any information received under subsection (2) otherwise than in accordance with this Act.”

Well, I cannot say more on that because I do not want to bring into disrepute our learned judges and magistrates because I have every confidence, Mr. Deputy Speaker, that once they are given this privileged information of the location or the identity of persons who have assumed this new identity, I am sure that they would keep that information dear to them and would only apply it in accordance with this proposed piece of legislation.

So, Mr. Deputy Speaker, we on this side have no difficulty with this piece of legislation and we put on record our concern for the witnesses in Trinidad and Tobago; our concern for their protection so that the law and our legal system can be preserved and that justice would not be tampered with by persons who would try to circumvent our justice system. Thank you, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Colm Imbert (*Diego Martin East*): [*Desk thumping*] Mr. Deputy Speaker, I would like to draw the attention of the Attorney General to the First Schedule because there are other offences where witnesses may need protection. There is a list here: murder, manslaughter, treason, *et cetera*, but there are other

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offences where persons may be charged, where persons may wish to give testimony and may need protection, and this legislation is long overdue, Mr. Deputy Speaker.

There have been several celebrated cases where witnesses have been murdered, some in protective custody, others not. We had the case of Clint Huggins who was killed while allegedly in protective custody as a witness in the Dole Chadee murder trial. We had Mervyn Hall, I believe, and we had Kelvin Williams; and those are celebrated cases with which the Attorney General would be very familiar, since he was either the attorney for the defendant or the attorney for the prosecution. Mr. Deputy Speaker, one wonders what would have happened if Mervyn Hall or Kelvin Williams had been given the protection that is now going to be afforded by the Justice Protection Bill. In that particular case where a particular attorney was accused of conspiracy to commit murder, the witnesses were killed, the case was dismissed and therefore, Mr. Deputy Speaker, this legislation is long overdue. I notice the Attorney General is not reacting in his usual way when these matters with which he is intimately acquainted are raised.

Mr. Deputy Speaker, the reason I said there are other matters where witnesses may need protection, recently we have had situations where public-spirited public servants have provided us on this side with information about Government wrongdoing. We have been given Cabinet Notes, we have been given other important pieces of information, letters written by Government Ministers to the Prime Minister and so forth, and all of this may form part of an investigation when a new government takes office in this country. There may be a number of investigations into the airport contract, for example, there may be investigations into fraud and so forth, and I really wonder why fraud is not listed under the list of offences because a lot of fraud is taking place in Trinidad and Tobago today, a lot of irregularities and so forth, and people need protection.

For example, when someone gives information on how a Government Minister has converted agricultural land into residential or commercial land, thereby increasing the value of that land by 1,000 per cent—yes, Mr. Deputy Speaker—we may need protection when we get the explanation why a Government Minister has admitted that he has converted agricultural land into residential or commercial land and thereby benefited by a 1,000 per cent increase in the value of that land. But, you know, the other side likes to make many allegations without evidence. They like to make all sorts of spurious allegations without any evidence.

I was in this Parliament on Friday to hear this startling confession and when we asked the Minister a question, “Were you the Minister responsible for Town and Country Planning when this land was converted from agricultural land to residential or commercial land?” he stumbled and stuttered. We could not get anything out of him. He was carrying on and beating his chest trying to defend his innocence.

Mr. Sudama: Do you want to give way?

Mr. C. Imbert: Certainly.

Mr. Sudama: That was done in 1989. That conversion was done through due process by application to the Town and Country Planning Division in 1989.

Mr. C. Imbert: Thank you, Mr. Deputy Speaker. The Member has now clarified that he was a member of the NAR government when his land was converted—*[Interruption]*

Mr. Sudama: Would you give way again?

Mr. C. Imbert: No, it is all right. Mr. Deputy Speaker, I am not giving way any more.

Mr. Sudama: I was, in 1988.

Mr. C. Imbert: I am not giving way. I “doh” know what wrong—why is he getting on so?

Mr. Sudama: He is misleading, Mr. Deputy Speaker. When the Member gets up to mislead this House it is a serious offence against the integrity of the House because—*[Interruption]*

Mr. Deputy Speaker: Member for Oropouche—*[Interruption]*

Mr. Sudama:—he is claiming that I was a member of the NAR government at the time this transaction took place.

Mr. Deputy Speaker: What year was it, Member for Oropouche?

Mr. Sudama: In 1989 this land was converted by due process, by application to the Town and Country Planning Division, from agricultural—it is only a portion of the land at the side of the road, Rainbow Development, I mean, that was converted in 1989. I was not a member of the NAR government in 1989.

Mr. Deputy Speaker: Okay, Member for Oropouche, I think you should have used Standing Order 36(5) and you would have gotten your way rather than saying, “Give way”, all right? So Member for Diego Martin East, continue.

Mr. C. Imbert: Mr. Deputy Speaker, I do not know what is his problem. You see, [*Interruption*] there are Ministers coming to this House making statements and they do not want anybody to question them. [*Interruption*] I for one believe very little of what is said by the Members on the other side. This is why we have the instance of the Minister of Finance giving us some nancy-story about why he had a private visit in Miami with Birk Hillman, some nancy-story about how Birk Hillman was friendly with American Airlines and this is why he went to see them so they would give him an introduction to American Airlines and, as a result, there were more flights to Tobago and so forth. So you see, whenever the other side gets caught, they like to jump up and declare their innocence. [*Desk thumping*] “Methinks he protests too much”, Mr. Deputy Speaker. I do not understand what the problem is.

This is why more and more we on this side are getting letters in our mailbox, and Cabinet Notes arriving in our offices and so forth, which expose the hypocrisy and the untruths peddled by the Members on the other side. While in one breath they say that a project cost \$50 million or \$100 million, we receive a Cabinet Note which indicates otherwise. There was a letter in the newspaper just yesterday, Mr. Deputy Speaker, dealing with a deliberation of Cabinet, and this is why I say that there must be protection of witnesses in matters of fraud. It is not just protection of witnesses in cases of murder, manslaughter and treason, because, you see, when someone in a privileged position commits fraud, uses their position to gain wealth and to improve their own situation and somebody wants to deal with that, they need protection because they could be murdered, Mr. Deputy Speaker.

