

*Leave of Absence**Tuesday, April 02, 1996***HOUSE OF REPRESENTATIVES***Tuesday, April 02, 1996.*

The House met at 10.00 a.m.

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

Mr. Speaker: Hon. Members, I wish to indicate that we have had communication from the Member for Port of Spain North/St. Ann's West asking to be excused from today's sitting. This leave has been granted.

We also had communication from the Member for St. Ann's East who asked to be excused from any sittings between April 1 and 3. He too has been excused.

PAPER LAID

1. Report to Parliament by the Integrity Commission on its activities for the year 1995. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]

DEFINITE URGENT MATTER

[*The Member for San Fernando East (Mr. P. Manning) rose*]

Mr. Speaker: Hon. Members, I simply want to indicate that there is nothing on this item that is properly before this House.

[*The Member for San Fernando East (Mr. P. Manning) rose*]

Mr. Speaker: This morning, at a few minutes before 10.00 o'clock, the hon. Member for San Fernando East came to the Speaker's Chambers and brought a hand-written note with respect to seeking leave. I indicated to him that I could not have considered it at that time and did not receive it, but he indicated that notwithstanding this, he still intended to rise on the agenda item "Request for Leave to move the Adjournment of the House on Definite Matters of Urgent Public Importance". I indicated to him that to do so would be very much out of order and he indicated to me that he would nevertheless rise.

I am now indicating that I do not give him permission to raise it and the matter dies there.

Mr. Manning: Mr. Speaker, with your leave—

Mr. Speaker: I do not recognize you on this issue. I am indicating that there is nothing on the item "Request for Leave to Move the Adjournment of the House on Definite Matters of Urgent Public Importance".

Mr. Manning: Mr. Speaker, please—

Mr. Speaker: I again indicate that there is nothing before us on this item of the agenda and you do not have leave.

Mr. Manning: Mr. Speaker, the information you gave to the Parliament is not accurate!

Mr. Valley: And you know it!

Mr. Manning: It is not accurate! I called at half past eight and I spoke to the Deputy Speaker, I mean the Assistant Clerk of the House!

Mr. Maharaj: Mr. Speaker, on a point of order. I think the Member for San Fernando East is totally out of place and is showing a disrespect to the House.

Mr. Valley: He is misrepresenting the facts.

Mr. Speaker: Hon. Members, the sitting of this House is suspended.

10.03 a.m.: *Sitting suspended.*

11.05 a.m.: *Sitting resumed.*

Mr. Speaker: Hon. Members before the House was suspended this morning I was indicating to the House that there was no item on the agenda requesting the Adjournment of the House on definite matters of urgent public importance. Following the suspension I met with the Leader of Government Business and the Opposition Chief Whip and I believe there is a statement to be made.

APOLOGY

(MEMBER FOR SAN FERNANDO EAST)

Mr. Patrick Manning (*San Fernando East*): Mr. Speaker, I wish to apologize for having defied the Chair. I want to make it clear that I had risen merely to add that in addition to what the Speaker had said I had also phoned the Assistant Clerk of the House to give notice at 8.30 this morning.

Mr. Speaker: I wish to indicate to hon. Members that the apology from the Member for San Fernando East is accepted and as far as the Chair is concerned the matter ends here. Hon. Members will note that we have problems with the

Apology

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audio and with the concurrence of both sides of the House the sitting will be suspended until 2.00 o'clock this afternoon.

11.07 a.m.: *Sitting suspended.*

2.02 p.m.: *Sitting resumed.*

ARRANGEMENT OF BUSINESS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that Motions Nos. 1, 2, and 3 on the Order Paper be deferred to a later stage of the proceedings and that the House proceed with Bill No. 2 under Bills Second Reading.

Question agreed to.

COMMONWEALTH DEVELOPMENT CORPORATION (PRIVILEGES AND IMMUNITIES) BILL

Order for second reading read.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. Speaker, I beg to move,

That a Bill to confer certain privileges and immunities on the Commonwealth Development Corporation, be read a second time.

Mr. Speaker, I expect easy passage of this Bill. I do not think it will be a contentious matter, seeing that this matter was debated in the previous Parliament and passed. However, with the dissolution of Parliament and the intervention of the general election of 1995, the matter lapsed and is before the House once again.

The purpose of this Bill is to grant legal personality to the Commonwealth Development Corporation and to confer certain privileges and immunities, which are similar to those accorded to international organizations involved in diplomatic activities, to that organization and its staff.

The Commonwealth Development Corporation is a public institution which was established in 1948 by an Act of Parliament of the United Kingdom. It really was intended and has been fulfilling the purpose of assisting overseas countries in the development of their economies, especially by facilitating the development of the private sector. In fact, it has been described as the main instrument for

promoting private sector activity in the developing world by the United Kingdom government.

The Commonwealth Development Corporation invests in long-term loans, risk capital, management and ownership of companies and is funded by its own resources—its long-term investments and by soft-term concessionary loans from United Kingdom government.

There are significant benefits to be derived from this. Even though we are some considerable distance from the 1980s, the crisis of the 1980s did generate a certain kind of diffidence on the part of international lending institutions with respect to investing in developing countries and, as a result, international investors in developing countries have from time to time experienced a shortage of financing in their overseas operations. In addition to what these companies are able to provide for themselves through their own financing mechanisms, CDC complements the flow of these funds into these countries. In fact, CDC has contributed to scores of developing countries all across the globe.

Countries like these have derived many benefits from the activities of the Commonwealth Development Corporation. For example, employment opportunities, which normally flow from investment, have been generated in these countries. We have had our foreign exchange earnings augmented through the activity of the CDC. There has been an enhancement of management and technical skills as there has been this transfer of skills into developing countries, technology transfer, as well as, and very importantly, confidence building. These have all arisen as a result of the presence of the CDC in these countries, so that other investors have been encouraged to come in.

According to the Trinidad and Tobago Commonwealth Development Corporation operating conditions agreement, the activities envisaged by the CDC for Trinidad and Tobago are as follows:

1. To examine and study possibilities of investment in public or private sector projects which are within its statutory powers: financially sound of economic benefit and assists in the development of the relevant sectors of the economy of Trinidad and Tobago.
2. To contribute to the implementation of such projects by making loan and equity investments and expending technical management and consultancy services on terms to be agreed.

3. Wherever feasible, as part of such implementation, to secure the training of local personnel at all levels.
4. To consult as appropriate with relevant government departments.

Those are the terms and conditions of the operating agreement between Trinidad and Tobago and the Commonwealth Development Corporation.

2.10 p.m.

Mr. Speaker, the Commonwealth Development Corporation has been active in Trinidad and Tobago since the colonial period and we are seeking to grant it legal status and, as I said earlier, to confer on it, privileges and immunities. Its current portfolio of investments include the Development Finance Limited, the upgrading of the Point-a-Pierre Refinery and an aquaculture project at Caroni (1975) Limited. This organization has been operating for the benefit of Trinidad and Tobago for some time.

This is a very simple exercise in which we are engaged today. As I said, this Bill has been debated in the Parliament before and has received support. This is necessary as well because it is not a normal international organization upon which one can confer, automatically, privileges and immunities which one would grant to other international organizations, so that we need the passage of the CDC Bill for this particular purpose.

This situation is not unique to Trinidad and Tobago. In fact, these privileges and immunities have been granted to the CDC by a number of other countries in which they have been operating. For example, similar privileges, facilities and exemptions have been granted in Costa Rica, Côte d'Ivoire, Cuba, the Dominican Republic, Ecuador, Gambia, Ghana, Guatemala, Honduras, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Pakistan, Sierra Leone, Solomon Islands, the Republic of South Africa, Tanzania, Uganda, Vanuatu, Viet Nam, Zanzibar and Zimbabwe.

When we support this Bill before the honourable House we are really doing what has been done in other countries; the point I am making is that there is precedent for that. In fact, we will give legal status to an organization which has been operating in Trinidad and Tobago and which has been encouraging investments into the country and I have no doubt that the passage of the Bill will give further impetus to the organization and will encourage it to fulfil its mandate and its purpose. I therefore ask hon. Members to support this Bill.

Mr. Speaker, I beg to move.

Question proposed.

Dr. Rupert Griffith (*Arima*): Mr. Speaker, I rise to make an intervention on the Bill, an Act to confer certain privileges and immunities on the Commonwealth Development Corporation.

I agree with the hon. Minister of Foreign Affairs and Member for Naparima that this is, indeed, a simple Bill and that it was debated on September 27, 1995, approximately one week before the announcement of the general election on October 6, 1995, and the commencement of the general election on November 6, 1995. The Bill went through the three stages of debate in this House and was passed. It should be noted, also, that this Bill was piloted in this House by the former administration of which I was very pleased to be a part at that time. The Bill is very simple and important and it should be supported by the Members on both sides of the House and we, indeed, intend to give our support.

In January 1994, Trinidad and Tobago signed an agreement relating to the operating conditions of the CDC. The agreement embodied certain privileges and immunities which would facilitate the CDC implementing its functions in Trinidad and Tobago. The agreement therefore requires parliamentary approval for it to be effective so we have no problem in supporting the Bill.

Mr. Speaker, I think that since the Bill was presented in September last year, it would have afforded the opportunity for the hon. Minister of Foreign Affairs to come to this House and to state ways and means by which his Government intended to facilitate the functions of the CDC in Trinidad and Tobago. I am saying this against the background that his political leader made several statements in an effort to attract foreign investments into Trinidad and Tobago. These statements were made in the *Daily Express* dated Wednesday March 27, 1996 when he addressed the IDB. I will read two paragraphs to underscore the points I made. I quote:

“Noting that the IDB was the country’s main source of external funding for the Public Sector Investment Programme, Panday said the bank’s support was even more significant now as the government sought to deal with a ‘pressing social agenda’.

This new loan made provision for the setting up of a Community Development Fund which Panday described as ‘an essential pillar of government’s efforts to mitigate the circumstances of the poor and vulnerable, using a community-driven ‘grassroots’ approach.”

The CDC has a long track record and as indicated by the Minister of Foreign Affairs the CDC has been involved in the Caribbean, Trinidad and Tobago, of course, East Africa, East Asia and the Pacific Islands, Central Africa, Southern Africa, West Africa and other non-commonwealth areas as the Minister responsible for administering the CDC, would so agree.

I had hoped that the hon. Minister would have come to this House today and said: This Bill has been debated here before, we realize it has lapsed in the other place and it is back with us again, and these are some of the measures that the Government would put in place. Let us look at what this Bill which was referred to as a simple one is purporting to do. In the Explanatory Note it says:

“The privileges and immunities could not be accorded by an Order made by the President under section 9 of the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, Chap. 17:01 because they are granted only to international or regional organisations or agencies. The Corporation, which was established by an Act of Parliament in the United Kingdom for the purpose of assisting in the economic development of certain countries including Trinidad and Tobago, is not an international or regional organisation or agency.”

This, therefore, explains the importance of the Bill before this House today. What is the Bill seeking to do, Mr. Speaker? It is seeking to give effect to the two Schedules, Parts I and II. Part I says:

“Privileges and Immunities of the Corporation, Legal Personality and Capacity.

- (1) The Corporation shall have a legal personality and such legal capacity as may be necessary for the exercise of the functions and the fulfilment of its purposes and, in particular, it shall have the capacity—
 - (a) to contract;
 - (b) to acquire and dispose of real and personal property; and
 - (c) to be a party to legal proceedings.”

2.20 p.m.

Also, it would be exempted from certain taxes, that is—

"In respect of its operations in Trinidad and Tobago the Corporation shall be exempted from all direct and indirect taxes, duties, levies, deductions and other imposts of any kind imposed on Trinidad and Tobago.

Companies, firms or organizations in Trinidad and Tobago which make payments of interest, dividends, fees or other moneys to the Corporation shall not be obliged to make any deduction on account of any tax, duty, levy or impost from which the Corporation is exempted under clause 2."

The reason I am reading all of this into the record is to see the importance of this piece of legislation and to make some points later.

"Privileges and Immunities of Employees of the Corporation, Exemption From Taxes.

The employees of the Corporation, whether staffing a representative office or seconded to development projects but not being citizens of Trinidad and Tobago, shall—

- (a) not be subject to income tax or similar taxes in respect of salaries and emoluments received from the Corporation; and
- (b) be entitled within six months of arriving in Trinidad and Tobago to import free of customs or import duties, personal effects, including one motor vehicle per person for personal or family use, and household goods and to export the same free of export duties and other fiscal charges at the end of their stay in Trinidad and Tobago,"

Mr. Speaker, this Bill would give wide opportunities and benefits to the CDC in its function in Trinidad and Tobago, and it is at a cost to the taxpayers of this country. So I am suggesting that given these privileges and immunities, the Government of Trinidad and Tobago could very well seek to develop mechanisms to benefit fully from the types of loan structure the CDC brings to Trinidad and Tobago.

My colleague talked about certain loans that were given to Trinidad and Tobago, for example, the Development Finance Corporation. There were many other companies in Trinidad and Tobago which benefited from the CDC loans over the years of its functioning in Trinidad and Tobago. I am saying that given the statements made by the Prime Minister here and elsewhere, this Government should have sound and solid mechanisms in place to fully benefit from the loans. And I am asking: What are the Government's policies regarding private sector and

state sector sourcing of funds from the CDC for the development projects? Are there any policies? What mechanisms would be set up to source loans investments from the CDC to benefit Trinidad and Tobago? I am also asking the Government: What provisions are available to assist private sector organizations to benefit fully from investments from the CDC funds?

