

**HOUSE OF REPRESENTATIVES***Friday, May 03, 1996.*

The House met at 1.30 p.m.

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

**Mr. Speaker:** Hon. Members, I have received communication from a few hon. Members of this House asking to be excused from today's sitting. They are: the Member for San Fernando West (Mr. Barendra Sinanan), the Member for St. Joseph (Hon. Mervyn Assam), the Member for Diego Martin West (Dr. Keith Rowley) and the Member for San Fernando East (Mr. Patrick Manning).

Of course, I had already given leave to the Member for La Brea (Mr. Hedwige Bereaux) to be absent from today's sitting. The hon. Members are all excused.

**PAPERS LAID**

1. Report of the Auditor General on the accounts and financial statements of the Primary Education Programme for the year ended December 31, 1994 as required by Loan Contracts 796/SF-TT and 215/IC-TT between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*].  
*To be referred to the Public Accounts Committee.*
2. The Customs Tariff for the Assembly Industry (Reduction of Duty) Order, 1996. [*The Minister of Finance (Hon. Brian Kuei Tung)*]

**EDUCATIONAL INCENTIVES (CASH AWARDS)**

**The Minister of Education (Dr. Adesh Nanan):** Mr. Speaker, may I inform this House of the Government's commitment to the upliftment of the standard of education, with particular reference to the Junior Secondary, Senior Secondary and Composite Schools.

With this objective in mind, I am pleased to present this afternoon a series of cash incentive awards.

Our Government of national unity recognizes the difficulties that students of these schools face on a daily basis; especially the reduced teacher student contact time.

On my recent visit to schools, it was observed that these students need some form of moral booster.

Mr. Speaker, the 14-plus examination was designed to measure the performance of the students leaving the Junior Secondary to move on to the Senior Secondary Schools.

Since the transition from the Junior Secondary to the Senior Secondary School is more or less automatic, little emphasis is placed on this examination.

In order to stimulate renewed interest, Cabinet has agreed to cash incentives awards of \$300 each, that will be given to 395 students of Junior Secondary Schools based on their performance at the 14-plus examination.

The awards are as follows:

- 1) The top 10 students from each of the single shift schools, namely, the Rio Claro Junior Secondary School, the Ste. Madeleine Junior Secondary School, and the Scarborough Junior Secondary School; a total of 30 awards.
- 2) The top 15 students from each of the three "B" type schools with an enrolment of 1440, namely, the Sangre Grande Junior Secondary School, the Carapachaima Junior Secondary School, and the Williamsville Junior Secondary School; a total of 45 awards.
- 3) The top 20 students from each of the 16 "A" type schools with an enrolment in excess of 1440; a total of 320 awards.

As further incentives to excellence, awards based on the results of that CXC Examinations are extended to include the top five students in each Composite, Senior Secondary Comprehensive, Secondary Comprehensive, and Senior Secondary Schools who gain entry to advanced level classes or to the technical institutes. This award would be in the sum of \$600. A total of 140 students will benefit.

A cash incentive in the sum of \$600 will be also awarded to the student placing first in Trinidad and Tobago in every subject offered at the General Proficiency Level of the CXC Examinations. Thirty-two subjects are offered at the General Proficiency Level.

Mr. Speaker, this Government of national unity continues to prove to the national community that we are a sensitive government and we are putting mechanisms in place to mould and shape our human resource assets, particularly our youths.

Thank you.

#### ARRANGEMENT OF BUSINESS

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that Motions 1 to 3 under “Government Business” be deferred to a later stage in the proceedings and that the House proceed to deal with Motions 4 and 5 on the Supplemental Order Paper and then “Bills Second Reading”, beginning with the Military Training (Prohibition) Bill.

**Mr. Valley:** Mr. Speaker, while we have no objections to dealing with Motion No. 4 on the Supplemental Order Paper, we are not prepared to deal with Motion No. 5. When the House was adjourned on the last day, we were informed that, in fact, we would be dealing with Bill No. 1 under “Bills Second Reading”. I ask, therefore, that the debate on Motion No. 5 be postponed. I got the Supplemental Order Paper yesterday or some time, I have not looked at these matters as yet.

**Hon. R. L. Maharaj:** Mr. Speaker, there is a time-frame and if it is not dealt with today, it would mean that Parliament would have to sit specifically on a particular date. Having regard to the nature of the matter, I think there was sufficient time so we have to deal with it today.