We have seen it all before. Look at the unfortunate situation of Selwyn Richardson! He was killed and it was said that the persons who killed him and the witnesses to that murder were also killed. These are very serious matters.

4.10 p.m.

Mr. Deputy Speaker, coming back to the matter of the airport and Birk Hillman, I saw a letter in the newspaper yesterday written by one of the leading architects in Trinidad and Tobago who was able to refute conclusively, statements made by the Minister of Finance, Planning and Development in the other place, where the Minister was claiming that the cost per square foot of the airport was US \$1.60 and the real figure is US \$324.00. This is a matter that has been presented to Cabinet. Cabinet has been informed that the real cost of the airport terminal building per square foot is US \$324.00 or \$2000.00 per square foot. That is what I saw in a letter in the newspaper yesterday.

Mr. Deputy Speaker, the only way that information could get into the public domain is if public-spirited persons—persons with a conscience—within the public system disseminate this information and that is why I am asking the Attorney General—he has money laundering; he has domestic violence and I would really like to know why he does not want to include fraud. As a matter of fact, I will give way if the Attorney General will tell me if he will include fraud among the list of offences. I will give way for the Attorney General to tell me that.

Mr. Maharaj: I will consider it.

Mr. C. Imbert: I am glad that the Attorney General has said that he will consider it. It is a very serious matter. We totally support this legislation. It is about time persons in this country who have witnessed crimes are given the requisite protection that they require under the law. It is about time. There have been cases of assault. We have seen reports—

Mr. Deputy Speaker: Member for Arouca North, the Member for La Brea has been very quiet for the last 45 minutes since he has arrived. Could you just do us the justice of listening to the Member for Diego Martin East and let the Member for La Brea stay as quiet as he has been.

Mr. C. Imbert: Mr. Deputy Speaker, there is a report of a Government Minister beating a man in his office or, at least, witnessing a physical assault. *[Laughter]* We have reports of either a Government Minister being involved in beating a man in his office or witnessing the beating of someone in his office. It is a fact. It was in the newspapers for two consecutive days—something to do with some missing compressor or some piece of equipment that had gone missing and turned up in some warehouse, and the next thing one hears is some bunch of hooligans turned up in a Minister's office. I mean, you do not want us to talk about these matters.

Mr. Deputy Speaker, I am beginning to wonder—

Mr. Deputy Speaker: The matter is in court.

Mr. C. Imbert: Sorry. If a decision is pending on the beating of somebody in a Minister's office, I will not speak about it anymore if that matter is in court. *[Laughter]* There are other situations like where a government vehicle driven by a Minister overturned in a drain because the Minister fell asleep! I am advised. Mr. Deputy Speaker, the witnesses who witnessed this matter are afraid to speak! That is what is happening in Trinidad and Tobago today. People are afraid to speak.

Mrs. Persad-Bissessar: That is why we brought the Bill.

Mr. C. Imbert: We heard about another report where a Government Minister slapped up a security guard in the Queen's Park Savannah during the carnival period! It is my understanding that the security guard is afraid to speak. There are all sorts of things going on in this country and, therefore, I ask the Attorney General to widen the offences, which may give rise to protection under the justice protection programme. *[Interruption]* I see there is assault here. I am not sure. This is "aggravated assault" and I would even say "ordinary assault" should be here. In all seriousness, in many cases, witness protection may not be required. I gather from this legislation that it is establishing a procedure—a system—and an authority that would determine whether witnesses, jurors and legal officers and so on should be protected in the investigation of an offence or the trial of an offence.

Mr. Deputy Speaker, certainly, one would not expect that these complex procedures would be invoked in every case. There are many things going on in this country today where people are afraid to talk. For example, look at the Sumairsingh case. The Government is offering a \$100,000 reward and opened a hotline. We believe that there were witnesses to this matter but nothing is happening. Maybe, when this Bill is passed the Director of Public Prosecutions may be able to deal with the Sumairsingh matter.

In fact, I would say that the imminent arrest that has been spoken about now for more than a year would be effected once the Justice Protection Bill becomes law—I see the Attorney General laughing. We are hearing all kinds of stories about how a Minister may be arrested shortly. I hope that this Bill is not intended to effect that. I hope that is not the intention. If a Member of the Government is to be arrested then he should be arrested without this legislation.

Mr. Deputy Speaker, there is also the issue of protection of someone's family. There are situations where Members on this side have been threatened. I am aware of situations where members of a terrorist group have threatened the Member for Arouca North. They have gone into his home and threatened him and his family. There has been no police action on this matter as far as I am aware. If something happens in this particular case, this type of legislation is required. I would like the Attorney General to answer the point made by the Member for Toco/Manzanilla where the Member was of the view that the Bill was silent on the family of witnesses and it may be—I have not gone through the Bill in any detail, but it may be that the provisions dealing with the protection of one's family should be tightened.

Mr. Deputy Speaker, in many cases, when persons who commit crimes threaten other people, they do not just threaten one person but the entire family—wife, children, parents and so on. So the Government needs to look at this aspect of the legislation and see whether it is wide enough to deal with protection of the entire family and the witnesses and so on. The Government should also look at the definition of family, for example, like what would be defined as the close relative of a person who may come under threat. How far does one go in terms of giving protection for one's family?

4.20 p.m.

We had a case just the other day with the Member for Toco/Manzanilla revealing squandermania in the Sangre Grande Corporation, where through fraud, it appears, misappropriation of funds, or just simple wanton waste and greed, the members of that corporation were patronizing virtually every Chinese establishment in Sangre Grande and running up bills for \$30,000, \$40,000 and \$50,000 in food.

We also have allegations that funds from the regional corporations have been used to hire maxi taxis to bus supporters to UNC meetings, and I know that there is a UNC meeting tonight, I understand so; or is it tomorrow? I am not sure. I know there is a UNC meeting in the near future, and we need to know whether Unemployment Relief Fund (URP) funds are going to be used to bus supporters to these meetings. That is why, in all seriousness, I am asking for fraud to be included in the list of offences.

I am sure the Attorney General understands where I am coming from. Forget about the emotion in all of this, fraud is a very, very serious matter. We have had instances in this House where we have passed legislation where, for example, in the case of dealing with proceeds of crime, we brought up fraud as an instance where a person's property could be frozen and so forth. There are all types of fraud. There is petty fraud at the local corporation level and there is grand fraud in the case of what we have been led to believe is taking place on these major projects such as the airport project, where you have the cost of items being seriously inflated.