You see, Mr. Speaker, when one talks about development funds—perhaps I could spend a little more time and talk about what the CDC is really empowered to do. Let me just mention in the record a few of the glossaries from the Reports on the 1993 CDC Accounts to state what the CDC set out to do for a developing country.

Page 2 says:

"The Report and Accounts 1993.

It may do this by investigating, formulating and carrying out projects for the promotion or expansion in overseas countries of new or existing enterprises of specified classes. The classes of enterprises specified are agriculture, fisheries, minerals, industry, public utilities, transportation, communications, housing, hotels, the processing, storing or marketing of products, building and engineering, enterprises for the provision of financial, management or consultancy services or the leasing of assets, enterprises for merchanting, wholesaling and stockholding, for the provision or improvement of factories and industrial, commercial and retail premises, and for the promotion of tourism."

Mr. Speaker, I expected the Minister to come here today, I am not only saying that it is a simple Bill and is required to pass—we know that and we understand that and we would support it—but how is the Government going to put mechanisms in place to benefit fully from the resources that can come from the CDC? The Prime Minister talked about social development and the need at this time to source funds for the social development. What are we going to do with the CDC? I want to suggest that the hon. Minister answer the questions because there are many sectors in Trinidad and Tobago begging for the finances. We all know that we are in a tight economic situation and we all know that we need to seek, as far as possible, resources, especially from international investment and lending agencies.

The Government should seek to attract investment which must redound to the benefit of the citizens in Trinidad and Tobago because, of course, the citizens of

Trinidad and Tobago would be, in a sense, investing in these privileges and immunities that the CDC would have in Trinidad and Tobago. For example, how about investment in agricultural development? The construction industry which is almost on valium in Trinidad and Tobago, is moving at a very slow pace. I am sure the Member for Caroni Central would understand what I mean by the construction industries moving on valium.

With regard to the tourism industry—Tidco is in place—can we accept funds to facilitate the tourism industry in Trinidad and Tobago? Given the CDC's portfolio or what they set out to do, are there any benefits that can be derived for the tourism industry? How about the service sector which is a growing sector in Trinidad and Tobago? Can funds be derived for the service sector?

With regard to the whole business of education, training and technical assistance—"high tech"—the whole information system that is developing at a rapid pace, do we need technical assistance or funds to enhance our efforts in that direction? Mr. Speaker, how about our petrochemicals industry? What about the energy and energy-based industries? The Minister said that the CDC made some contribution to one of our oil companies which is the Trinidad and Tobago Oil Company Limited. Indeed, the funds allocated there were for the extracting and processing of crude oils, and Wimpey had several inputs in the development of the refining process. As a matter of fact, \$17.5 million was spent in that venture.

Mr. Speaker, how about the other areas in the petroleum sectors? Do we not need to source funds for the development of those areas? I think we do. How about funds and investments to stimulate and generate small businesses in Trinidad and Tobago? Are there any systems in place to enhance that?

So you see, Mr. Speaker, the matter before this honourable House is just not a straightforward Bill, we must be told what are the Government's plans to seek financial investments and sources for the overall development of Trinidad and Tobago.

2.30 p.m.

Mr. Speaker, I mentioned earlier that the CDC functions in several countries. I look at the report here on page 43 and see countries such as Anguilla. The business for position was an electricity company limited. We saw that the CDC has 30 per cent equity in that company and they spent £760,000.

In the case of Barbados, one will see that there are basically three projects; one being an electricity generation project where £9.3 million was spent, in the tourism and the hotel industry, £2.25 million was spent and in development finance in Barbados, £680,000 was spent.

When one looks at the British Virgin Islands, one sees an electricity generation project on which £4,830 had been spent.

In the Cayman Islands, electricity generation—£8.8 million.

When one looks at Dominica, one sees projects such as development finance for small scale farmers, electricity generation, mortgage finance. Moneys are being sourced for those projects.

In the Dominican Republic, tourism/hotel, one sees £2.5 million was being spent on that.

In Grenada, tourism/hotel £1.3 million.

In Guyana, in Bauxite mining and the loans for the Guyana Timbers Limited—£3.19 million and £320,000 respectively on those projects.

When one comes to Jamaica, there is a long list of projects that are being undertaken, or have been undertaken between 1993 and now. There are mortgage finance projects, tourism/hotel, finance for coffee production, pine production, sawmilling, holding companies, investment companies, coffee processing and marketing, citrus processing, mortgage finance, telecommunications, low and middle income housing, rum-based liquor production. There are projects such as holding companies, again, dairy farm and processing, banana cultivation, development finance and port facilities. These are some projects that are being funded in Jamaica.

In St. Lucia, there are projects in electricity generation, banana and citrus, and mortgage finance.

In St. Vincent, a brewery and electrical generation.

In Trinidad and Tobago, we have the Development Finance Company Limited, the Trinidad and Tobago Oil Company and, in the past, there were some investments in the Trinidad and Tobago Mortgage Finance Company and the Caribbean Tyre Company.

Mr. Speaker, as one looks at what is happening elsewhere in the Caribbean, one can see that these governments have systems in place to attract investments

and funds from the CDC and if one looks through this document one can see the varying equity holdings. I would like this Government to tell us what mechanisms it has in place to attract the main portfolio.

One can look at the way the CDC operated with one such agency that received funding to do the number of things that they do in Trinidad and Tobago. I want us to take a look at the Development Finance Company Limited and its annual report of 1993. I see here that the Government of Trinidad and Tobago has a share capital of 28.6 per cent, the Commonwealth Development Corporation, 8.6 per cent and it also has other international finance companies such as the International Finance Corporation, 8.6 per cent; the Inter-American Investment Corporation, 8.6 per cent; the European Investment Bank, 6.8 per cent; and the German Investment Development Company, 5.1 per cent. The Development Finance Company is a company incorporated as a private unlimited liability company of the Republic of Trinidad and Tobago and its principal activities are that of the investment and development bankers providing long-term capital to private sector industrial firms by way of long and medium-term loans and quasi equity investments. The company also provides short-term loans by way of various instruments.

I am wondering whether with the resources available to this Government, the mechanisms can be put in place—working with organizations such as these and similar organizations—to fully benefit from the types of investments and loans from the CDC.

When one looks at the Government of Trinidad and Tobago's input in the Development Finance Company Limited, and again looking at the 1993 report, we see the Government of Trinidad and Tobago's input. The loan was first advanced in October 1977 for a term of 40 years to be repaid in quarterly instalments of capital and interest. The Government later agreed to a five-year moratorium on the repayment of principal and existing loans as at December 31, 1987. By agreement dated September 26, 1988, the loan will be set off against amounts received by the Government of Trinidad and Tobago.

When one looks at the equity for the Inter-American Investment Corporation, one sees here that the first US \$120,000 of this loan has been made available through a fixed interest rate of 10.75 per cent and when one looks at the Commonwealth Development Corporation, one will see for a loan of £4.9 million the fixed interest rate was 9.4 per cent lower than other international investment

agencies. I am saying that there is enough here that the Government would seek to put mechanisms in place to fully benefit from the CDC.

Mr. Speaker, as I said, we on this side have no problem with the Bill, but we would like the Government to tell us how it intends to put mechanisms in place, after this Bill is passed in this honourable House today, so that the citizens of Trinidad and Tobago—where its Prime Minister has indicated in the newspaper—could recognize the need for development funds.

I thank you very much.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. Speaker, I thank the hon. Member for Arima for his contribution. I would also like to thank him very much for the support that he has given to this Bill. He has termed it very important and if I am to go to the essence of his contribution, he seems to have some concern as to what is the Government's position with respect to attracting investment into Trinidad and Tobago, how we are going to ensure that the presence of the Commonwealth Development Corporation adds to that climate of investment and how we are going to ensure that, indeed, we do attract investment into the country.

Let me say that this Government is convinced that investment flows into the country are very, very important for the continued growth in the economy, and we will be taking whatever steps are necessary to ensure that we encourage this flow of investment into the country. We will be continuing to look at our traditional areas of foreign investments whether it be the United States of America and the countries of Europe which have been investing, traditionally, into Trinidad and Tobago. We will be employing our resources in our foreign missions and as well, the appropriate mechanisms at home with respect to encouraging the investment flows.

In addition to that, we would be looking at areas from where we have not had any real significant flows of investment into the country and as the Foreign Affairs Minister of the country I have already had discussions with the Italian Government with respect to signing an investment, promotion and protection agreement with Trinidad and Tobago. Similarly, the South Korean Government has expressed interest in this particular mechanism as well as the signing of a double taxation agreement. These two mechanisms, as you know, facilitate the flow of investments between the countries that are signatories to such agreements.

2.40 p.m.

In addition to that, Mr. Speaker, I was abroad recently in Mexico and I had discussion with the Mexican government with respect to this very particular matter. They are interested, not only in signing a trade agreement with Trinidad and Tobago but they have also expressed interest in signing an investment promotion and protection agreement, as well as a double taxation agreement with this country, in addition to setting up the kind of mixed commission which will facilitate the flow of investment and the increase of trade.

Mr. Speaker, on the same trip, I had discussion with the Venezuelan Foreign Minister and he also expressed interest in signing an investment promotion and protection agreement, and also a double taxation agreement with the country. So we are moving in that direction.

The Government of Panama has also expressed interest in that, so we are moving to encourage investment flows into Trinidad and Tobago from all over the world.

As a result of work being done by our Geneva mission, we have a very exciting prospect of investment flows into the country which we would talk about at a later stage, but I just mentioned it at this time to indicate to my Friend from Arima that we are doing our best to encourage investments into Trinidad and Tobago because we feel that it is critical in the context of the globalized economy to ensure continued economic growth, generation of employment and the eradication of poverty in the country.

I am reminded by my good Friend from Tobago West that, of course, Tidco is doing its best with respect to the expansion of the Export Free Zone.

In addition to that, Mr. Speaker, as you know, Caricom has been working towards a mechanism to encourage intra-Caricom investments and we are doing our best to ensure that Trinidad and Tobago is a spot for such investments.

I assure my Friends that the Government is doing its best to encourage investments and the passage of this Bill will give further strength and encouragement to the Commonwealth Development Corporation to act as a mechanism for the encouragement of these investments, and I have no doubt that when this Bill is in fact passed, we would be serving the interest of Trinidad and Tobago.

I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in Committee.

Clauses 1 to 4 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, without amendment; read the third time and passed.

EVIDENCE (AMDT.) BILL

Order for Second reading read.

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

That a bill to amend the Evidence Act, Chapter 7:02, be now read a second time.

Section 19 of the Evidence Act of Trinidad and Tobago provides for the admissibility into evidence in the courts of Trinidad and Tobago, of documents affixed or impressed with the seal and signature of any diplomatic agent of Trinidad and Tobago in a foreign country.

This Bill seeks to enlarge the scope of section 19 by the introduction of a new subsection (1A) in order to make admissible into evidence in any court of Trinidad and Tobago, documents attested in foreign countries and purporting to bear the seal and signature of a Notary Public, Commissioner for Oaths or any other person duly authorized by statute to administer oaths in that country.

2.50 p.m.

Mr. Speaker, section 19 (1A) which is clause 2 of the Bill reads:

“Where a document is attested to in a foreign country and purports to have affixed, impressed, or subscribed thereon the seal and signature of a notary public, a commissioner for oaths or any other person duly authorised by statute to administer oaths or to take statutory declarations in that country,

such document shall be *prima facie* evidence that it was duly sworn and such document shall be as effectual as if administered, taken or done by or before any lawful authority in Trinidad and Tobago.”

Mr. Speaker, if it is admitted as *prima facie* evidence that it was duly sworn such document is effectual. One knows, therefore, that it is then open to anyone to say that it was not duly sworn, so it is admitted as *prima facie* evidence.

Prior to 1988, Mr. Speaker, it was the practice in this jurisdiction to allow affidavits to another document sworn before notaries in non-Commonwealth countries where the office of Commissioner of Affidavits does not exist and there is no resident consular office, to be used in court proceedings. This facilitated nationals resident in foreign countries from whom affidavits may be needed and who did not have any ready access to consular offices of Trinidad and Tobago.

But, Mr. Speaker, there was a case known as *Pronan Incorporated v. The National Gas Company of Trinidad and Tobago* (No. 3848/1988) and it was held in that case that documents sworn before notaries in foreign countries were not admissible as evidence in the courts of Trinidad and Tobago, as such documents did not comply with the requirements of the Commissioner of Affidavits Act, Chap. 6:52 which relates to the appointment of commissioners in Trinidad and Tobago for the Diplomatic and Consular Offices Oaths and Notaries Act, Chap. 17:03 which, not unlike section 19 of the Evidence Act, makes admissible in evidence only those documents attested by a Trinidad and Tobago diplomatic agent or consular officer.

Mr. Speaker, this court decision resulted in undue hardship and inconvenience to our nationals resident in foreign countries, and the amending legislation attempts to remedy the situation by providing for the admissibility of those documents attested in foreign countries. The Bill proposes a further consequential amendment to the Second Schedule of the parent Act to enable fees to be taken by the appropriate officers of the Judiciary and the Magistracy in respect of those documents.