**Mr. Valley:** Mr. Speaker, this Supplemental Order Paper arrived yesterday. There was no fore-knowledge that we would be dealing with this today. I have not even looked at it. If there is a time constraint, it can be dealt with after we debate Bill No. 1 so that one can have a chance, at least, to look at it. I mean, one understands the time constraint.

**Mr. Speaker:** Hon. Members, you would appreciate that I have allowed that informal exchange but in future it would be better if hon. Members could sort that out before.

*Question put.*

**Mr. Valley:** Mr. Speaker, I thought there was agreement that we would do Motion No. 4 and Bill No. 1 on the Order Paper and then Motion No. 5.

**Hon. R. L. Maharaj:** Mr. Speaker, I am sure that after the Minister of Finance has put forward his presentation with respect to the Customs Order, the other side would see that there is no need for it. If there is any situation at that time, we would consider it at that moment.

*Agreed to.*

#### FINANCE BILL

#### Senate Amendments

**The Minister of Finance (Hon. Brian Kuei Tung):** Mr. Speaker, I beg to move,

That the Senate amendments to the Finance Bill listed in the appendix be now considered.

Mr. Speaker, the matter which is before this honourable House, as I said, is the confirmation of amendments which were made to the Finance Bill 1996 in the other place.

May I add that this Bill was unanimously passed in the other place on Tuesday April 30, 1996 subject to the amendments that I now bring before this House for consideration. The amendments which were laid in the other place were as follows:

Clause 6, paragraph 3 of the Bill in relation to section 17A of the Motor Vehicles and Road Traffic Act has been amended by renumbering section 17A as section 17A (1) and by inserting after that section as renumbered the following subsection:

“17A (2) The President may remit or refund the whole or any part of the fee referred to in this section where he considers it expedient to do so.”

This amendment is intended to rationalize the tax concessions that may be granted by the President in respect of motor vehicles. As the law presently stands, tax concessions of motor vehicles may be granted by the President in respect of value added tax, customs duties and motor vehicles tax. Under the Motor Vehicles and Road Traffic Act, the President is not given a general power to remit or refund any tax payable on motor vehicles and his power is given to granting relief only in respect of motor vehicles tax.

This amendment which is now before this House seeks to bring some equity to the granting of tax concessions in respect of motor vehicles, authorizing the President to remit or refund in whole or in part the fee that is payable on the

registration of a motor vehicle which is locally assembled and in respect of which the duties and taxes payable on a completely built up motor vehicle have not been paid.

Mr. Speaker, an amendment was also made in the other place to clause 9 of the Bill in relation to section 16 (1) of the Corporation Tax Act. You would recall that during the committee stage of this House last week Thursday in respect of this same section, I had indicated on that occasion that the inclusion of section 161 was intended to provide the mechanism to make the playing field more level in relation to interest payments that are made by mutual funds.

The Government has recognized that certain investors whose profits would not normally be subject to tax would be indirectly taxed by the measure contained in section 3B of the Corporation Tax Act by which a 15 per cent tax will be chargeable on interest payments which accrued or are paid or credited on mutual funds.

These exempt investors would include persons over the age of 60 years, approved funds or schemes under section 27 (1) (c) of the Income Tax Act, an approved annuity business that is not chargeable to tax under the Corporation Tax Act, and approved sporting bodies and charitable organizations under section 16 (1) (e) and (g) of the Corporation Tax Act.

Mr. Speaker, the amendment which was originally made at the committee stage in this House—which I would call the House amendment—had sought to provide a mechanism for the exempt investor to recover the 15 per cent tax deducted from interest payments made to a mutual fund under section 3B in cases where a dividend or a distribution was paid to an exempt investor out of such interest payments.

Whereas the House amendment relating to sporting bodies and charitable institutions seemed to have been adequately dealt with, it appears that the drafting was not as successful with respect to the approved annuity business and the approved fund or scheme under section 27 (1) (c) of the Income Tax Act.

The House amendment seemed to have allowed an approved pension fund plan and an approved deferred annuity plan to claim a tax credit in circumstances where a dividend or distribution was paid to them by a mutual fund out of interest payments which were subject to the section 3B tax.

It should be noted however, that investments made by an approved fund or scheme under section 27 (1) (c) of the Income Tax Act are already exempt from Corporation Tax.