I was quite amused the other day when I saw this whole carrying-on about this missing door in the Piarco Airport, where the budget estimate was \$400 and the contract item was \$98,000. Then we saw the explanation that the \$98,000 door had been replaced with a steel door costing almost \$8,000. I would love to know where in Trinidad and Tobago one would get a steel door costing \$8,000. The

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magnitude of the fraud has been reduced; it has gone from \$98,000 to \$8,000, but it is still fraud. What kind of door is going to cost \$8,000? What kind of steel door? I would love to know. The bifold door was \$470, the imaginary door was \$98,000, what kind of door is now \$8,000?

You see, Mr. Deputy Speaker, persons tend to gloss over these things. The Members on the other side, as I said, have made the point and continue to make the point that corruption is not an issue in this country, and they truly believe this. They feel they can do things with impunity. One of the reasons they feel they can do this is because people are threatened; people are frightened. It is not normal for a Government minister to "buss a lash" on an ordinary citizen; to run behind a backhoe with a cutlass; this is not normal behaviour. But it is something that this administration has introduced into the politics of this country.

Prior to the advent of the UNC administration we did not hear about these things. We did not hear about ministers running down the road in their shorts with a cutlass in their hand, behind a backhoe or behind a rubbish truck or something like that. [*Laughter*] We never heard about these things. We never heard about people being beaten in a minister's office; we did not hear about that. We never heard about ministers slapping up security guards at the grandstand, Mr. Deputy Speaker. The mere fact that these things can occur and people are afraid to talk about it, it tells you something about the vindictive nature of the members of the present administration, because people are afraid to talk.

I am going to reinforce my point that this Bill will make no sense unless fraud is included. I do not know if fraud as a crime is a catch-all. There has got to be a definition of fraud. But we need to deal with all these situations. I have a letter here before me, Mr. Deputy Speaker. I will read it into the record. It is from one Kelvin Ramkissoon, attorney-at-law, writing on September 4, 2000, to the Permanent Secretary, Ministry of Local Government. This kind of correspondence comes into our mailbox. This person is writing the Permanent Secretary.

"Dear Madam.

Re: Award of Contracts by the Chaguanas Borough Corporation.

I act on behalf of Messrs. Moonilal Ramhit & Company Limited. My client has been a long standing registered contractor with the Chaguanas Borough Corporation...for the past 40 years, performing *inter alia*, works on recreation grounds...

My client has during the past few years, failed to be considered for the award of contracts by the Corporation, and even when it was considered, it has not been the recipient of awards...

My client wishes to draw to your attention certain areas of apparent impropriety on the Corporation's part in the award of recent contracts.

By tender submitted on or around July 2000, my client submitted the following quotations for the following jobs:

<u>JOBS</u>	<u>PRICE (VAT Inc.)</u>
Neilson Street	\$18,975.00
Ramdeen Outfall Drain	\$16,100.00
Dam Road	\$ 3,450.00
Chrissie Terrace Extension Box Drain	\$21,275.00
Layne Street Drain	\$ 9,200.00
Enterprise Street Box Drain	\$18,975.00
Church Street Outfall Drain	\$20,500.00
Fernando Land Outfall Drain	\$ 8,740.00

My client was awarded one contract out of these. The following were the awardees of the contracts at the prices herein:"

Neilson Street, \$22,899, when he had bid, \$18,000; Layne Street, \$9,200, when he had bid \$9,000—actually he got it. His bid was \$9,000 and he got it. Fernando Lane, \$22,195, when he bid \$8,000; Enterprise Street, \$19,000, when he bid \$18,000; Dam Road, \$8,000, when he bid \$3,000; Chrissie Terrace, \$24,575, when he bid \$21,000; Ramdeen Outfall, \$21,000, when he bid \$16,000, and Church Street, \$40,000, when he bid \$20,000.

So here you have a longstanding contractor of the Chaguanas Borough Corporation tendering for jobs, in every single instance or, virtually, in every case, he is the lowest tenderer sometimes by 50 per cent, and the contracts are awarded to others. Now, if there was a fraud investigation into this matter certain witnesses would need protection, and I cannot emphasize more.

There are so many instances in Trinidad and Tobago today, within the departments controlled by the UNC, within government departments and within regional corporations controlled by the UNC, where there are so many reports of

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irregularities, so many reports of contracts going to persons who have not submitted the best tender and so forth, and persons are afraid to come forward. This person did not want to deal with this situation; he sent us this letter in our mailbox, so that we would ventilate it in this Parliament, and to them it is “no big ting”. It is no big deal.

There are about \$200,000 in contracts here, where, if you added up all the lowest tenderers it would be, maybe, \$100,000. So \$100,000 of taxpayers’ funds “down the drain”. This is why I am making an urgent appeal to the Attorney General: when we are dealing with this matter at another stage in the proceedings or before, I am asking him to include fraud in the list of offences which would give rise to protection under the Justice Protection Programme.

I thank you, Mr. Deputy Speaker.

Mr. Deputy Speaker: Hon. Members, the sitting is suspended for half an hour for the tea break.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Barendra Sinanan (*San Fernando West*): Mr. Deputy Speaker, my apologies for being late. I wish to make a very brief intervention on the Bill before us, a Bill to provide for the establishment of a programme for the protection of certain witnesses and other persons; and to provide for matters incidental thereto.

My colleagues, the Members for Toco/Manzanilla and Diego Martin East, raised the point about the non-inclusion of family. I will come back to that just now.

When you look at the Explanatory Note, the first paragraph says:

“The purpose of this Bill is to provide for the protection of witnesses, jurors, legal and judicial officers, law enforcement personnel and their associates in the face of the threat of their intimidation and elimination.”

Mr. Deputy Speaker, I cannot help but think that we have really come a long way in this society. Who would have thought 20 or 25 years ago, we would be bringing legislation such as this to the Parliament? Long gone are the days when the Judiciary was held in some manner of respect; where politicians and all the so-called exemplars were held with respect. I am sure Mr. Deputy Political Leader—I seem to be promoting you to Deputy Political Leader, Mr. Deputy Speaker. Maybe it is a sign of things to come.