Mr. Speaker, I should mention, however, that the last administration attended to this problem and on May 11, 1995, upon a recommendation made by the Chief Magistrate that this Act be amended, Cabinet took steps to have the Law Commission look into the matter. The Law Commission did so and the Bill was drafted, having gone to and fro. This is, in effect, the product of action taken by the last administration, but, as I say, continued by this administration.

I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, the Bill before the Parliament today is part of a series of legislation which has been brought within recent times; and in every case, the legislation brought before the Parliament has the effect, in my respectful opinion, of not closing any loopholes in the law but opening a Pandora's box. I shall deal with the particular issue before the House today in a short while.

Mr. Speaker, on another occasion recently, we passed a Bill which made fundamental changes to the jury system in Trinidad and Tobago; and at the time it was the submission of the hon. Attorney General that this was improving the jury system in Trinidad and Tobago. What in fact is happening, Mr. Speaker, is that the Government UNC/DAC/vaps coalition is tampering with our legislation and on each occasion they are opening up existing laws to serious challenge in the courts. For example, the Jury Bill, as far as I am concerned, Mr. Speaker, will now pave the way for jury tampering where it did not exist in large measure before.

The Indictable Offences (Preliminary Enquiry) (Amdt.) Bill debated in this House some time ago again opened a Pandora's box, Mr. Speaker, which did not close any loopholes but formed far more loopholes than exist at present—the whole question of dispute about the timing of the certification of certified copies of documents; the integrity of the whole certification process and so forth. This Bill before the House today, Mr. Speaker, the Evidence (Amdt.) Bill, again tampers with existing law. There are certain words in the amendment such as—I will read the whole clause 2 (1A):

“Where a document is attested to in a foreign country and purports to have affixed, impressed, or subscribed thereon the seal and signature of a notary public, a commissioner for oaths or any other person duly authorised by statute to administer oaths or to take statutory declarations in that country, such document shall be *prima facie* evidence that it was duly sworn and such document shall be as effectual as if administered, taken or done by or before any lawful authority in Trinidad and Tobago.”

Mr. Speaker, one gets the feeling that the Attorney General is copying a lot of legislation from the United States; and when you see rules such as “any other persons duly authorised by statute to administer oaths” it begs the question: Does the Attorney General appreciate and understand the level to which notaries public

have—"deteriorated" is the best word—in the United States, for example? What are the qualifications of a notary public in the United States? As far as I am aware, Mr. Speaker, the situation varies from state to state; from jurisdiction to jurisdiction in the United States; and quite often the owner of a neighbourhood grocery with no other qualifications can be a notary public. This is why we in Trinidad and Tobago have been so careful in the past not to allow the standards that are applied in foreign countries to be imported into Trinidad and Tobago with all their imperfections.

In Trinidad and Tobago we are very careful about evidence, about the administering of oaths and the manner in which oaths are taken. These precautions do not exist in every other country in the world. Certainly in some of the less developed countries, the standards for notaries public or other authorities, as are referred to here, one does not even know what they are talking about in this legislation, Mr. Speaker, one is not sure whether the precautions that are necessary when certifying that an oath was properly sworn exist in many countries in the world. This is why, in the past, there was so much resistance to the importation of this kind of change to our legal system.

3.00 p.m.

What this amendment is also seeking to do is to put the onus on the accused person to determine the integrity and veracity or the "bona-fidencess" of the said notary public or any other authority, whatever that may mean. What is proposed is that a person may be in court and a document may be submitted which has the stamp of a notary public, a commissioner of affidavit or whatever in some other country—one does not even know what name they would be called in Bali or Singapore, for that matter, or Timbuktu. They do not have notaries public in—and it would now be incumbent upon the accused person to determine whether this notary public exists; and whether or not this is a complete fabrication. If the notary public comes from a foreign country, far overseas, this places a tremendous burden on the accused person, and would delay the trial because any reasonable judge would give the accused person time to determine the *bona fides* of the so-called notary public.

There are tremendous loopholes that are being opened up with this legislation. What can happen now is that a man of straw, an unscrupulous person can conspire with some other unscrupulous person and commit a forgery. Whereas section 19 of the Evidence Act is very clear, that:

"(1) A document purporting to have affixed impressed, or subscribed thereon or thereto the seal and signature of any diplomatic agent of Trinidad and Tobago in any foreign country, or any consular officer of Trinidad and Tobago in any foreign place, in testimony of any oath...taken, or done by or before any such person shall be admitted in evidence in any Court..."

One had the protection that our consular officers or diplomatic personnel would check, certify and take precautions with regard to these documents which could be a written record of an oath or a statement. That whole system is being abolished by this amendment. Now, our diplomatic officers or consular officers would no longer be the only persons required to attest to a document as being properly sworn and so forth.

Mr. Speaker, I am not looking at the veracity of the document. It is clear from the amendment that it is intended that the seal of the notary public is enough evidence that the document was duly sworn. It does not testify to the veracity of the contents of the document. In other words, the seal of the notary public does not certify that the person is telling the truth. So, before any arguments come from the other side, I want to put that to rest. What we are looking at here is the whole question of the credibility of the document.

In Trinidad and Tobago, most people think twice before they swear to an affidavit, or they swear before the proper authorities. Most people think twice before they do that because they are aware that serious criminal proceedings can flow from perjury, forgery and so forth. So that we have a system now which has a certain level of protection. When one sends that to a consular office in other countries, again one assumes that these are persons with a degree of responsibility and therefore, they would take the necessary precautions to ensure that these documents are properly administered. Not this piece of legislation. This is why I have to go back to the other legislation that we have experienced in the last few months.

In each case, with maybe one exception, the legislation brought before this Parliament opens a Pandora's box. The arguments of the Attorney General that the "UNC/DAC" vaps coalition is serious about crime, quite to the contrary, I believe that for whatever reasons, whether it is misguided or otherwise—maybe it is pure incompetence, I do not know—the legislation that is being brought before this Parliament is simply defective and is giving the criminals a field day; giving them the Habeas Corpus Act. As far as we on this side are concerned, it is unconstitutional and it would be tested when the first person who is freed on a

writ of habeas corpus is subject to an appeal. It will be tested. Again, the whole process would go through the various tiers of the court starting at the puisne level and going up to the Privy Council, and again delays in the administration of justice. Persons would be freed on a legal technicality because of the manner in which the justice system and the whole question of juries is proceeding.

I heard the hon. Member for Nariva speak about the cost of a retrial. What about the cost of a mistrial when a juror is interfered with or influenced, because we are now expanding the number of jurors? We are now making it more dangerous since we are now making it 24 persons who are susceptible to influence instead of 12; so one has to take more precautions.

Mr. Maharaj: Mr. Speaker, on a point of order. Standing Order 36(3) states that:

"It shall be out of order to attempt to revive in any debate a matter or reconsider any specific question (other than a matter or question relating to a Bill returned with any amendment by the other Chamber) upon which the House has come to a conclusion during the current Session, except upon a substantive motion for rescission which motion shall not be brought sooner than six months..."

What the hon. Member is doing is, in effect, debating the other bills. He did not debate yesterday, and he is trying to use this Bill as a debate. It is totally irrelevant. We are dealing with the whole question of evidence and the admission of evidence.

Mr. Speaker: I know it is not right to revive a matter which has been determined and debated in the present debate. I was listening to the hon. Member developing a point in terms of a series of bills and the like that have gone. I would ask him to bear that in mind and, indeed, if he continues along the lines of arguments which were used in that debate yesterday, I would be constrained to stop him.

Mr. C. Imbert: Thank you for your very wise ruling, Mr. Speaker. I was, in fact, simply referring to the bills and had no intention of reviving any debate. It is necessary for me to make the point because Members of this Parliament on the other side have a tendency to refer to their attack on crime saying, "Look at all the Bills we have passed". I am simply saying that all those bills are defective. I am not reviving the debate and have no intention of doing so. I am simply saying

that what they are in fact doing is paving the way for criminals to have a field day because of defective legislation. They are introducing defects into legislation and I do not know whether they are misguided or it is incompetence. I do not know what it is, but in every instance when one looks at it dispassionately, one sees that loopholes have not been plugged; the areas of ambiguity have not been removed and the loose expressions have not been tightened. They have been expanded; the loopholes have been enlarged and the areas for conflict of law have been increased.

I submit that the present Government in its haste to pretend that it is dealing with crime by bringing these Bills to Parliament is in fact doing the administration of justice serious injustice and harm.

3.10 p.m.

Look at this! As I made the point, if a record of a statement can now be admissible, based on the seal of some person in some other country who does not subscribe to the standards for giving and receiving evidence in Trinidad and Tobago, and in fact subscribes to lower standards, he/she would be diluting the integrity of our justice system and polluting our court system with defective imports from other countries. This is precisely what this Evidence (Amdt.) Bill can lead to.

I fully appreciate that there are bureaucratic impediments and difficulties which make life difficult for persons. I noted that the Member for Couva South made reference to the fact that it was held in a case of *Pronan Incorporated v. The National Gas Company of Trinidad and Tobago*. The document sworn before a notary public in other countries was not admissible because it violated another law and this caused undue hardship. This is a case in which in order to cure the patient, his/her leg or head is cut off. If the patient has a little mole on his cheek, his/her head is cut off. That is what is going on.

What is the bigger problem? Is it the hardship caused to our nationals in other countries because they have difficulty accessing our embassies or it may not be convenient for them? What about the problem in our court systems when every one of these documents is challenged by very ingenious criminal lawyers who say they want evidence that this person is a notary public? How was the oath taken? Was it administered properly? I want the trial delayed. I want it adjourned for two years. That is the other problem. We all know that criminal lawyers can be very

ingenious. In all cases when we are seeking to deal with problems of this nature we have to look at the implicating effect of what we are doing.

This is truly piecemeal legislation. I have heard a defence of piecemeal legislation from the other side, that if one does not do something one will be accused of not doing anything. This is the same group of people who condemned the People's National Movement administration for an alleged piecemeal approach to legislation dealing with crime. It is the same group of people who now excuse a piecemeal approach on the basis of if they were to do a comprehensive review of legislation, they would get nothing done.

I quote from *Hansard* dated October 1, 1993, from the contribution of the Member for Couva South. It states:

“Madam Speaker, how can I describe this measure? It is another step down the road to dictatorship and is a means to an end to challenge democracy in Trinidad and Tobago.”

How apt! It is very relevant to today, not to 1993. At the time the Member for Couva South was speaking on the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill which was brought to this Parliament by the PNM. He described it as another step down the road to dictatorship. That Bill dealt with the evidence; the whole question of paper committals; whether cross-examinations should be allowed and the whole conflict between oral and written testimony.

On that occasion the Member for Couva South made this statement:

“Even more dangerous, this Bill was not made available to the public.”

I am not reviving any debate, but yesterday we heard that Bills were sent to the Law Commission at various dates. That cannot be any sensible person's definition of consultation. Nine bills were sent to the Law Association and it was given one or two weeks to reply. Is that consultation?

On a previous occasion the Member for Couva South said that we should have meetings with the Inter Religious Organizations, the Police Association and have consultative forums. He wanted to know why the government of the day was not doing that. Of course, the reason was that we were trying to suppress democracy. What the Government is doing in Parliament in this session is 10 times worse than it accused the PNM of doing wrongfully. We never behaved like that!

Listen to this!

“...we agree with the principle of the Law Association that there ought to be changes, but, we cannot agree with that principle at the sacrifice of the procedural safeguards being taken away and, maybe abused by the politicians.”

That was the Member for Couva South talking about politicians abusing procedural safeguards. What do we have here today? The removal of a procedural safeguard where a consular officer or a diplomatic agent in another country would at least give some form of protection, integrity and credibility to documentation. He wants to take that away. I am glad that he gave an accurate record of what took place with this Bill.

I heard another version initially that this Bill had been approved by the Cabinet of which I had the honour to be a part. Now I have heard the correct version that it was sent to the Law Commission for its input. I am not saying that the first version came from the Member because I did not speak to him. I am just saying that I have now heard correctly that we did not have any part in the drafting of this Bill. I can tell you that if this Bill had come before the Cabinet of which I had the honour to be a part, there would have been serious discussion on it.

One wonders what happens now. Do these Bills just pass through and the Member for Couva South says, “all those in favour say ‘aye’; the ayes have it” and they move on to the next item; or is there serious debate within the Government on the merits and demerits of legislation of this sort? I think not. On this whole question of documentation one should know how dangerous the whole concept of forgery and improper representation can be. The Bill before the House will open up areas for forgery, false representation, and unscrupulous persons to collude with others; tarnish the reputation of people in this country, or create serious controversies, where if precaution and guidelines were in place, it would not happen.

I am sorry that the Member for Couva South is not in his seat. I will have to shout for him to hear me. In this contribution on October 1993 the present Attorney General made heavy weather about the passage of legislation in a rush.

3.20 p.m.

Listen to this from the Member for Couva South:

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“The Government must not come like a thief in the night and try to pass legislation which it has admitted would not make any dent in the problem of the administration of justice.”

He is talking about the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill, and he brings another amendment which is even less relevant than the Bill he was debating. He goes on and on about the government hoodwinking the population into believing that it was doing something by simply bringing bills before Parliament which it knew would not be effective.

I can repeat his speech word for word because it is relevant to the Members on the other side. They know they are opening up ambiguities in law. They know that they are creating grey areas and conflicts in law. They know that they are creating areas for persons to challenge evidence and delay trials, thereby postponing criminal proceedings and having cases dismissed through mistrials. This whole question of evidence is very, very serious.