Similarly, where the funds arise from an approved pension plan or an approved deferred annuity plan and invested in the approved annuity business of an insurance company, the profits derived from such investment are not subject to Corporation Tax.

Where the profits derive from investments under section 27 (1) (c), plan or scheme or from the approved annuity business include dividends or distributions made by mutual fund out of interest subject to a tax, those approved bodies would be entitled to claim a tax credit equivalent to the tax deducted.

Mr. Speaker, the amendment made in the other place now seeks to tidy up the drafting by clarifying the point that in addition to the sporting bodies and charitable institutions, where the profits of approved funds and schemes under section 27 (1) (c) of the Income Tax Act and the profits of approved annuity business not chargeable to tax include dividends received from mutual funds, the approved sporting body, institution, fund, scheme and annuity business would be entitled to a tax credit equivalent to the tax paid on the portion of the interest that was received in the form of a dividend.

Mr. Speaker, the last amendment that is before this House for confirmation relates to clause 13 (2) of the Bill which seeks to revoke Legal Notices No. 120 and 121 of 1995. These Legal Notices suspended the common external tariff on wheat flour for a period of one year from August 1, 1995 to July 16, 1996. The common external tariff rate at the time of suspension was 40 per cent and that rate was reduced to zero.

If I may explain further, the Caricom Council of Ministers had granted approval for a reduction in the common external tariff on wheat flour from 40 per cent to 30 per cent, and effect was given to this decision in clause 13 (1) of the Finance Bill.

It is intended that the suspension on wheat flour should continue to operate until its expiry on July 16, 1996 and unless a further extension is sought and obtained to extend the period of suspension of the common external tariff, the new rate of 30 per cent will apply as of July 17, 1996.

The amendment which was made in the other place confirms our position regarding the continuation of the suspension of the common external tariff on

wheat flour as contained in Legal Notices Nos. 120 and 121 of 1995 by deleting a clause in the Finance Bill which seeks to revoke these Legal Notices.

**1.50 p.m.**

Mr. Speaker, I am therefore seeking the confirmation of the House to amend the Finance Bill, 1996.

I beg to move.

*Question proposed.*

*Question put and agreed to.*

*Clause 6*

*Senate amendment read as follows:*

In relation to section 17A  
of the Motor Vehicles  
and Road Traffic Act

Renumber section 17A as section 17A(1) and insert after section 17A(1) (as renumbered) the following subsection:

“(2) The President may remit or refund the whole or any part of the fee referred to in this section where he considers it expedient to do so.”

**Mr. Kuei Tung:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 9*

*Finance Bill*  
[HON. B. KUEI TUNG]

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*Senate amendment read as follows:*

in relation to section 16 I

of the Corporation Tax Act

Delete section 16 I(1) and substitute the

the following:

“16I(1) Where, in a year of income, the profits of -

(a) an approved fund or scheme under section 27(1)(c) of the Income Tax Act;

(b) a sporting body or institution approved by the President under section 6(1)(e) or (g);

(c) an approved annuity business not subject to tax under this Act,

include-

(i) a dividend paid by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act;

(ii) the amount or value of a



distribution paid by the Unit Trust Corporation of Trinidad and Tobago, payable out of interest in respect of which tax has been deducted under section 3B, such approved fund or scheme, approved sporting body or institution or approved annuity business is entitled in that year of income to a tax credit equivalent to the tax deducted on that portion of the interest that relates to the dividend or distribution received.”

**Mr. Kuei Tung:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 13*

*Senate amendment read as follows:*

*Finance Bill*  
[HON. B. KUEI TUNG]

*Friday, May 03, 1996*

in relation to Legal Notices  
Nos. 120 and 121 of 1995

- A. Delete clause 13(2) in relation to Legal Notices Nos. 120 and 121 of 1995.
- B. Renumber paragraph (3) in relation to Legal Notice No. 149 of 1995 as paragraph (2).

**Mr. Kuei Tung:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

#### ARRANGEMENT OF BUSINESS

**Mr. Speaker:** Hon. Members, we would now deal with Motion No. 5 on the Supplemental Order Paper.

**Mr. Valley:** Mr. Speaker, once again, I know my Friend a while ago mentioned that there is an urgent need to have this approved today. When I look at the Order, however, it has to be confirmed within 21 days. It was made on April 22. It seems, therefore, that we still have sufficient time and I would really like to look at this, quite closely, before getting involved in a debate on this matter, Mr. Speaker. I am again asking the other side to consider that. We got the Supplemental Order Paper only yesterday, Mr. Speaker, and one knows that there is normally a five-day period with respect to these matters.