You would recall, I am sure, that in days of your time—I am certainly speaking about the 1960s and perhaps the early 1970s—when the school master or the teacher, for example, the sergeant in area, the Priest, Pundit or Imam, as the case may be, or the Justice of the Peace, when these people were held in high esteem and discipline was such that, one could not play the fool, as we see happening today. I recall when, in those days, we went to school, if one happened to stay home without just excuse, the teacher—when you go back to school—would reprimand you, take you down to your parents and you would also be reprimanded by your parents. Long gone are those days. Here it is, in 2000, we have to bring this type of legislation before us. As I said, in the 1960s or long before the 1960s and maybe the early 1970s, the necessity for this piece of legislation would not have been around at that time. Since then, the evolution—or whether economics have changed to such an extent, and society as a whole—here we are today, having to pass a Bill to protect witnesses. It is really sad that we have to come to a Parliament to do this, though I must admit the legislation is necessary, because of the situation in which we have found ourselves.

As I said earlier, my two colleagues raised the point about the non-inclusion of family. Yes, I would not belabour the point. Just to make reference to the fact that more often than not, a person would not go after the witness, a person would go after his wife or children. They are not included as being persons to be protected here. In most cases where a situation arises, where the witness is threatened, the witness is not really threatened. The witness' wife or children are the persons who would be threatened.

In the definition clause there is a definition of “associate”, but when one looks at the definition of “associate” I think it pertains more to an associate of the witness, and not the family member. I am suggesting to the Attorney General, that he could include “family” in an extended definition of associate. It could read:

“associate” means a person who, by virtue of his relationship or association with a participant or prospective participant, may be considered for protection or assistance or both under the Justice Protection Programme, including the family member/s of the participant.”

We can expand that definition of “associate” to include the family member.

When you look, again, at the First Schedule—I know my colleague from Diego Martin East made heavy weather of this—it does not include some obvious offences. He spoke about fraud. May I suggest, apart from the inclusion of fraud, the inclusion of larceny, embezzlement and the like. When you look at it, this

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legislation seems geared towards the criminal committing murder or grievous bodily harm and things like that. It does not address, for example, criminal activity by politicians. I think that was the point he was making. I am sure the Attorney General would want to include that. Have a sip of water, Mr. Attorney General. I am sure, knowing the Attorney General—Mr. Deputy Speaker, when I suggested that, he had a little hiccup in his chest. I know the Attorney General very well, and I am sure he would want to include offences that would relate to political wrongdoings; whether it is larceny, fraud, embezzlement, whatever. The legislation would not be complete, unless some of these offences are included.

5.10 p.m.

Here it is we are changing, for obvious reasons, the identity of a participant. The Bill is silent on how that will be done, the process by which it will be done. Is it that you are just going to change the fellow from Tom Jones to Harry James? What about the birth certificate? What are the means of identifying this participant by his new or assumed name? Is it that he is going to have a new birth certificate? What will happen to his old birth certificate or his old identity? What about voting? Under his former name he is registered at the Elections and Boundaries Commission. If he is paying tax his file reference number is there. What happens when he changes his name? Is it that a new birth certificate will be issued to him; a new identity; a new identification card? How is this participant under a new assumed name going to vote? Is there a process to inform the Elections and Boundaries Commission that Tom Jones is now Harry James? One may think that it is a very minute point, but in Trinidad and Tobago people have been known to lose an election by one vote. So that one vote can, in fact, make a difference.

I am asking the Attorney General to address that: certainly, how does this relate to a participant under a new name, as regards his identification card, as against his voting rights; whether a new birth certificate or some new identity in the form of a birth certificate or identification card would be issued to him, and how that will impact on, as I said, voting and other things.

The Bill suggests that only countries in the Caribbean, the regional countries, would participate in this programme. I think the Attorney General read from some Heads of Agreement document there. Again, the Caribbean is a very small place, geographically, and if you want to get a witness in Trinidad and that witness is in Barbados, or Antigua, or St. Lucia, it is very easy because the criminals in the Caribbean probably have a very good networking system. So it could be very easy to get to a witness that is housed in one of these countries.

Again you may have a witness—assuming that the programme caters for extra-regional countries to participate, for example from the United States, or Canada, or wherever else. We have instances where Trinidadians who are living in the United States and they have their green cards and what have you, if they commit crimes there they are sent back to Trinidad and Tobago. Some of them may be born of West Indian parentage there and the minute they commit a crime, the United States Government sends them back here.

All I think that the Government has been able to get out of that is some sort of forewarning, and I am not sure whether that is actually in place. I know that the last time the Attorney General of the United States was here that was part of the discussions, but I do not know if that is in place. So what if a witness, a participant who is in this programme is in the United States and he commits an offence there, will he be sent back here under their laws? What is preventing other countries, for example, the regional territories that may be participating in this programme, if that participant commits a crime there, would that participant be sent back to Trinidad and Tobago? Or would he be prosecuted there and, if convicted, jailed there? I do not know.

These are the things I would ask the Attorney General to look at. As I said, the legislation is good. It is unfortunate that we have to deal with it, but these are the times in which we live. The legislation is geared towards criminal offences. There is one clause which deals with civil liability, that is clause 5(3). But the schedule to the offences, there is a little problem here with the Act, because part of this Bill says “only offences that are in the first schedule are covered by the Act, whilst the Minister can add offences from time to time.

Civil matters, I do not know how you would deal with those here, because civil offences are, in fact, also mentioned in clause 5(3), but the schedule only relates to criminal offences. I do not know how you will define civil offences, so I think there is a little problem here.

Mr. Deputy Speaker, my colleague spoke about—and I think the Attorney General spoke about it too—the fact that there is some sort of witness protection programme in Trinidad and Tobago, and we have had the celebrated case of Clint Huggins being executed while in that programme. The thing about it is this. Even if a participant is in the programme, can that participant be held there against his wish? In other words, okay, he signs up all his memorandum of understanding and what have you, he is now a participant in the programme so he is in Barbados; for some reason or other he does not like it, or he finds the Government

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is not providing him with money, or his family is not getting money; he wants out of the programme. Can you force that participant to stay in the programme? You cannot, because it is against his constitutional rights.