With this amendment anyone can say anything about anybody in Trinidad and Tobago and it can be laid in the court. The Member for Couva South is very sensitive about this whole question of people giving evidence. I have his *Hansard* record of March 18 where he accused the PNM of harassing him and being involved in illegal activity and so forth. He referred to himself in the whole question of false evidence and forgery. I quote:

“The Member for Couva South was prosecuted on six criminal charges after his law office was searched shortly after he accused the then Prime Minister and the Members of the Cabinet of being involved in the drug trade.”

He made a big song and dance about scandalous allegations and then jumped up to talk about people imputing improper motives. He is implicating people and then talking about their making improper imputations.

“A witness by the name of Mervyn Hall was recruited by the state and paid money to give evidence in the Magistrates’ Court. After he gave evidence— ... It was not question of any witness died. It was before the court and the magistrate considered the prosecution’s evidence and dismissed the case. Subsequently, Mervyn Hall was killed after he gave evidence.”

The Member for Couva South was complaining that I had misrepresented the fact. He was complaining about persons being paid to lie and give false evidence and this is exactly what can happen with this Bill—persons can be paid to lie and

give false evidence. *[Interruption]* Does the Member want to know about the Bill? I am talking about the Bill because that is exactly what it can be used to do.

Mr. Speaker, I am not impugning anybody. I am not saying that the Members on the other side have malicious intent. I am saying that they are passing bad law. They are passing legislation which can be abused by unscrupulous politicians. I am not saying the present politicians, but the law is on the books and some unscrupulous politician in the future can use it to fabricate forged documents and bring it to court.

As I said, the Member for Couva South is very sensitive about statements being made on the whole question of false evidence. Since I am raising the question of false evidence and what can be done with it—forgery and persons being bribed to give false evidence—I think I will correct a particular record of the Member for Couva South about evidence. Before he jumps up and tells me that I am being irrelevant, we are talking about the Evidence Act. The Evidence Act, for his information, has 47 clauses.

The Member for Couva South huffed and puffed and blew steam about misrepresentations made. He stated that he was charged with particular offences, no witness was killed and the case was—

“It was before the court and the magistrate considered the prosecution’s evidence and dismissed the case. Subsequently, Mervyn Hall was killed after he gave evidence.”

That implies that the particular witness was killed after the person was involved in the case and then the case was dismissed. But the headline of the *Guardian* of January 12, 1990, is “File in bribe case vanishes”.

“The entire file containing conspiracy and bribery charges as well as notes of evidence against ... have disappeared from either the Port-of-Spain Magistrate’s Court or the Hall of Justice.

Magistrate Eileen Clarke, presiding in the Port of Spain Eighth Court told the various parties that the proceedings have been lost and cannot be found and that she considered it a very serious matter.

Clarke read a letter from Chief Magistrate Melville Baird dated September 20, 1989, in which Baird stated that the file was missing and ‘there was nothing further he can do.’”

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Mr. Speaker, I am developing this matter to show how, if evidence is tampered with, there can be a certain result. I am not saying that anybody tampered with any evidence. The fact is that the file in the bribery case vanished. We go on:

“Attorney-at-law Vernon De Lima, who appears with Allan Alexander ... for the prosecution, said he believed that the file was stolen. ‘I am appalled to hear that documents in the courts of Trinidad and Tobago are missing,’ ...

‘It’s very frightening to know that the file has disappeared.’ ...”

The point I am coming to is this:

“One of the prosecution witnesses Mervyn ... Hall, was shot and killed two years ago by a police corporal during a robbery attempt on a grocery in Enterprise, Chaguanas.”

I do not know if the memory of the Member for Couva South is defective or it was a slip of the tongue, but the fact is that in this particular case the evidence was given, the witness was killed and the case was not proceeded with. Those were the facts. What the hon. Member for Couva South put in *Hansard* was that the witness was killed long afterwards; the magistrate dismissed the case and then the witness was killed. This is not so, Mr. Speaker. The file was lost, the witness was killed, and then the case was discontinued. It all goes back to the veracity of evidence.

3.30 p.m.

When there is a situation of an act being committed and this poor person languishing in the state prison and he is told that someone in New Zealand has sworn before a notary public, what is that person to do?

What is his protection? Is he supposed to ask the court to bring in the person from New Zealand so he could cross-examine him? What is the remedy, Mr. Speaker? This is a matter of tampering with evidence and the Member for Couva South should be very mindful of that, because he has always indicated that all the court matters in which he was involved were murder charges and charges of conspiracy. Mr. Speaker, serious charges were made in the *Guardian* dated July 24, 1996. They claimed that he was attempting to pervert the course of justice by causing a submission of forged affidavits. We come back to the crux of the matter.

Dr. Rowley: Who was charged with that?

Mr. C. Imbert: The hon. Member for Couva South was charged with attempting to pervert the course of justice by causing the submission of forged affidavits; perjury with a witness named Mervyn Hall! Conspiracy to pervert the course of public justice by submitting to the Director of Public Prosecution forged affidavits purporting to be that of Mervyn Hall, witness in a murder case. Uttering of a false document namely an affidavit in the name of Mervyn Hall.

Look at the travesty of justice, Mr. Speaker. Look what they did to my hon. colleague. They charged him with all these things. His defence was that the state paid money to the dead witness to give evidence. Do we really want these things to happen, Mr. Speaker? Do we really want to open up areas where persons can be paid to defame the character of people in Trinidad and Tobago; to accuse people of criminal acts where a person would have no redress or opportunity to deal with it? As I said, any reasonable judge would either dismiss the document out of hand and say that this document cannot be admitted because the credibility of the testimony cannot be easily determined; or, would allow suspension of the proceedings for checks to be made. Is this what we want? Is this what we call streamlining justice to fight crime? A murder case that would take 10 years would now take 20 years because every affidavit brought before a notary public in the United States has to be checked for its veracity. Or, the notary public has to be checked to see if they appear on any official list in any state in the United States of America, in Japan, Australia.

The next thing the criminal lawyer would then say: All right that person appears on the list of notaries public in Sudan. What is the process of attesting to documentation in Sudan, Mr. Speaker? What is the integrity of the process? How do they take the oaths? Do they carry out a proper procedure. That is what the smart criminal lawyer will do. He will challenge the whole process of receiving the seal of this so-called person in this foreign country and further delay the trial. Is this amendment helping criminals? Or, is it helping the administration of justice? *[Interruption]* I hear some bleating coming from somewhere on the other side. *[Interruption]* Mr. Speaker, I know you are following the debate and you are not deterred by the mutterings on the other side.

In the United States the qualifications for notaries public vary from state to state, from town to town and from village to village. Where a notary public in New York might be someone of stature, someone very outstanding in the community, someone who is capable of administering an oath properly, is that the

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same case in Missouri, Milwaukee or in Idaho? Do we know that, Mr. Speaker? No, the evidence in this particular matter points to the opposite. There have been several instances where there has been difficulty with accepting the credibility and the integrity of notaries public in the United States. That is one of the most powerful and developed countries in the world and there are problems there with standards of notaries public. Since there are problems in the United States of America, there will be problems in Europe, India, Africa, Australia, New Zealand, China and so on. That is the whole question of the legal system, the legal precedents and interpretation of the law to which we are accustomed in this country.

As my hon. Friend from Toco/Manzanilla said on another occasion, what they are doing is importing legislation wholesale with all the defects, not looking at the commentary on this type of legislation in other countries; the learning, the research in the law libraries, the research in legal departments in some of the distinguished universities; not looking at the problems and at the situations that may arise. They are just copying legislation wholesale.

I am asking Members on the other side to be a little more careful. I hope they are listening because they like to treat everything in a superficial manner. What we on this side are trying to do, Mr. Speaker, is to point out the defects in the legislation they are trying to bring. We feel it is our duty. In this particular case I would like to see some guidelines. For example, why cannot our consular office or our diplomatic agency certify the notary public in question? Why cannot our consular officers have a register of approved notaries public. If the problem is bureaucracy, one cannot make one's way to the consular office; one is in Los Angeles and one cannot get to New York or something like that, or one is in Nova Scotia and one cannot get to Toronto, whatever is the case—why cannot our consular offices have a register of approved notaries public and certify the appropriateness of the notary public? Why not? A simple little thing like that, Mr. Speaker. If that were done, a lot of this debate might not have even transpired.

My understanding of the Members on the other side is their unwillingness to consider any points made by the Members on this side, especially when the points have relevance, as we saw with the Rent Restriction Act, and as we will see with the Habeas Corpus Act, there is some sort of false pride, Mr. Speaker. I can tell you that the PNM administration had no such false pride. Whenever a query was raised by Members on the other side it was subjected to serious scrutiny. On

occasions we suspended debate on the bills. *[Interruption]* Yes, really, you are too young, you do not know about this. On occasions we suspended debates in this Parliament. We went away, deliberated and then accepted copious amendments from Members on the other side. That is the record of the Members of the PNM administration. *[Desk thumping]* Whenever a serious point was made we stopped the debate on a bill, went to talk about it, and came back with amendments which we were all comfortable with. But not this Attorney General and not this vaps coalition. Everything they do is right, even when it is wrong; especially when it is wrong.

When they begin to tamper with the whole question of evidence, which is what they are doing; they have tampered with it in the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill and they are tampering with it in this Bill. They are tampering with the integrity of evidence, making it easy, as I have said, for men of straw and unscrupulous persons.

3.40 p.m.

Mr. Speaker: Hon. Member, your speaking time has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. *[Dr. K. Rowley]*

Mr. C. Imbert: Mr. Speaker, we have a long legal tradition in Trinidad and Tobago; errors are made in the court and they are corrected on occasions, sometimes not. We have a certain tradition, a system which, as you know, has stood the test of time. Why is this administration so keen on tampering with the whole concept of evidence? What is it? What is the piece of evidence that this administration wants to bring that is so important? What is the document that is so important that it is essential for this legislation to be rushed through the Parliament in an unscheduled sitting? What is it, Mr. Speaker? I am not happy with the manner in which the administration is proceeding.

One would think that the Member for Couva South would be the last one to tamper with evidence because he knows everything, as he said, pertaining to false evidence. He has suffered as a result of false evidence of forgery, perjury and so forth. He has said that he suffered because of persons submitting false evidence, so he, more than anyone else in this Parliament, should be aware of what could happen to persons who are subjected to false evidence. Why are there no guidelines, Mr. Speaker?

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Even if one goes into the English Law and sees similar amendments to the whole question of evidence, there are copious guidelines: the person has the right to challenge; the person is given notice of a document and has time to investigate the veracity of this document and so forth. Why are we bringing amendments to this Parliament without any of those guidelines? Why copy legislation from other jurisdictions with no safeguards? Why the haste, Mr. Speaker? One has to be a bit wary and concerned about what is going on because there are two bad issues that could arise out of the legislation of this nature: one, it can be abused by politicians, and two, it can be abused by criminal lawyers. Politicians can victimize persons in the society and criminal lawyers can delay trials unnecessarily to the point where they are dismissed. That is the end result of all of this.

Mr. Speaker, I sincerely hope that the learned Attorney General is listening because he is a "harden" fellow. When one gives him sound advice he does not listen. That is the whole question of false pride I am speaking about. He believes, it is clear, that he has more superior legal knowledge than all of us on this side. He certainly has more superior legal knowledge than I have; I would be the first to say that. However, a lot of these are matters of common sense and one does not need to be a lawyer to establish the fact that this legislation opens up a Pandora's box. It puts serious pressure on accused persons who now have to go and find out where this document came from and what is its credibility and so forth.

So I am asking the other side, Mr. Speaker, to be a bit more serious when they come to this Parliament. Let the Members discuss these issues in their caucuses, whenever they have them, and do not allow the Attorney General to railroad all of them just to say the legislation is good and they all have to shut up, because he is the boss; "if I say this Bill is good it is good!" I am asking all of them not to allow themselves to be railroaded; challenge the obvious defects in this type of legislation that the Attorney General is bringing before this House, and then there would be proper debates and legislative procedures and one would actually see the Parliament beginning to function. I am asking the Government to do that. We on this side are prepared and willing to support any legislation in the interest of the population of Trinidad and Tobago, but we cannot and would not support badly drafted legislation because we believe that it would be of greater injustice.

With this particular case we are simply asking the Attorney General to put guidelines into the legislation to allow our diplomatic agents or other competent persons to certify that the Notary Public in question is, in fact, a *bona fide* notary

public. In that case, it would enhance the legislation, but to leave it bare like this is to open up a situation where criminals would get away; innocent people's reputations would be tarnished; politicians in the future would have the opportunity to victimize and terrorize people and our legal system would be damaged. That is my request of this Government with its *bravé dangé* and the boisterous and gregarious noises that I heard from the Member for St. Joseph—totally ignorant of the facts. I am asking the lawyers on the other side to examine what they are saying and determine if there is any merit in it and deal with the matter appropriately.

I thank you, Mr. Speaker.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I am always amazed at the Member for Diego Martin East when he accuses this Government of bringing legislation and bad law and of tampering with the law. He accuses this administration of being like a thief in the night when it was his administration, as you would recall, that brought a Bill to fire the former Speaker of the House. It was his administration that placed the former Speaker under house arrest, so they could come to this Parliament and tamper with the Constitution to pass a law to fire the former Speaker. This is why we can pay no heed to the words of the Member for Diego Martin East when he said that my administration is tampering with the law. It is very clear, hearing him speak for the past hour and 20 minutes, that he does not, with the greatest respect to him, understand what is the purpose of the amendment. Perhaps he should take his own advice and hold caucuses with those on his side and perhaps the lawyers on his side could advise him of the purpose of this amendment that is before the House.