**Miss Nicholson:** It has reached too far.

**Mr. Speaker:** Would both gentlemen like to repair to behind the Chair, so that they could perhaps—[*Interruption*]

**Mr. Maharaj:** I have indicated that after the Minister of Finance has made his contribution, depending upon the request of the Opposition, we shall consider it. The hon. Minister of Finance has to be away. We only have up to May 13. It

will mean the House convening specifically for this. We shall see, after the Minister of Finance has made his contribution, whether that is necessary.

*Agreed to.*

**CUSTOMS ORDER (ASSEMBLY INDUSTRY)**

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker. I beg to move the following Motion which is standing in my name:

*Whereas* it is provided by section 7(1) of the Customs Act, Chap. 78:01 that the President may, by Order, increase or reduce any import or export duties of customs or impose new import or export duties of customs, and from the date of publication of the Order in the *Gazette* and until expiry thereof, the duties specified in the Order shall be payable in lieu of any duties payable prior thereto:

*And whereas* it is provided by section 7(2) the Customs Act that every Order issued under section 7(1) shall, after four days and within twenty-one days from the date of its first publication be submitted to Parliament, and Parliament may by resolution confirm, amend or revoke such Order and upon publication of the resolution of Parliament in the *Gazette* the resolution shall have effect and the Order shall then expire:

*And whereas* the Customs Tariff for the Assembly Industry (Reduction of Duty) Order, 1996 was made under section 7 of the Customs Act and first published in the *Gazette* on the 22nd day of April, 1996:

*And whereas* it is expedient to confirm the said Order:

*Be it resolved:* That the Customs Tariff for the Assembly Industry (Reduction of Duty) Order, 1996 be confirmed.

Mr. Speaker, the Resolution which is before this honourable House relates to an Order entitled The Customs Tariff for the Assembly Industry (Reduction of Duty) Order, 1996 which was made by the President pursuant to section 7(1) of the Customs Act. That Act was signed on April 17, 1996 and published in the *Gazette* on April 22, 1996.

Mr. Speaker, section 7(1) of the Customs Act authorizes the President by Order to “increase or reduce any import or export duty of customs; or impose new import or export duties of customs and from the date of publication of the Order in the *Gazette* and until the expiry of the Order, the duties specified in the Order shall be payable in lieu of any duties payable prior” to the date of publication of the Order.

Now, Mr. Speaker, it is also provided by section 7(2) of the Customs Act that every Order issued under section 7(1) “shall after four days and within twenty-one days from the date of its first publication be submitted to Parliament.”

**2.00 p.m.**

Upon publication, the resolution of Parliament in the *Gazette*, shall have effect and the Order shall then expire. As noted earlier, the Customs Tariff for the Assembly Industry (Reduction of Duty Order) was made under clause 7. This Order should, therefore, be submitted to Parliament no earlier than April 27, 1996 and not later than May 13, 1996. The Order is today, May 3, 1996, being submitted to this House for confirmation.

The Order which is before this House for conformation merely seeks to reduce to zero the rates of duty applicable to the goods set out in the Fourth Schedule to the Customs Act. The Fourth Schedule identifies classes of goods which are allowed conditional reduced rates of duty under section 56(a) of the Customs Act, and including parts and components used by firms engaged in assembly-type industry such as the electronics, appliance and motor vehicle industries.

The conditional reduced rate of duty was set at five per cent on parts used in the operation of these assembly-type industries. With the removal of the five per cent import duty on raw materials and intermediate inputs used in their manufacturing process in August 1995, Government was of the view that firms engaged in the assembly-type industries should be afforded duty free treatment similar to firms engaged in manufacturing operations. The Order which is before this House is, therefore, intended to give effect to Government’s decision to afford equal treatment to persons engaged in the assembly-type industries.

This merely seeks to remove the five per cent duty that was imposed on raw material that is used by the assembly industry as mentioned.

Mr. Speaker, I beg to move.

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, when one looks at the manner in which this Motion came to this House, almost like a thief in the night—as a matter of fact, I got my Supplemental Order Paper after dark yesterday—and one sees some peculiar items cropping up within the legislation—one cannot help being suspicious that there is, in fact, some form of reward to supporters of the Government. If one looks closely at the Motion, one

sees that it is legal for the President to remit taxes or to allow certain taxes to be imposed specifically with regard to the assembly of used motor vehicles.