That leads me to the point that the programme obviously has to be funded properly, because these participants and witnesses who seek protection, the main reason they feel disenchanted and come out of the programme is simply because of bad housing accommodation, bad meals or they feel too confined in these safe houses. So that even in a place like, as I say, in the Caribbean territories, it all depends on the circumstances under which they would be in that programme.

A participant, say we sent him to Barbados or Antigua, or wherever in the islands, what is preventing that fellow from leaving the island, the country to which he is assigned and going elsewhere? Is it that he has to report to the police station in the area or the immigration officers there on a periodic basis? I do not know. These things have to be worked out with the governments and also with the participants because somebody might be in a country and for one reason or the other he gets fed up and he wants to come back home or go to another Caribbean country. How would we address that?

Again, Mr. Deputy Speaker, some of these safe houses, as I say, the accommodation has to be proper because a witness or a participant would not want to go into a safe house, whether it be in Trinidad or in a participating country, unless he feels comfortable in terms of his meals and whatever else.

One of the other things that has to be addressed here is the confidentiality of the information. This is a small country and we have seen here within the last month, this election season, where all sorts of information comes to you in the Parliament, and I am telling you that outside there in the criminal sphere, those fellows have better information than the protective services could ever have, and they would be able to get that information. So that confidentiality amongst the people who are going to staff your administrative centre, your investigative agency, your protective agency, is a must.

What is the qualification, for example, for the people who would head these different agencies? It makes no sense putting people in these agencies who are not qualified to hold the positions, whose confidentiality one could not respect. So, again, I am asking the Government to look very carefully, because the whole programme would fall if the thing is not properly staffed with people of repute.

Again, we have the question of where would these people be housed. We talk about an administrative centre, investigative agency, protective agency, and so on.

Is it that we have to set up some physical accommodation at police headquarters, or would there be a separate building to house these people? I do not know. That is something that can be worked out. I think the more important point is who are going to be the members of the centre and the different agencies, and to make sure that these people are trustworthy. It is extremely important.

When you look at this legislation you could see, if it is not properly staffed, it could be steeped in bureaucracy. This legislation, as good as it is, depends on the people who are going to work it. It is a recipe for bureaucracy if you do not have the people working it. You could get bogged down in paper with this.

Mr. Deputy Speaker, as I said, we on this side support it. We regret that the day has come upon us when we have to introduce legislation like this to protect witnesses, judicial officers and so on. Just imagine that, in 1965, 1970 it would have been unheard of for a judge, a magistrate, or a lawyer, to ask for that type of protection and here it is, today, it is very commonplace, where judges have to be protected, and for obvious reasons. We are a transit point for drugs. I think recently the Attorney General mentioned something like \$100 million worth of drugs pass through this country. Let us not fool ourselves, I do not think we can turn a blind eye to what goes on in Colombia and these places, where judicial officers are gunned down. That is not too far-fetched. It could happen right here.

I am an attorney myself, as the Attorney General obviously is, and there are one or two members who are attorneys, and let me say—and I say this with due respect to the profession—that members of our profession are themselves guilty of promoting exactly what this Act seeks to avoid. It is sad when we have members of the profession who sometimes encourage, or if not encourage, point to the way of doing something that this Act seeks to avoid. It happens and we must not fool ourselves about it. We had an accident recently which was very unfortunate because I know the chap, where an attorney was held bribing a witness. It is sad. But it is not only the legal profession, as you would know. In all professions there are bad eggs and rotten apples, but certainly when we look at this, I cannot stand here and say honestly to this House, that members of the legal profession are with clean hands. There are some members, minute as they may be, who are guilty of promoting activities which this Bill seeks to protect and to take cognizance of.

To me, I do not know whether the legislation—I do not know if it is this legislation or other legislation, but I honestly believe that a member of the

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profession found guilty of doing that, ought to pay the highest price, because he is a minister of justice. Any attorney found guilty of practices that offend this legislation ought to suffer the most serious consequences.

One of the other things you have here is this. In this legislation the participant has to disclose certain liabilities, and so on. Let us assume a participant has a judgment against him and does not disclose it, there is no penalty here—and I do not know if there can be or if there ought to be—on the participant if he fails to disclose. So for example participant “A” has a judgment against him and he has property. Now he may disclose the property but he does not disclose the fact that he has a judgment. He changes his identity. So from “A” he now becomes known as “B”. How can the creditor enforce his judgment if he does not know the identity of the fellow?

5.25 p.m.

It is a concern because the legislation provides for him to disclose several things, what if he does not disclose them? I am asking the Attorney General to look carefully at that because some of these fellows who get into these programmes, perhaps, would have a criminal record. They may or may not disclose it. They may be honest about it; some, most likely, would not be honest about it. This Bill does not provide anything about a participant not disclosing information that may be against him.

Again, in closing, let me say that this piece of legislation can and will only work if two things happen: One, if there are people of the necessary calibre and repute heading and staffing the administrative centre and the investigative and protective agencies; and two, if it is properly funded. If it is not properly funded it will not work. We have seen instances where Governments, and more so this Government of late, not prioritizing the disbursement of money. In other words, things that ought to be funded are not funded. And things that are funded are funded in multiples of 100,000 per cent and 500,000 per cent more than they should cost. So I am asking the Attorney General to give the assurance to this honourable House that the programme would be properly funded and properly staffed.

Mr. Deputy Speaker, with these words, I wish to thank you.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, I thank hon. Members on the other side for their contributions on what is probably considered to be one of the most important of the Bills dealing with the criminal justice system in Trinidad and Tobago. The hon. Member for San Fernando West is correct in saying that 20

years ago who would have thought that it would have been necessary to put legal framework in place to protect judges, jurors, witnesses and their families *et cetera*. But the fact of the matter is that the world has changed; governments have very difficult challenges ahead of them in order to fight organized criminal activity and the advent of organized criminal activity in the Caribbean, with its attendant evils of violence and other crimes has been largely as a result of the illicit drug trade. The facts that the Caribbean has become a transshipment point and a consumer have caused the influence of the drug trade to penetrate the fabric of our societies.

There can be no doubt about it that in the Caribbean it is felt that the best thing to do to have the case done, organized criminal activity would either intimidate jurors, get rid of witnesses and kill them. And the fact that this has been happening means that Governments have to take steps in order to protect the society from the evils of it.