Mr. Speaker, I am sure the Member for San Fernando West would tell him that in the everyday practice of the law we face tremendous difficulties when we need to have evidence from nationals residing abroad; when we need to have evidence and there is no diplomatic or foreign office, we face tremendous difficulties. He speaks of the criminal law, he speaks of an accused person and he forgets, for example, there is a whole area of the law that deals with civil law, family law, matrimonial law of this country, all the civil proceedings. In all of those there is a host of applications, Mr. Speaker, which as you would know, must be supported by evidence given by affidavit. The Member is not interested in the things that are good for the benefit of the people of this country.

3.50 p.m.

He says he is not interested in that, but we have to be interested in matters that deal with custody of children; access to children; property settlement; maintenance; application for the possession of land; application for accounts of estate; for the administration of estates, a whole host of applications as the Member for San Fernando West will tell you, that needs to be supported by affidavit evidence. Therefore, if there is an action or a suit or proceedings in a court in Trinidad and Tobago, and an affidavit is one of the things that is needed from a person who is abroad, we then must send for that person and go through the fuss and delay of bringing that person when it is just a simple matter of evidence that should come before the court. For example, if it is that a wife should bring an application for custody or maintenance and she needs to get proof of some evidence from Lebanon, for example, which might have been where that evidence is, does she then go to Lebanon and get that evidence because there is no foreign diplomat there who could sign the document and attest to it?

If one reads the amendments very carefully, one will see the kind of fears that the Member has will not arise. As the hon. Attorney General will tell you with respect to the criminal law, if it is that you are dealing with documents going into evidence whether it be criminal or civil law, as you well know, there is a tremendous distinction between admissibility and the weight of evidence which, with the greatest respect to the Member for Diego Martin East, he seems not to have grasped at all. What the amendment purports to do, where a document is attested—and attested simply means—and I read from the dictionary of English Law—I remember my Friend from Diego Martin East quoted from the Webster's or the Oxford Dictionary:

“Attestation is merely the signing by a witness to the signature of another of a statement that a document was signed in the presence of the witness.”

That is all; that I was present when the witness signed. That is all that attestation means. So where a document is attested to in a foreign country and purports to have affixed, impressed or subscribed thereon the seal and signature of a notary public, a commissioner for oaths or any other person duly authorized by statute to administer oath or to take statutory declaration in that country, such document shall be *prima facie* evidence that it was duly sworn and that such document shall be as effectual as if administered, taken, or done by or before any lawful authority in Trinidad and Tobago.

All this amendment is doing is allowing the attestation of a foreign notary public, a court official in another country authorized by statute in that country to take oath in whichever foreign country it may be. This is all this amendment seeks to do. It does not then put the document into evidence. I think that is what the Member fails to understand. Because it is *prima facie* evidence does not mean that it is admitted into evidence and this is what the Member has to understand.

He talked about guidelines within this amending Bill but if the Member had looked at the Evidence Act, Chap. 7:02, as a whole, and at the rules of the Supreme Court, all the guidelines are there with respect to documentary evidence going before a court of law. He talked about the need to give notice, that in the English legislation there would be guidelines with respect to—I do not know which English legislation he has looked at—notices and challenges. I am sure the Member for Arouca South would tell him that the guidelines are here within the rules of the court, within the Evidence Act. We do not need in the amendment, to go through all those guidelines again, they are there with respect to how the evidence is to be admitted into the courtroom.

For example, if it is that a document is attested to in a foreign country and it is presented before a court of law, it does not mean that that is gospel before that court of law, it does not mean that that is the evidence before the court. That is open to challenge. The other side is given notice any time a document is going to be put into evidence within 21 days or 24 days' notice has to be given to the other side and the other side then has the time before the trial to make investigations that we spoke about and to go through whatever challenges there may be.

This Bill, like the others that we have brought, do not tamper with the law. The law cannot be static and we said that yesterday. The Minister of Health was very clear yesterday when he talked about development. It cannot be that we live in Trinidad and Tobago and we accept only things that are of Trinidad and Tobago, and we fail to accept and deal with the international community. It was his administration, if I recall correctly, that was talking about a global village, about Trinidad and Tobago being part of a wider global village. How is it then that we will exclude what, in law in another country will allow in terms of attestation and we are dealing only with—if the Member reads the amendment very carefully—attestation?

Our society has become more complex and more international in our outlook. As it is so many of our nationals have moved into every corner of the globe. He himself recognizes if it is that we have nationals living in parts of the United

States and our diplomatic mission is in New York, does one come from Louisiana to New York to have the consular office merely attest, merely say that I was present when a signature was put on a document? Does that person go through that expense, does one do that? You see, Mr. Speaker, his concern is about false signatures. Is he saying that concern will not arise whether this is there or not? He himself has pointed out with respect to the Member for Couva South—and I have said it before, and I remember the Member for Caroni East talked about a fatal attraction, is it? He seems to be obsessed with the Member for Couva South. Every time he comes to this House he spends 75 minutes of the time repeating the words of the Member for Couva South. He brings the *Hansard* and he goes through. It seems as though he spends his nights pouring over the words of the hon. Member for Couva South. I do not know—but as the Member for Caroni East has indicated to me—whether it is a Freudian obsession the Member has with the Member for Couva South. It clouds his vision, in my respectful view, with respect to the Bill that is before the House.

The Member for Diego Martin West has suddenly come alive, perhaps he too, has an obsession. I cannot say.

Mr. Speaker, the second part of the amendment, clause 3 of the Bill is a very simple amendment, but by section 31 of the Evidence Act, fees are to be paid and taken by officers of departments listed in the Second Schedule of the Act for copies of documents and certificates of correctness. Section 31 reads:

“There shall be paid to and taken by the officers of the departments in the Second Schedule mentioned, except the Registrar General’s department, the following fees, that is to say:

For every copy of any document, for every 90 words...”

And the fixed figure is given.

“All fees under this Act shall be paid to the Comptroller of Accounts.”

4.00 p.m.

Unfortunately, although the Judiciary and the Magistracy provide certificates of correctness and copies of notes of evidence to the public, under the existing law, no officer in the Judiciary or the Magistracy is listed in the Second Schedule as being authorized to take payment for these documents. On the recommendation of the Chief Magistrate, it was recommended that we include the Clerk of the

Peace, magistrates of each court, and officers of the Judiciary in order to give these certificates of correctness and copies of documents.

So that, clause 3 seeks to make that amendment by inserting “Judiciary/Magistracy”; and the words “Clerk of the Peace of each Summary Court” to allow the Judiciary and the Magistracy to authorize the release of copies of notes of evidence and certificates of correctness. This will certainly assist litigants and those interested in such documents in going at a one-stop to speedily obtain copies.

Mr. Speaker, I would have liked to stand here and speak for 75 minutes but it is my respectful view that this Bill, “An act to amend the Evidence Act, Chap 7:02” is of great usefulness to litigants, and any attorney in the practice of law in the courts of this land will support the amendment that is before the House.

As to opening Pandora boxes, I am sure that the Member for Diego Martin East has become exceedingly paranoid and it has to do with his obsession with the Member for Couva South. But there is no Pandora box that was opened, and I ask the honourable House to support this Bill.

Thank you.

Dr. Vincent Lasse (*Point Fortin*): Mr. Speaker, I rise to speak on the Bill to amend the Evidence Act, Chap. 7:02, but before doing so I think I should dwell shortly on the contribution made by the Member for Siparia.

I am a bit disappointed because I thought that the Member for Siparia, the ex-Attorney General, short-lived albeit, would have been addressing matters of jurisprudence so that we who are not legal persons would have been able to understand more effectively what is being transpired.

However, may I simply indicate to the Member for Siparia that her knowledge of diplomatic offices of Trinidad and Tobago is wanting. In most jurisdictions, Trinidad and Tobago have diplomatic missions and wherever one does not exist there is an arrangement with the British High Commission or another Caribbean Embassy to deal with the matter.

Mr. Speaker, as to the veracity of documents, when the Member for Diego Martin East was speaking, he did not challenge the veracity of documents. I want to speak a bit on guidelines.

Mr. Sudama: What did he challenge? Did he challenge anything?

Dr. V. Lasse: Mr. Speaker, he was speaking about the fact that the consular officer should attest to the veracity of the document. This is what I gathered. Guidelines are necessary because we are moving into an arena where we are dealing with legal systems or jurisprudence in one area or another. We would be speaking about American jurisprudence as compared to British jurisprudence. I would develop that as I go along.

Another point raised by the Member for Siparia—and I agree with her—is that the law cannot be static, but she should remember that law follows society, and what we are doing here is trying to deal with American jurisprudence and, at the same time, Trinidad and Tobago jurisprudence or British jurisprudence.

Let me deal with the last point raised by the Member for Siparia. The officer at the High Commission or the Embassy does not attest to the fact that he was present at the time the document was signed. What the officer or the mission would attest to, is the authenticity of the document or the fact that the notary public in question does exist. An example of this is whenever a national of Trinidad and Tobago submits a medical certificate, the Embassy or the High Commission can attest to the fact that the medical practitioner is on the list of medical practitioners.

Mr. Speaker, I think I have dealt with the few points raised by the Member for Siparia, but, as I said before, I am somehow disappointed because I was trying to get some jurisprudence from her.

Before I delve into the substance of the Bill, and also to point out the seriousness of the law of evidence, at this stage I must refer to some of the concerns we on this side have with respect to the manner in which the hon. Attorney General has been dealing with, what we consider, major issues pertaining to the codification of law and the rather casual way in which he applies and interprets law to given situations.

Mr. Speaker, you can recall that on Friday, March 8, 1996, in my contribution on the Rent Restriction (Re-enactment and Validation) Bill, I mentioned that I found myself in an awkward situation because it seemed to me then that the time had expired on the Bill we were debating.

The Attorney General who should be the officer to give us the guidance, in what I consider a piece of legal footwork, gave an interpretation that all was well and we should continue with the Bill as usual.

It was rather strange that on March 15, 1996, the Attorney General returned with another version of the Bill, and that confirmed our view that he was operating, as it were, by vaps.

4.10 p.m.

Mr. Speaker, that is why we on this side have become very, very careful about dealing with any piece of legislation that is presented by the hon. Attorney General. We are dealing with evidence and crime and in order to establish the fact that the Attorney General has been misleading us on many occasions, he came to this honourable House and mentioned that the crime rate was dropping, yet the *Express* of March 22, 1996 states:

“Police figures contradict AG—10 % increase in serious crimes”.

Mr. Assam: Deal with the jurisprudence.

Dr. V. Lasse: “Police statistics show an almost 10 per cent increase in serious crimes in the country contrary to what Attorney General, Ramesh Lawrence Maharaj said in Parliament on Monday.” Mr. Speaker, for this I believe the Member for Couva South owes this honourable House an apology. [*Desk thumping*] That is why in dealing with a Bill to amend the Evidence Act, Chap. 7:02, we on this side will have to examine very, very carefully what is before us.

Mr. Speaker, the Law of Evidence, being a part of the law of procedure has not responded to simplification over the years, as other parts of procedural law. To this extent, Mr. Speaker, please permit me to quote a modern scholar on the subject when he mentioned that “Deductions of evidence and decisions on evidence questions are as the sands of the sea.” Mr. Speaker, as a former student of American jurisprudence, I am familiar with the complexities of the law of evidence and that is why I believe we should not take this amendment lightly.

Mr. Speaker, noting that we will be approaching a situation where we will be dealing with American jurisprudence on the one hand and British jurisprudence on the other, I think it is necessary for me to refer also to the fact that the written word remains the genuine memorial, so far as it goes, of what was actually agreed to.

If you permit me, Mr. Speaker, I shall read Rule 70 of the Rules of Evidence, because, as I see it, many of the cases that we would have to deal with as we go along, may be cases dealing with American jurisprudence. As such, if the Member for Couva South did not take time to explain to us the various rules of

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evidence, I think it is my duty to do this. According to "The Uniform Rules of Evidence" in American jurisprudence, it states that:

"As tending to prove the content of a writing, no evidence other than the writing itself is admissible, except as otherwise provided in these rules, unless the judge finds (a) that the writing is lost or has been destroyed without fraudulent intent on the part of the proponent, or (b) that the writing is outside the reach of the court's process and not procurable by the proponent, or (c) that the opponent, at a time when the writing was under his control has been notified, expressly or by implication from the pleadings, that it would be needed at the hearing, and on request at the hearing has failed to produce it, or (d) that the writing is not closely related to the controlling issues and it would be inexpedient to require its production, or (e) that the writing is an official record, or is a writing affecting property authorized to be recorded and actually recorded in the public records ..." and (2):

"If the judge makes one of the findings specified in the preceding paragraph, secondary evidence of the content of the writing is admissible."

Secondary evidence, Mr. Speaker, is what this Bill intends to deal with.

Mr. Speaker, dealing with certified copies would present problems and many times problems dealing with conflict of laws. Mr. Speaker, how does one produce a certified copy of a missing document? [*Interruption*] This was elaborated upon by the Member for Diego Martin East. How does one produce a copy of a missing document?

Mr. Imbert: Make it up.