Having said that, however, being part of a regional justice protection programme, does not mean that we have to be limited to the region. One of the things that I can disclose is that the United States of America, the United Kingdom and Canada, have helped Trinidad and Tobago a lot in the protection of witnesses, and the commitment they have given in assisting us, and what they have done in the past, I think must be commended. Some countries of the Caribbean have also assisted and have given their commitment to assist, but the point is taken that you cannot sometimes protect a witness in the Caribbean. In some cases witnesses would not want to go to a place in the Caribbean. Therefore, this is a very difficult area in the justice protection programme because you cannot force persons to be in the programme. The programme must be so organized that people would be encouraged to be in it. They must feel comfortable and believe that their trust would be honoured by the Government. There are instances in which you will have to protect the whole family; and it may be a very big family. But the fact of the matter is that this is what the state must do sometimes in order to protect the society.

So that one of the advantages of having a regional justice protection programme is that the region would be able to extract more aid from the international community than if it is done on a national level. But national Governments themselves have to be prepared to spend the money in order to make their programmes attractive. So that I take the point from the hon. Member for San Fernando West that Government has to translate its commitment in

financing this programme and not merely have a piece of legislation which really would not work.

I also take the point that appropriate administrative measures have to be put in place to ensure that it does not become a bureaucratic obstacle. Because if it does, then it would be counter-productive. I think this country has been very fortunate—in that over the years this administration cannot claim credit for it because it is something which has happened over the years. Maybe, this administration has, in effect, supported it; but over the years in previous administrations you have had some of the public servants—and I do not want to call names—who have been involved in these matters. And they have been recognized—and in particular one has been recognized—internationally, as one of the best persons to do this kind of job. That person has been managing the *ad hoc* programme over the last few years, even before this Government took office. What has been achieved in the administrative aspect of an *ad hoc* programme, I think that whenever detailed or if it ever can be told, it would be very, very astonishing to see what this little country could have done in respect of such an important matter. I am very optimistic that the Ministry of National Security would have all the necessary administrative human resource and would be capable of getting additional human resource in order to make this programme work.

As hon. Members would know and the Member for San Fernando West was asking, this is really a matter of national security, and the Minister obviously would be involved in the investigative agency in appointing the administrative centres. Many of these things would be matters of national security. As we know, that even a court would be very reluctant to get that information. If the court decides to look at the information, it would be only for the benefit of the bosom of the court, and not for public consumption.

The point has been made by both the Member for San Fernando West and the Member for Diego Martin East. Yes, I think that there is a deficiency in the Schedule and it may be at some stage we may add further to it. But I would go on board and accept that there should be some of the offences relating to fraud and I have instructed the Chief Parliamentary Counsel Department that we should try to do an amendment to include offences under the Prevention of Corruption Act and offences relating to fraud.

5.35 p.m.

In respect of the fact that it does not include family, the intention of the legislation was that it should include the family. I have been told by the Chief

Parliamentary Counsel's department that, in the definition section, "associate" was intended to cover family and probably the maid, or whatever it is—
[*Interruption*]

Mr. Sinanan: I made a point, you know. I think in the context of the totality of the legislation, the definition of "associate" here relates more to an associate of the witness, of the participant, and not necessarily a family member. I had suggested that we could expand this definition to include family members. So the word, "associate", here, I think, is more pointing to an associate of the participant and not a family member, but we can, in fact, expand the definition here to include family members.

Hon. R. L. Maharaj: Mr. Deputy Speaker, I was about to say when I gave way that—but I take the point—I think we should be very clear so that at the committee stage we can work out something in order to ensure that we would cover the family members.

The other point raised by the Opposition was that property transferred to a protectee with a new identity could be traced, thereby revealing a new identity. Well, while I have been assured that—as you know, in the United States of America and Britain there are people who have been given new identities. Administratively there would be certain changes made in that, before or when a new identity is issued, obviously certain things would have to be cancelled. In other words, a person would not be able to have the passport under the same name, or they would not be able to have an identification card—and it is one person having the same identification card. So on administrative and security bases, these administrative matters would have to be worked out.

One of the aims of the legislation, and that is why if it is noticed that not only the—it is done in such a way that even the politicians are kept out of the information web because it is said that this also protects the politician. However, it would be so secretive that it would be really dependent upon a limited set of people who would obviously have to pass many tests—a lot of intelligence. As a matter of fact, I can say, Mr. Deputy Speaker, that when the multi-agency task force had to be set up in Trinidad and Tobago, since it was, in effect, a project of the British government, the American government and the Trinidad and Tobago Government, the persons who worked in that task force had to go through all the intelligence tests and be vetted by the international intelligence agencies.

So that in something like this, something like that would have to be done so that persons who are involved in and who would manage this programme would

not only be cleared by the Trinidad intelligence but would be cleared internationally. It is no secret, Mr. Deputy Speaker, the way the world is a globalized village, information is shared at a certain level and it is very easy to know what is happening at times.

The other issue, which has been raised, is the question of exposing data to computer hackers. Yes, that is a risk. I do not know much about computers but what I do know is that there are measures in which the experts can put certain keys and certain arrangements so that it would be very difficult for hackers to get at such information. I am not now on legislation to deal with it, I am on the question of administrative measures that I have seen done and it is very difficult, if not impossible, for computer hackers to get that kind of information. So there again we will have to depend upon the administrative measures which have to be put in place.

Information of a protectee's location or new identity disclosed to a judge in camera may be placed at risk by certain judges. I do not know how to answer this. I think we will have to take that risk and what could happen is that, in relation to some of those matters, it may be—what happens in other countries is that the head of the Judiciary—for example, in the United Kingdom, it is not just any judge who can do a matter involving confiscation proceedings. There is a particular judge and that judge is in London. So in any case involving England, that particular judge in London will do that matter and whatever has to be done. So the head of the Judiciary makes those arrangements in order to ensure, for many reasons, that is done. Then if it has to be very extended cases, there will be a panel of three or four and other judges would be brought in, but there is, in effect, one person.