Dr. V. Lasse: Mr. Speaker, this amendment which would be calling, in some instances, for the use of certified copies of documents instead of the original, is not as simple as it may appear.

Mr. Imbert: Not at all.

Dr. V. Lasse: Mr. Speaker, I am of the firm view that drafters of legislation must look for the loopholes before drafting, rather than after; and we are familiar with this.

Mr. Sudama: Look at the loopholes before they exist?

Dr. V. Lasse: We have a situation where persons on the other side speak of using the loopholes in the day and plugging the same loopholes at night. I submit,

Mr. Speaker, therein lies the danger, because one cannot be fish and fowl in the same existence.

Miss Nicholson: That is PNM boy. You talking about yourself!

Dr. V. Lasse: Mr. Speaker, the hon. Attorney General has been speaking quite recently about plugging loopholes and we on this side agree that he must do so in all cases, not some cases. But to do so, we must adhere to the basic tenets of the law of evidence, especially in relation to this Bill before us and in so doing, it has been stated that the production of the original writing is the best evidence. I repeat, the production of the original writing, and not the certified copy, is the best evidence. I say this, Mr. Speaker, because there would be, as we go along, many challenges to certified copies and this, of course, would cause delays and mistrials.

4.20 p.m.

Of course, here I want to ask: What really is the intent of the drafters of this Bill?

Mr. Speaker, as we examine the Bill before us, I would first quote from section 19(1) of the parent Act, which states:

"A document purporting to have affixed, impressed, or subscribed thereon or thereto the seal and signature of any diplomatic agent of Trinidad and Tobago in any foreign country, or any consular officer of Trinidad and Tobago in any foreign place, in testimony of any oath, affidavit, or act administered, taken, or done by or before any such person shall be admitted in evidence in any Court of Trinidad and Tobago without proof of his seal or signature or of his official character."

I am wondering why this amendment could not have been incorporated into the original.

The amendment states that:

"Where a document is attested to in a foreign country and purports to have affixed, impressed, or subscribed thereon the seal and signature of a notary public, a commissioner for oaths or any other person duly authorised by statute to administer oaths or to take statutory declarations in that country, such document shall be *prima facie* evidence that it was duly sworn and such document shall be as effectual as if administered, taken or done by or before any lawful authority in Trinidad and Tobago."

Mr. Speaker, I believe that there could be a deletion of at least half of this amendment. This amendment could end at "notary public" and not mention all the others who are, in a sense, notaries public. Of course, these must be attested to by an officer of a mission of Trinidad and Tobago in the country from which that document would come, but to simply have a document imported, so to speak, into Trinidad and Tobago, having been signed by a notary public leaves much to be desired.

Mr. Speaker, again I am wondering what is the intent of this? Is it yet another design to create confusion in the legal system of Trinidad and Tobago? Is it yet another design to allow certain criminals to challenge the document and eventually go free? Is it an attempt to prolong proceedings in the court? Is it an attempt to allow certain criminal lawyers to continue to get rich? I do not know and I believe we on this side would have been happy to know exactly what is the intent of this piece of legislation.

Mr. Speaker, I have great problems in understanding what the amendment is trying to do. I have great problems in so doing. We on this side would expect the hon. Attorney General, in summing up, to deal with the concrete and practical issues raised by Members on this side. It has become familiar for the Attorney General, in summing up, to more or less side-step the real issues and gallery himself while ducking out from what is before us. Sometimes, one gets the impression that the hon. Attorney General is shifting the burden from the Government to the Opposition. We on this side are competent to deal with the issues and whenever it is not explained by Members on that side, we shall do our best to explain it so that the national community would understand what is going on as far as the codification and development of law goes in Trinidad and Tobago.

Mr. Speaker, we on this side would have been delighted—and I would have been much more delighted—to have had a contribution from the distinguished Member for Tobago East, the Minister Extraordinaire, who is very active in the field of international criminal law. I have personal knowledge of this, Mr. Speaker.

Further, this Member is in the forefront of trying to establish an international criminal court, yet here we are debating a major facet of law which would be transcending international boundaries, and the silence of the Member for Tobago East is more than obvious. As we say in local parlance, you can hear a pin drop, the silence is deafening. One should be concerned.

Mr. Speaker, since I am not convinced so far by the arguments advanced by the Members on the other side, I believe that an intervention by the Member for Tobago East should be helpful, and as such, he should abandon his self-imposed silence and give the national community his position on the Evidence (Amdt.) Bill. We on this side wish to be educated.

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

4.30 p.m.: *Sitting suspended.*

5.04 p.m.: *Sitting resumed.*

Dr. V. Lasse: Before we adjourned I was on my feet trying to establish or read into the records more jurisprudence than politics in the matter before us. In so doing I referred to the Member for Tobago East. I was sincere in my approach because I believe that we need more persons who are versed in jurisprudence to deal with these matters before this honourable House. One day, a long time from now, when our grandchildren would go to *Hansard* to look at a debate which dealt with an important facet of law as evidence, they would only have an opportunity of getting—in many instances—political picong and not the addressing of the issues dealing directly with jurisprudence.

I must submit that we on this side are sincere when we ask for the intent of a piece of legislation. We ask the hon. Attorney General to indicate to us where we go from here and to level with us so that we would have a better understanding and would be able to respond accordingly.

While I try to deal with this matter as a question of jurisprudence, I note quite carefully that we would be dealing with various jurisdictions. We would be dealing with American and British jurisprudence and even the legal system of France and other countries. I thought this is the type of argument one would be addressing, one which relates to comparative law and the question of the conflicts of law.

I spent some time dealing with the uniformed rules of evidence because I am confident there would be many cases in which we would have to seek information or certified copies from the United States of America, because it seems that we are moving closer in that direction. There are many excuses for the non-production of the original writing of which Members should be aware.

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Mr. Speaker, with your permission I shall deal with only one instance of excuse for non-production of the original writing. That is in the case of loss or damage. Since I am dealing with jurisprudence, I want to be very careful in my pronouncement, and as such, if you will permit me I would try to follow my copious notes. If, for example, the document cannot be produced because of loss or destruction, the production of the original may be excused. The best obtainable evidence of its contents must be produced. The Bill before us is seeking to use certified copies as the best obtainable evidence. I am speaking of evidence in the broader sense and its admissibility. For a document to be admissible, it first has to be admissible in the jurisdiction from which we are seeking it.

Mr. Robinson: Authenticated.

Dr. V. Lasse: Of course authenticated by the appropriate authority. That is why I wanted the Member for Tobago East to speak.

I spoke in the case of loss or damage of a document and the procedure which is being followed in the United States in order to deal with the situation. We on this side have always demonstrated our reasonableness. We are not here to oppose for the sake of opposing as we experienced when those on that side were on this side.

In supporting any document we believe that the Members on the other side should continue to practice what they preach. If they continue to run this country as was mentioned before, by vaps; if they would allow crime to become the order of the day; if they allow the written or original documents to disappear as some witnesses do and democracy to be challenged; and if this amendment is to be supported by this side, and I believe an amendment would be tabled later, we on this side would support a document based on logic, jurisprudence and with the clear intent of the drafters of this Bill.

Thank you.

5.10 p.m.

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I rise to speak in support of this Bill, but first I want to pay some attention to the contribution of the Member for Point Fortin.

In his fairly long discourse on this matter, the hon. Member treated us to a treatise on American jurisprudence and the necessity for its uniformity. The Member also indicated that he did not see the purpose of the amendment and that

he wanted to find out its intent. Clearly, all the hon. Member had to do was to read section 19(1) of the Act and the amendment in clause 2 to see that the amendment speaks for itself.

I get the impression that whilst there is some sense of urgency on the part of the Government to get on with its legislative agenda, there exists a slowness of speed on the other side. I am beginning to understand that the speed of the fleet is the speed of the slow ship, so I will take my time to read clause (2) of the Bill for the benefit of the hon. Member for Point Fortin.

“(1A) Where a document is attested to in a foreign country and purports to have affixed, impressed, or subscribed thereon the seal and signature of a notary public, a commissioner for oaths or any other person duly authorized by statute to administer oaths or to take statutory declarations in that country, such document shall be *prima facie* evidence that it was duly sworn and such document shall be as effectual as if administered, taken or done by or before any lawful authority in Trinidad and Tobago.”

The Explanatory Note is quite clear—the admission in evidence of documents attested to in a foreign country. This is all. It is a facilitative, incorporative, inclusive amendment. It seeks to cure the problem of persons resident abroad who are not able to access the consular officials as indicated in section 19A. So, on the face of it, this amendment is quite clear. There should be no problem of understanding the intention of the amendment.

The hon. Member for Diego Martin East seems, from his contribution, to have a problem with anything innovative. He seems to have such a narrow focus—I will not say small—of matters, that I am tempted to say that he reminds me of Procrustes, that famous man from Attica who made people conform to the length of his bed by stretching or mutilating them. He is Procrustean in his thought, Mr. Speaker. Once any measure of innovation comes outside the realm of his thinking, he mutilates it. This is something we have to recognize.

As the Member for Siparia indicated, we live in a global environment and in an era of trade liberalization. The hon. Member for Diego Martin Central earns part of his income in Antigua, St. Lucia and other areas served by Liat. He recognizes that he cannot be Procrustean in his approach to earning an income. So, too, we are applying this global, liberal thinking to the realities of the world. Section 19 is a recognition of that reality.

When the hon. Member for Diego Martin East spoke, he clearly understood from a layman's perspective the meaning of evidence. It means the mechanism by which something is proved or disproved. Clearly he failed to recognize that the evidence in law encompasses a much broader function. I can attempt to place it in three categories:

- (1) It includes the rules which regulate the way in which things may be proved to the satisfaction of the court.
- (2) It prescribes the level of proof that the court is required to have before it can make a finding on any issue.
- (3) It also encompasses the rules prescribing the relative function of judge and jury with respect to the receipt of evidence.

When one looks at clause (2) of the Bill it indicates that:

“Section 19 of the Evidence Act is amended by inserting after subsection (1) the following new subsection ...”

It also mentions the word “document”. What is a document, Mr. Speaker? Section 21 deals with documentary evidence in certain cases and it provides a definition of document with respect to that particular section. It says:

“‘document’ means and includes proclamations, orders, bye-laws, rules, regulations, warrants, circulars, lists, assessment rolls, minutes, certificates, notices, requisitions, letters, decrees, and all other records and writings whatsoever of a public character pertaining to the several departments of the Government in the first column of the Second Schedule;”

and the Second Schedule indicates the various ministries and functionaries.

5.20 p.m.

Mr. Speaker, in section 19, this definition of documentary evidence is not all encompassing and if I may be tempted to say, from my understanding of the text, there is no universal definition of the word “document”. It has long been recognized that that is something capable of applying to a wide variety of articles on which information is recorded. Perhaps, the word “document” can include all that, as is indicated in section 21 with respect to that particular section but that is not exhaustive.

Where this document of a wide ranging nature is attested, where it is authenticated by the seal and signature of a notary public, a commissioner for

oaths, or any other person duly authorized by statute to administer oaths or to take statutory declaration in that country, Mr. Speaker, there is an understanding that in various jurisdictions one would have duly authorized functionaries to perform this particular task of the attestation, so as to provide for the due execution of these documents. There is no magic in this! There is no paranoia needed in this issue. This is a clear functionary approach. It is the way in which the process operates; the way in which the bureaucracy operates; the way in which the administration of justice operates. As a result, I cannot understand the paranoia of the Member for Diego Martin East.

When the hon. Member for Diego Martin East made his contribution—I am sorry that he is not here—he traversed the globe, but I made a note. The Member went to Sudan, Lebanon, Nigeria and he went to the United States of America but he made no mention of Panama, Costa Rica and Atlanta; perhaps it is because it is now enshrined in calypso; former PNM members absconding to Panama and Costa Rica. Perhaps if we had this kind of access to documentary evidence we would have been able to deal with that level of white collar crime.

On the one level this is a facilitative mechanism for the administration of justice and it makes it easier to pursue matters accordingly. It makes it easier, not only from the family's perspective, but from the criminal's perspective to pursue white collar criminals as they seek to abandon this country after they have exploited and pirated the benefits of the people of Trinidad and Tobago.

The hon. Member for Point Fortin made reference to the role of the distinguished hon. Member for Tobago East in his promotion of the formation of an international criminal court. The Member for Point Fortin, no doubt, will recognize that if there was in place, an international criminal court, those who absconded to Panama, Costa Rica and elsewhere would have been dealt with accordingly. But it is coming, Mr. Speaker. It is coming.

Much has been said with respect to the role and function of this consular office. I lay no claims to having that expertise, I will leave it in the hands of our eminent Minister of Foreign Affairs to deal with that matter when the time is appropriate.

Clearly, Mr. Speaker, Members on the other side cannot, in any way, fault this provision; this is a provision that seeks to facilitate the administration of justice; this is a provision that will allow for us to deal with the issues of money laundering; this is a provision that will allow us to deal with the issues of having

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to lend some degree of efficacy to our witness protection programme. These are the things that one can see from a practical dimension. We are having affidavits sworn to, by members, because of the lack of security that may exist, for one reason or the other. It is possible to facilitate this, Mr. Speaker.

I take it that Members on the other side really want to support this amendment because as indicated by the Member for Siparia, this deals with the question of the admissibility of the evidence, it has nothing to do with attaching weights to the evidence, that is a matter for the court, it is not our role to usurp the functions of the courts.