Now, it may be that representations can be made for this kind of situation in the Caribbean. However, as you know, Mr. Deputy Speaker, this is a very sensitive topic at this time—topics bordering on whether one is interfering with the independence of the Judiciary, and not even if one makes a request. I have recently been reading a book written by Lord Bingham, a Senior Law Lord, and the book was recently published. In that book, which is very interesting, there is a whole chapter on independence of the Judiciary. What it says is that yes, there must be independence, but it must be recognized—I am not quoting the exact words—that the elected representatives account to the peoples and to the Parliaments for the way justice and crime are dealt with. Therefore, there must be a way in which there will be that kind of accountability by the judicial arm of the state. But I do not want to preempt any Commission of Inquiry report. That

should be coming shortly so therefore we would see what these three learned gentlemen have to express on this view, and I do not even want to talk about being lucky about anything.

Mr. Deputy Speaker, the point was also made by the hon. Member for San Fernando West that the Bill does not provide enough detail regarding new identities, but provision is made under clause 26(2) for the Minister to make regulations re new identities, subject to affirmative resolution of the House. In respect of the civil matters, that was put there mainly to deal with the confiscation proceedings, because those are civil matters, and we decided to leave civil matters very wide so that if there are any civil matters, the person could be part of the programme. *[Interruption]* Well, the Schedule deals with what are the offences, the criminal offences, but a civil matter is like a constitutional gauge, a judicial review matter or any civil matter, and if it is being left wide, civil matters, we do not have to put it in the Schedule. In the Schedule one puts the offences for which the protection would be needed.

Mr. Deputy Speaker, I do not want to spoil this contribution by dealing with some of the matters with which the hon. Member for Diego Martin East dealt. I think we should keep this at a very high level. It is correct that there were witnesses killed in the past. It is correct also that witnesses have been killed and if those witnesses were not killed it would have provided a better respect for the administration of justice. The fact of the matter is that, in cases where these witnesses have been killed, persons have been identified as being responsible for the murders.

The issue is not whether the witnesses were killed or not. What is important is that we cannot have a system in which witnesses can be killed and proceedings terminated, because it gives the perception that criminal justice is being hijacked. Quite apart from any other reasons, I think that what this measure would do is bring greater respect for the due administration of justice in Trinidad and Tobago. So Mr. Deputy Speaker, I beg to move. *[Desk thumping]*

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 and 2 ordered to stand part of the Bill.

Clause 3.

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

Mr. Maharaj: In clause 3 there was a proposed amendment.

Mr. Sinanan: “Associate means a person, including a family member of the participant, who, by virtue of his relationship or association with a participant...” In other words just add after the word “person”, the words, “including a family member of the participant”.

Mr. Maharaj: Would it be a family member of that person?

Mr. Sinanan: Yes.

Mr. Imbert: What about a relative?

Mr. Sinanan: You see, a relative tends to connote a wider—further family member.

Mr. Maharaj: The fact that we put “including” means it would include a relative.

Mr. Sinanan: Yes.

Mr. Maharaj: But I think you want to send the signal that it includes a family member.

Mr. Sinanan: Yes.

Mr. Maharaj: Mr. Chairman, I beg to move, therefore, that clause 3 be amended by adding in the definition of “associate”, after the word, “person”, the words, “including a family member of that person”, and continuing it. I think that is the only amendment.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 to 27 ordered to stand part of the Bill.

First Schedule.

Question proposed, That the First Schedule stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that the First Schedule be amended by inserting after “Any domestic violence offence”—it may be better if we inserted before “Any domestic violence offence” the following, “Offences

under the Larceny Act, Chapter 11 No. 12”, which would cover the second—
[*Interruption*] After Offences under the Prevention of Corruption Act, Act No. 11 of 1987.

5.50 p.m.

Mr. Maharaj: All acts of fraud are under the Larceny Act and embezzlement will come under the Larceny Act.

Mr. Chairman: The first schedule is amended as proposed, insert before “Any domestic violence offence”:

“(1) Offences under the Larceny Act Chap. 11:12

(2) Offences under the Prevention of Corruption Act No. 11 of 1987...”

Mr. Maharaj: Mr. Chairman, I omitted to mention one more Act and that is Offences under the Criminal Offences Act Chap. 11:01. That Act also deals with some cases of fraud.

Mr. Chairman: The First Schedule is also amended to include under the Criminal Offences Act Chap. 11:01 as proposed.

Question put and agreed.

First Schedule as amended ordered to stand part of the Bill.

Second Schedule ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendments, read the third time and passed.

ELECTIONS AND BOUNDARIES ORDER

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Deputy Speaker, I beg to move the following Motion standing in my name:

Whereas it is provided by subsection (3) of section 4 of the Elections and Boundaries Commission (Local Government) Act, that as soon as may be after the Elections and Boundaries Commission (hereinafter referred to as "the Commission") has submitted a report under paragraph (a) of subsection (1) of section 4 of the said Act, the Minister shall lay before the House of Representatives for its approval the draft of an Order by the President for

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giving effect, whether with or without modifications to the recommendations contained in the report:

And whereas the Commission has submitted a report to the Minister in accordance with the provisions of paragraph (a) of subsection (1) of section 4:

And whereas the draft of an Order entitled, "the Elections and Boundaries Commission (Local Government) (Tobago House of Assembly) Order, 2000" giving effect to the recommendations of the Commission was laid before the House of Representatives on the 22nd day of September, 2000:

Be it resolved that the draft of "the Elections and Boundaries Commission (Local Government) (Tobago House of Assembly) Order, 2000 be approved.

Mr. Speaker, the Elections and Boundaries Commission hereinafter called the Commission is mandated by law under section 4(1) of the Elections and Boundaries Commission Local Government Act to define and review the boundaries of the electoral districts into which an electoral area is or is to be divided and shall submit to the Minister reports either:

- (a) showing the constituencies into which it recommends that an electoral area should be divided in order to give effect to the rules set out in the Second Schedule;
- (b) stating that in the opinion of the Commission, no alteration is required to the existing number or boundaries of electoral districts in order to give effect to the said rules.

Mr. Deputy Speaker, in accordance with Section 4(1), the Commission submitted its report, which is before this House, to the Minister of Local Government on August 24, 2000. In view of this submission and in accordance with section 4(3) of the Elections and Boundaries Commission Local Government Act, the Minister responsible for Local Government has caused to prepare a draft of an Order by the President to give effect to the Commission's recommendations. The said draft of an Order was laid before this honourable House on September 22, 2000 in accordance with section 4(3) of the Elections and Boundaries Commission Local Government Act.

As stated in the resolution, section 4(3) clearly stipulates that after the Elections and Boundaries Commission has submitted a report, the Minister shall lay before the House of Representatives for its approval, a draft of an Order by the Speaker giving effect, with or without modification, to the recommendations contained in the report. The draft may also make provisions for any matters,

which may appear to the Minister to be incidental to, or consequential upon, the other provisions of the draft.

Mr. Deputy Speaker, it should be noted that Tobago is divided into 12 electoral districts and the Commission may in consideration of Rule 3 of the Second Schedule of the Elections and Boundaries Commission Local Government Act vary the number of electors in any electoral district provided that in no case shall the number of electors in any one electoral district of an electoral area exceed or be less than the number of electors in any other electoral district of that electoral area by more than 25 per cent.

Mr. Deputy Speaker, Rule 3 states as follows:

"In the division of electoral districts in regional electoral areas natural boundaries such as major highways and rivers shall be used wherever possible."

Mr. Deputy Speaker, hence for the purposes of formulating its recommendation, the Commission was guided by the following three considerations:

- (i) Rule 3 of the Second Schedule of the Elections and Boundaries Commission Local Government Act that:

"natural boundaries such as major highways and rivers shall be used wherever possible"

Mr. Valley: Mr. Deputy Speaker, if the Member would give way. We are simply approving what the Elections and Boundaries Commission has done and the Opposition Members are in agreement, so we can cut the talk short.

6.00 p.m.

Hon. D. Singh: Mr. Deputy Speaker, the report made certain changes to certain electoral boundaries and I would still like to put it on the record.

- “(2) The compactness, contiguity, clarity of description; preservation of communities; access to polling station; the desirability of keeping adjustments to a minimum.

- (3) A comparison between the electorates of 1996 and 2000.”

This report which is before this House is based on an electorate of 36,995 as of July 1, 2000, which represents an increase of 3,137 electors from August 27, 1996. The average number of electors for electoral districts in Tobago rose from 2,822 to 3,083, an increase of 261. The highest electorate per electoral district is

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3,534, which is in the Buccoo/Lambeau district, while the lowest was recorded in the L'Anse Fourmi/Speyside district, and the figure was 2,723.

In accordance with the said rules, the maximum electorate permissible is 3,404 and the minimum electorate permissible is 2,651. Hence the electoral district of Buccoo/Lambeau, which has an electorate of 3,534 is above the maximum permissible by 130 electors.

In view of this, an adjustment to that electoral district became necessary to bring it within the maximum 25 per cent above the lowest electorate as prescribed by the rules.

In view of this, the Commission examined the electoral district of Buccoo/Lambeau and decided that it would be reasonable that polling division No. 4886 with an electorate of 156 be transferred to the adjoining electoral district of Scarborough/Signal Hill. If accepted, the electorate of Buccoo/Lambeau will then be reduced to 3,378 and thus be brought within the permissible maximum. The electorate in Scarborough/Signal Hill will be increased by 156 to 3,123 and this number of 3,123 electors is within the permissible maximum and hence no further adjustment to it will be necessary.

Mr. Valley: I beg to move; I beg to move.

Hon. D. Singh: Mr. Deputy Speaker, the Commission also reviewed the appropriateness of the title of the electoral district of Providence/Calder Hall and noted that the community of Mason Hall was not included in that title, even though its people had long and nobly dwelt within this district, and had contributed with honour over the years to its social, cultural and educational development.

Mr. Valley: I beg to move.

Hon. D. Singh: The Commission decided that this was an oversight which should now be corrected.

The Commission accordingly recommends that this electoral district should now be re-designated Mason Hall/Providence/Calder Hall in order to enable the title to reflect with more accuracy and propriety all the people that dwell within its boundaries.

Mr. Valley: I beg to move.

Hon. D. Singh: To summarize, the Commission proposes that:

- (a) Of the 12 electoral districts in Tobago adjustments should be made to the boundaries of two of them, namely, Buccoo/Lambeau and the adjoining district of Scarborough/Signal Hill;
- (b) the name of the electoral district of Providence/Calder Hall should be changed to Mason Hall/Providence/Calder Hall.

Mr. Deputy Speaker, Members on this side of the House accept the recommendations as outlined in the Seventh Report of the Elections and Boundaries Commission on the Boundaries of the Electoral District in the electoral area of Tobago.

I beg to move.

Question proposed.

Question put and agreed to.

Resolved:

That the draft of the Elections and Boundaries Commission (Local Government) (Tobago House of Assembly) Order, 2000 be approved.

**CITIZENSHIP OF THE REPUBLIC OF
TRINIDAD AND TOBAGO (AMDT.) BILL**

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, I beg to move,

That a Bill to amend the Citizenship of the Republic of Trinidad and Tobago Act, Chap. 1:50 be now read a second time.

This Bill received unanimous support in the other place and the Opposition supported the Bill and the contents of the Bill are well known to the Opposition, therefore, I beg to move.

Question proposed.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in Committee.

Clauses 1 and 2 ordered to stand part of the Bill.

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

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House resumed.

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

ADJOURNMENT

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, I beg to move,

That the House do now adjourn to Friday, September 29, 2000 at 1.30 p.m., and that is Private Members' Day. Maybe the Opposition could indicate to us what they would be dealing with.

Mr. Valley: Yes, Mr. Deputy Speaker. Motion No. 1 under "Private Business", and if we have time we will do Motion No. 2.

Hon. R. L. Maharaj: Mr. Deputy Speaker, I know there is a motion on the adjournment, but before you do that I think Hon. Members know that the Parliament is going to be prorogued on Saturday next week, which means that next week would be the week in which I had indicated that we will sit, and in order to make it easier for the Opposition, we are not going to sit all day. We will sit on the afternoons of Monday, Wednesday and Friday.

Mr. Deputy Speaker: Hon. Members, before I put the motion for the adjournment, there was a matter to be raised by the Member for Tobago West who has asked that it be deferred until Friday's sitting.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.10 p.m.