Mr. Speaker, I therefore commend this Bill to this honourable House and I thank you.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, I propose to say a few words on the amendment before this House. I find it unnecessary to read again, the amendment in its entirety and section 19(1) that is supposed to be amended.

I listened to the Member for Siparia as she supported the amendment before the House, but before I get into the substance of the matter before us I took note that she made the point that it was our government, the previous administration, who put the then Speaker of the House under house arrest. That is recorded, it is quite true, and we are confident that it was done for good reasons in the interest of Trinidad and Tobago, but what is interesting, is that she now has the Speaker's house under house arrest.

Talking about arrest, Mr. Speaker, and since we are dealing with the system of the administration of justice, I think it is appropriate that we take note of the fact that only a few hours ago two members of the Trinidad and Tobago Police Service, in an attempt to serve the needs of the people of this country in these rather trying times, pursued two suspects, I am sure with the view of arresting them, but one police officer was fatally shot the other was critically wounded. Mr. Speaker, I have just been advised that the other has since passed on.

As Members of this House, and more broadly, as citizens of Trinidad and Tobago, whatever we do and say, whatever side of the political divide we are on, we must recognize the useful and valuable work done by the Trinidad and Tobago Police Services. In these circumstances, we on this side would like to express our sincerest condolences to the families of those unfortunate police officers.

To the police service as a whole, we on this side take this opportunity to say: Keep faith, keep working, we are totally in your support, be brave, whatever you do is in the interest of Trinidad and Tobago and we heartily appreciate it on behalf of all of Trinidad and Tobago.

5.30 p.m.

Mr. Speaker, we heard the Member for Caroni East give an exposé to some extent as he dealt with the question before the House, on what is, perhaps Greek mythology. I am not sure whether it is Greek. We are familiar with Greek concepts on this side of the House as well and we would not be second to any: we know well of the Roman story of Caligula's horse; we know of the Roman mythological being of Janus, that is the two-faced creature who speaks on both sides. So when the Member for Caroni East should be talking about water problems in Belmont Valley Road and Serraneau Road where I grew up, he comes before this House in a debate on the Evidence (Amdt.) Bill to tell us all about that kind of history. I would suggest that he concentrate his efforts on a useful and adequate water supply to the people of Belmont, they would appreciate it very much.

Mr. Speaker, as I indicated, I would not read the entire amendment, but the fourth line of clause 2(1A) speaks of:

"...notary public, a commissioner for oaths or any other person duly authorised by statute..."

I wish to bring to the attention of the Members on the other side that while we recognize notaries public who, historically, as a consequence of their mercantile practice became recognized in international circles, very often other functionaries who are not notaries public but who attest documents do not have international leverage.

In fact, our Commissioners of Affidavit Act, Chap. 06 of 1952, section 3 so recognizes that it limits commissioners in our jurisdiction to particular areas, districts or counties. So that I am not sure to what extent we can tolerate persons who may have authority in various jurisdictions other than a notary public to attest documents as evidence that would be admissible in our courts. It is a point that I wish to bring to the attention of the other side and hope that they take the reports seriously surrounding same.

Evidence (Amdt.) Bill
[MR. HINDS]

Tuesday, April 02, 1996

Mr. Speaker, I do not propose to be long in this debate but I wish to propose another amendment. In fact, before I do that I have read the Explanatory Note, which of course, is not part of the Bill *per se*, the second paragraph says:

"In addition, the Second Schedule is amended to enable fees to be paid to and taken by officers of the Judiciary/Magistracy in respect of copies of Notes of Evidence and Certificates of Correctness provided to members of the public."

I merely want to suggest that by putting as is proposed "Clerk of the Peace" in the Second Schedule does not, to my mind, achieve that purpose. As I understand it, the Second Schedule and the officers and persons listed therein is for an entirely different purpose. While I appreciate what is intended, I am not entirely certain that the way it is being approached achieves the purpose, and it is another matter that I commend to the Government for consideration.

More specifically, I wish to propose an amendment to the one that is before us—I am satisfied that it has now been circulated—It says:

"In the new subsection (1A) to be inserted, delete the words 'a commissioner for oaths or any other person duly authorised by statute to administer oaths or to take statutory declarations' appearing in lines 4 to 8."

Mr. Speaker, as I indicated earlier, that is to address the question of functionaries other than a notary public from being able to attest documents suitable for admission into evidence in courts of Trinidad and Tobago.

Mr. Speaker, the Member for Point Fortin dealt with aspects of international jurisprudence in his contribution, and in passing I sense that he touched on matters of conflicts of law. Section 19 of the existing legislation allows diplomatic agents, consular officers to certify documents as having been attested to by functionaries abroad. I recognize the mischief that is being addressed before this House today, and that section is in accord with principles of international law. In fact, it can be viewed as an extension of Trinidad and Tobago's territorial jurisdiction, albeit abroad.

I humbly ask: If a document is made admissible into our courts in the proposed amendment, assuming that there was some unlawful conduct in the jurisdiction from which it has come, what sanctions, if any, can the courts of Trinidad and Tobago impose in such an event? Is there reciprocity with the

jurisdiction from which the document would have come? These are matters that I am sure were not properly considered on the other side and I merely raise them.

Talking about raised, our purpose, contrary to all that has been said over the last three months, the allegations of our being obstructionists and using delaying tactics, all our efforts, I can assure you, are designed and were designed to raise the level of debate in this honourable House and to ensure that the people of Trinidad and Tobago re-elected us to these offices and to this Chamber to enjoy the best representation and advocacy that they possibly can.

Mr. Speaker, with the vigour that the Member for Couva South swore yesterday, much to my dismay, he spoke at length and told us in this House about the work of the Attorney General; he spoke in a highhanded way about justice, honour, decency, crime and cast aspersions that we were not in support of these. I personally felt offended for obvious and not so obvious reasons. Even in the face of allegations of our being obstructionists, I can assure you and the people of this country that we shall not be deterred, we will defend the rights of the people of Trinidad and Tobago. [*Desk thumping*]

5.40 p.m.

Mr. Speaker, so much in defence of the rights of the people, and particularly in the light of the fact that we are making a proposal and amendments to the Evidence Act. The country today is rather concerned about the question of criminal justice and in particular, evidence we heard this morning of a senior member of a media house crying on the radio.

Hon. Member: You saw him cry?

Mr. F. Hinds: Yes, I am sure I heard him break into tears and he may need the support of this Bill and the Evidence Act in general, in the months ahead. He feels a sense of injustice, and that he has been the victim of pressure. He claims that there is political involvement in the house in which he was a part and he has been fired, and that allegation has been denied. The nation is concerned and we have since learned that more persons may very well be concerned with the Evidence (Amdt.) Bill that is before us today, because during the course of the day, as a consequence of a sustained attack on the media, which is a fundamental institution in our democracy, six more persons have resigned including the chief photographer. [*Interruption*]

Mr. Speaker: I would ask Members to allow us to hear the hon. Member.

Mr. F. Hinds: I am very grateful to you, Mr. Speaker, particularly grateful. In a previous debate in this House—and it will stay with me beyond my time as a Member of this honourable House and for as long as I live—I recall on January 10, 1996 we came here to a debate like this, perhaps a more important debate, it was not the Evidence Act that was sought to be amended, but it was the budget. It was a rather important debate and I went home the morning at about 8.00 a.m. crying in my soul, talking about the suppression of the voice of the Opposition. I shall never forget that they concocted an arrangement in that debate so that we will speak in this House between 9.00 p.m. and 5.00 a.m. the following morning when the cameras and the public were not here. So I am not surprised when there are attempts to suppress the voice of that honourable institution, the press, in this country and as a consequence, the nation is in a rather uneasy state. As we deal with the question of the amendments of this Bill and its importance for criminal justice and justice in general, the Member for Siparia said that this Bill does not only deal with criminal aspects of our law but it deals properly with civil aspects. We can very well expect some public minded individual asking the court to permit them *locus standi* to deal with a question of a certain ex-Member of Parliament, who is a strong and ardent supporter of the Government—

Hon. Member: You are jealous.

Mr. F. Hinds: —taking a position to deal with parliamentary issues such that I understand that there is a coup at Trinidad and Tobago Television today. The question of the amendment is crucial. We are dealing with both criminal and civil actions, and judicial review action may very well flow from the sustained attack on the media in this country. I can go on and on, but we are dealing—*[Interruption]*

Mr. Speaker: Please continue.

Mr. F. Hinds: I am grateful to you, Mr. Speaker. Thank you very kindly. I was saying that as members of our society, as all Trinidad and Tobago listened to the discussions in this honourable House and wonder how we fared with an amendment to the Evidence Act which, of course, has to do with the entire justice system of our nation, they want to know when this vicious attack on the media in our country will cease, if at all. We must speak out because when good people remain silent, evil prevails. When the good and the well-intentioned in our society—as I like to think I am—remain silent, evil prevails.

Mr. Speaker, I propose an amendment which I have offered for the consideration of the Government in piloting this amendment—*[Interruption]*

Mr. Speaker, it appears as if the Member for St. Joseph wants me to give way.

Mr. Assam: I want you to give way to the truth.

Mr. F. Hinds: This is a discussion about the amendment to the Evidence Act. This is not a court of law, it is indeed, the highest court in the land and the jury are the people of Trinidad and Tobago and they will judge.

Hon. Member: That is why you are in Opposition.

Mr. F. Hinds: They recognize an attack on the media and they will deal with it.

Mr. Speaker, I am hearing utterings from the other side about that being the reason we are in Opposition. I have to remind the Members on the other side once again that the result of the general election was 17:17:2. Nobody told anyone in Trinidad and Tobago about any coalition Government before. That is an adverse affixation, it is a burden and a yoke that has been put on the people of Trinidad and Tobago, one they never catered for and never expected. *[Interruption]*

Mr. Speaker: Hon. Members, I am sure that if you would think about it yourselves, you will realize that this is not the way that you will want to proceed. I ask you, please...

Mr. F. Hinds: I am grateful again, Mr. Speaker. I will much prefer to speak with a lower level of decibel delivery, but, when I am getting these utterings from the Member for St. Joseph and Members on the other side, I am forced to raise the level of the output. I would be happy if I would be permitted to make my contribution in this important debate undisturbed, so that we as a responsible Opposition, offering critical support to the Government, in that spirit we say that you should have a second look as I had indicated earlier. Perhaps the relevant persons did not record it—that the question of putting the Clerk of the Peace in the Second Schedule may not achieve the intention, and also the amendment as I have proposed. Talking about 17, the number 17 is of great significance. You will hear more about it in the future, Mr. Speaker. Yes! Yes! The number 17.

With this rather short, and I am confident, useful input supporting useful contributions from the Members for Point Fortin and Diego Martin East, I would say that we are quite prepared to support the amendment proposed and we strongly recommend to the Government that they take into account the suggestions that we on this side have made all for the good, and with the interest of the people of Trinidad and Tobago.

5.50 p.m.

Mr. Speaker, we do that not with any false position on unity. We know that some persons talk about peace and unity and they are waging war across the country; from the URP right up to the media houses, to the chief executive officers of various corporations and institutions. When we talk peace and unity, we mean that; not any sham.

With these few words, Mr. Speaker, I thank you kindly.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, this is another instance where the Opposition really came here without even understanding the Bill, and have made all sorts of contributions which are not really pertinent and spoke about matters and fears which do not exist.

When I presented this Bill, I indicated to the House that the amendment would permit documents which are attested abroad in the circumstances mentioned to be regarded as *prima facie* evidence of it being authenticated. I thought that anyone would have known that if such document had to be admitted in evidence it would be subject to existing laws, rules and procedures. All that this section says is that it would be regarded as *prima facie* evidence that it was sworn to as if it was sworn in Trinidad and Tobago.

What the Bill says is that in any case where a document or an affidavit sworn to in Trinidad and Tobago could be admissible, this document, if it is sworn to abroad, is *prima facie* evidence that it can be admitted subject to further proof from the other side if they want to take the point that it was not so sworn.

I do not understand why there must be guidelines. As a matter of fact, under the rules of the Supreme Court, Order 38 specifies the conditions which have to be satisfied in all the proceedings which exist in the civil court before an affidavit could be admitted in evidence.

Where is the Member for Diego Martin East? He does not know. He tries to speak on matters which he does not know anything about and then leaves. He gets up in this Parliament and talks on law and he has not advised himself, he does not know. When it comes to guidelines, rules, the machinery, Order 38 of the rules of the Supreme Court provides the guidelines, machinery, conditions which have to be satisfied before any document, affidavit is tendered in evidence; whether it is a summons, motion, petition, land possession case, there are different rules.

Therefore, the argument that there are no guidelines, there could be loopholes and the procedure can be tampered with does not exist.

I wonder whether he is worried that affidavits can be sworn by people abroad and used in criminal proceedings—I understand he was talking about that too. It may be that he is probably considering that if there was corruption in the Ministry of Works or Airport Pride and a minister was involved in it; if there was corruption in the Prisons Department and a minister was involved in it, that some people who were consultants and who are now abroad may swear to an affidavit and send it. I do not know what he is worried about! If there is corruption that a minister of government is using his position to smuggle gold into the country, going through the VIP lounge, is he worried that some gold dealer will swear to an affidavit? I do not know what he is worried about! If there was corruption in the roads building programme where contracts were awarded, no rules were followed, whether a minister could have been involved in the programme or the corruption, whether someone abroad now would swear to an affidavit. I do not know what he is worried about!

This Bill does not deal with that kind of matter. There are special rules for the admission of evidence in a criminal case. As a matter of fact, any layman could understand the Evidence Act. It deals with the procedure generally; then it deals with criminal cases, what sort of evidence can be admitted, what sort of notices are to be given and one knows that in criminal trials unless a deposition satisfies certain conditions it cannot be admitted in evidence and it is at the discretion of the judge. This has nothing to do with all of that.

All this has to do with is that in some of the instances mentioned by the Minister of Legal Affairs. Take for example a wife who got married in Lebanon, the husband is still in Lebanon and the wife is in Trinidad and Tobago and she has to apply for custody, maintenance, whatever it is, and she has to swear to an affidavit, but for some reason someone wants to support a story that the person is living in Lebanon, is the Opposition saying that the wife must pay the passage of that person to travel from Lebanon to come to Trinidad to swear to an affidavit? This is a law in order to help poor people who cannot afford to pay the passage for people to come to this country to give evidence. This is what this Bill is about! Anything to help poor people, the Opposition does not want to help. The PNM was a government of the rich; now it is an Opposition of the rich.

Evidence (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, April 02, 1996

Mr. Speaker, we have spent hours talking about a measure, but this is all part and parcel of their strategy, which is to use the parliamentary time, misuse their office, abuse their position and try to filibuster, delay the passage of bills and frustrate the workings of the Parliament. This will prove a test of our endurance. We would have to decide whether we are concerned with the nation's business or our own business.

In response to the hon. Member for Laventille East/Morvant, having regard to the fact that it is a night and a morning he would never forget when we tried to have the measure passed, having regard to his concerns and to show what a responsible government this is, we have decided to sit from day to day—morning, afternoon and evening—in order to give him an opportunity to speak. So, we would be sitting on Monday morning, Tuesday morning, Wednesday morning, Thursday morning and Friday morning so that he would have an opportunity to speak. He should not worry, he would have many opportunities to speak.

6.00 p.m.

[Interruptions] I wish to give you the assurance that we are responding to some of the fears and difficulties that you have. Mr. Speaker, the hon. Member for Point Fortin—

Mr. Sudama: A man of jurisprudence.

Hon. R. L. Maharaj: —really talked for a long time, but said nothing that deserves any reply. He talked about serious crime and other matters, but I do not think I will trouble the House by responding to him.

The Member for Laventille East/Morvant started his contribution by expressing condolences in respect of the death of two police officers. I think everyone in this House would share those views. Mr. Speaker, although we appreciate his concern, it is a pity that, whilst the PNM was in government it showed such contempt for the police service.

Mrs. Robinson-Regis: He is politicizing that too!

Hon. R. L. Maharaj: It showed such contempt for the families of the police service.

[The Member for Laventille East/Morvant (Mr. F. Hinds) rose]

Miss Nicholson: You had your chance already.

Hon. R. L. Maharaj: As a matter of fact, Mr. Speaker—

Hon. Member: That is a political issue.

Hon. Members: Shame, shame!

Hon. R. L. Maharaj: As a matter of fact, Mr. Speaker—

Mr. Valley: Give way.

Hon. R. L. Maharaj: As a matter of fact, Mr. Speaker, it is a matter of record that police officers who were injured and who had to leave the police service and could not get compensation under the Workmen's Compensation Act—the PNM administration did nothing to redress that injustice. Police officers had been injured, their families have suffered and continue to suffer. They could not get compensation when ordinary workmen in Trinidad and Tobago would get Workmen's Compensation, and the PNM government did nothing to redress that situation. They could not pass a Bill to do that. There are situations, Mr. Speaker, where police officers got killed while executing their duties on behalf of the state; and in spite of that, the PNM government did nothing to help the widows and children of those police officers.

On taking office, this administration has taken steps to bring to this House a Protective Services Compensation Bill to provide compensation for policemen who are injured and for the families of injured policemen; and we are going to make it retroactive to the period of time they did not get compensation. So where is the concern and caring for policemen? [*The Member for Laventille East/Morvant (Mr. F. Hinds) rose*] Mr. Speaker, it is this hypocrisy—

Mr. Narine: Will that stop the crime?

Hon. R. L. Maharaj:—which has characterized the behaviour, actions and policy of the PNM. [*Interruption*] It was the PNM government which tried to destroy the independence of police officers and wanted to abolish the Service Commissions and put the police service under the direct control of the Cabinet of Trinidad and Tobago.

Miss Nicholson: Not Cabinet—under Manning, the dictator!

Hon. R. L. Maharaj: And now they express concern for police officers.

Mr. Narine: That is not going to bring down the crime rate.

Mr. Hinds: Will the Member give way?

Hon. R. L. Maharaj: And the Member for Diego Martin East went all around the world and talked about everything besides the Bill before this House.

Dr. Lasse: You will never be absolved. Too much blood on your hands.

Hon. R. L. Maharaj: Mr. Speaker, I just want to place on the record with respect to the Member for Diego Martin East, the more he talks inaccuracies in this House, the greater the punishment he may have to suffer.

Mr. Panday: Political punishment.

Hon. R. L. Maharaj: Mr. Speaker, the other aspect mentioned in this debate which has nothing to do with the media, is that now you have the PNM trying to say they are concerned with freedom of expression and freedom of the press, when the PNM had such a bad record. The Prime Minister under the PNM regime banned *The Mirror* from attending press conferences—

Mr. Hinds: Your paper?

Hon. R. L. Maharaj:—banned *The Bomb* from attending press conferences. The Prime Minister under the PNM administration supported, aided and abetted his Cabinet colleagues to have a television announcer removed from the television station. It was a Prime Minister under a PNM government with crew in Arima who said he was not going to speak unless the television crew left, and allowed his supporters to pelt the television journalists with ice. That is the brutality which was practised by the PNM administration on the media. I would have thought that a PNM member would be ashamed to talk about freedom of the media in Trinidad and Tobago.

Mrs. Robinson-Regis: Well if you are not ashamed to talk about it, why should we be ashamed?

Hon. R. L. Maharaj: Mr. Speaker, this administration is committed to the freedom of the press.

Mr. Valley: Ha, ha!

Hon. R. L. Maharaj: This administration has not threatened to withdraw advertisements from the media. It was the PNM and the then Prime Minister that told the daily newspapers in Trinidad and Tobago that, if they did not comply with the PNM line, advertisements would be withdrawn. That is affecting freedom of the press.

Mr. Speaker, we know that when we come into this House with legislation which will help the criminal justice system—

Dr. Lasse: And the criminals.

Hon. R. L. Maharaj:—it will help to fight crime and drugs. One could see that the Member for Diego Martin East cannot take the Jury Act at all, because he wants criminal trials to be perverted and subverted. He cannot take the Habeas Corpus Act at all, because he wants people who should be extradited not to be extradited—as a matter of fact he said something today, Mr. Speaker, which is very revealing. He said he knows that when someone appears on a habeas corpus, they will test it. Well, Mr. Speaker, do you know when they test a habeas corpus people have to be extradited? So I want to know how the Member for Diego Martin East knows that an “extraditee” will test it, even before it reaches the court.

Mrs. Robinson-Regis: Moonan talked to him! *[Interruption]*

Hon. R. L. Maharaj: Mr. Speaker, one sees—*[Interruption]*

Mr. Speaker: Hon. Members, may I suggest that we get back on stream?

Hon. R. L. Maharaj: Mr. Speaker, I know how difficult it is for them to see that here it is, legislation is being put in place day after day, week after—sorry, Sir.

Mr. Speaker: I was simply coming to your rescue. I was about to ask that there should be a little more silence, and the sight of my getting up caused them to—

Mr. Valley: Drink some water!

Hon. R. L. Maharaj: Mr. Speaker, I can understand how they become restless and nervous. I can understand that when they see the legislation being unfolded to help, not only poor people, but the criminal justice system—

Mrs. Robinson-Regis: And the criminals.

Hon. R. L. Maharaj: —they do not want it. Because the PNM never had, and will never have, a commitment to deal with crime and drugs. The people of this country must know that a PNM government will be the greatest detriment to the people of Trinidad and Tobago. *[Desk thumping]*

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

Mr. Speaker: Gentlemen and ladies, could I, perhaps, have your ear?

Question put and agreed to.

6.10 p.m.

Bill accordingly read a second time.

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

"In the new subsection (1A) to be inserted, delete the words 'a commissioner for oaths or any other person duly authorised by statute to administer oaths or to take statutory declarations' appearing in lines 4 to 8."

I am proposing this amendment in light of the fact that he recommends generally, in Trinidad and Tobago, that once documents are attested to abroad that they be done at the hands of notaries public. In Trinidad and Tobago, as I indicated during the course of the debate, we restrict the area of activity for commissioners of affidavits. Now, the amendment as proposed contemplates that functionaries other than notaries public are able to attest documents coming from outside of our jurisdiction, and it is with this in mind that I propose the deletion of the words as described in my circulated amendment.

Mr. Maharaj: Mr. Chairman, if that is accepted it would frustrate the amendment and defeat the whole purpose of bringing this amendment. Under the laws of Trinidad and Tobago once a commissioner for oaths signs an affidavit, that affidavit can be read in the courts. What we are trying to do is to provide for the situation where an affidavit abroad is signed by a notary public—a commissioner for oaths or any other person duly authorized by statute to administer oaths or to take statutory declarations in that country—then the document can be *prima facie* evidence of it being signed by that person.

Mr. Hinds: Mr. Chairman, but in that very jurisdiction any other person duly authorized may not have the capacity to attest documents that are to be used internationally outside of his jurisdiction. If that is the case, you would be attributing much more to that individual than I am sure we intend with this amendment.

Mr. Maharaj: Mr. Chairman, we regret very much that we cannot support the Opposition with this amendment and cannot accede to its request.

Mrs. Robinson-Regis: Mr. Chairman, may I just make a submission following up on what was said by the Member for Laventille East/Morvant. The consideration is that a notary public is recognized by our law and by international law as a functionary who can attest to documents needed to be put into evidence or any other such documents.

Whereas in our law a commissioner for oaths or affidavits is confined to a certain geographical area, we are contending that it may be a similar thing in these other countries and consequently the person whose field or attestation we should accept as coming from another country should only be a notary public because of the type of acceptance that particular functionary has world-wide and as it relates to Trinidad and Tobago. A notary public should be the only attestation that is acceptable, that is why we feel that those other persons, because we are not sure of the extent of their jurisdiction, should be the only one whose attestation is acceptable.

Mrs. Persad-Bissessar: Mr. Chairman, if we go along with the amendment as suggested we would be limiting the functionary who can take the attestation, or who can witness it. We do not wish to do so because even in our own jurisdiction and within our given law as it stands now, a functionary who is not a notary public, for example, a judge of the court, a registrar of the court, they can take an oath. So that in the same way if you limited a notary public you would be excluding all these other functionaries who, according to law of the foreign country, are empowered and have jurisdiction to take an oath.

Mr. Chairman, that I submit would defeat the purpose of this amendment. We cannot support it.

Mr. Sinanan: Mr. Chairman, if I may make a suggestion. The commission of a notary public, for example, in the United States of America expires so they have a time limit within which their commission exists after which they have to renew it. So, perhaps in the fourth line after the word "public" one can insert "whose commission is not expired".

Mr. Maharaj: It must be "duly sworn" and "duly sworn" means authorized to do it. If it is signed when he did not have a commission, it is not duly sworn.

Question put and negatived.

Evidence (Amdt.) Bill
[MR. SINANAN]

Tuesday, April 02, 1996

Clause 2 ordered to stand part of the Bill.

Clause 3.

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

Mrs. Robinson-Regis: Mr. Chairman, may I just make an observation please. The amendment that is suggested in the Bill talks about "Judiciary/Magistracy" and the functionary who would fall under Column II is described as "Clerk of the Peace of each Summary Court", but the functionary in the Judiciary would be a registrar, and consequently, there may be the need to insert the words "Registrar/Clerk of the Peace" so that the Judiciary's functionary is a Registrar and the Magistracy's functionary would be the Clerk of the Peace.

Mr. Maharaj: Mr. Chairman, what has happened is that the Registrar already has this power to collect fees and the Magistracy is under the Judiciary and Magistracy, so it is not to do with the registry.

Mr. Hinds: Mr. Chairman, before we move on. I suggested during the course of the debate that we should have a second look at the question to do with the Clerk of the Peace in the Second Schedule and the effect, whether it satisfies the intention in the Explanatory Note.

6.20 p.m.

Mr. Maharaj: To consider what? Mr. Chairman we have no amendment before us.

Mr. Chairman: There is nothing that was circulated. If both sides could have agreed we could have gone along with this.

Mr. Hinds: The other side is not prepared to contemplate and take the issue seriously?

Mr. Maharaj: If you have a proposed amendment you should make it. There are certain—

Mr. Hinds: Much obliged.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

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

House resumed.

Evidence (Amdt.) Bill

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

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): I beg to move that the House do now adjourn to Wednesday, April 3, 1996 at 10.00 a.m.

May I indicate that the Government proposes to take the Finance Variation of Appropriation Bill, 1995 through all its stages. The report of the Finance Committee will also be discussed.

Under Bills Second Reading, there is the Rent Restriction (Re-enactment and Validation) Bill and they are also given time for the motions.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.25 p.m.