When one examines how we got this notice which is before us, it came yesterday, and on the last occasion in Parliament the Leader of Government Business indicated quite clearly that we would deal with Bill No. 1 and then Motions 1, 2 and 3, and then out of the blue comes a Supplemental Order Paper like a thief in the night; when one looks at the documentation given to us, Legal Notice 64 refers blindly to reduction of duty to zero on goods set out in the Fourth Schedule.

What is the Fourth Schedule? It deals with parts for stoves, and other equipment of that type; parts for accounting machines, parts for air-conditioning equipment, parts for radio receivers, television receivers and motor cars—very interesting, motor cars completely knocked down for assembly in plants approved for the purpose by the Minister of Industry and Commerce.

Mr. Speaker, it is clear that there would be reasonable cause to believe that this is, in fact, a pay-back for some sort of support during the general elections of 1995. Why was this measure not included in the Finance Bill? Why did we not have all the documentation so that we could properly debate this issue? Why this haste to legalize the assembly of used motor vehicles in Trinidad and Tobago? We have up to May 13 to deal with this matter but the excuse given is that the Minister of Finance will not be in the country, so nobody will be acting. There would be no acting Minister of Finance who could deal with this matter; spurious, trivial, unbelievable explanations. The real issue is that their friends are involved in the assembly of these motor vehicles and there are many loopholes involved in the assembly of used motor vehicles; to bring in motor vehicles in parts and avoid paying customs duty. This motion creates a situation where the duty is zero. And we shall see which new plants shall be approved for the assembly of motor vehicles by the Minister of Industry and Commerce after the passage of this legislation. You check it out. Notwithstanding any denials they may make on that side—because they are going to deny it—this clearly is designed to facilitate persons involved in the assembly of used motor vehicle parts and it is clear that regulatory mechanisms are not in place. Persons involved in money laundering can ship cars to Trinidad and Tobago in parts, “land in the country in parts”, pay no duty whatsoever, reassemble the vehicle into an almost brand new vehicle, and avoid paying hundreds of thousands of dollars in duty. *[Desk thumping]* This is a big pay back!

**2.10 p.m.**

I am asking the Government to move away from this track which it is on. It is clear that there is a different concept of morality operating in Trinidad and Tobago at the present time. It is said that power corrupts. It is interesting that within five to six months this administration is creating a framework and environment for corruption. They know that people are bringing in motor vehicles in parts and avoiding duty, and this reduces income into the Treasury, but they just want to help their friends.

While the Government has the majority and will pass this legislation, we on this side must register our protest at the discourtesy to the Members on this side by sending this Order Paper to our homes last night and this morning, without any indication of what is the Fourth Schedule. It is clear that they hope this would have an easy passage. It would come through and they would say they are cleaning up the legislation and some little technicalities here and there. Fortunately, we have examined it and we see exactly what this is all about. It is assisting their friends and persons some of whom could very well be involved in illegal activities.

Thank you.

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, it seems that each time I come with something which affects the motor industry, I get a list of moral values being espoused by the Member for Diego Martin East. I have come to know the Member for Diego Martin East very well over the years. Mr. Speaker, I could assure you that he is least qualified to espouse moral values. When the Member for Diego Martin East sees a shadow looking all over him, I know it is not his. He is too short to cast shadows. It must be that he is seeing spirits where they least exist.

This is merely an order which was promised by the previous administration which they failed to keep. When I met with members of the assembly industry—it was not from the motor vehicle assembly industry—it was those from electronics who said they had been promised by the former Minister of Finance that having imposed duty on raw materials, it completely upset the manufacturing industry in the manufacturing sector.

**Mr. Valley:** It was you!

**Hon. B. Kuei Tung:** I did not. I objected to it. Part of the problem was that when I objected, I was voiced down. When the previous administration attempted to correct its error—

**Mr. Valley:** Mr. Speaker, just to set the *Hansard* record correct. It was that Minister who put it on and this Minister who took it off. [*Laughter*] As a fact, the assembly industry was promised that 5 per cent would be removed, but there was no used car assembly industry at that time. They created it. I am saying that as far as they are concerned the assembly industry with respect to new cars has now gone. We are willing to approve this with everything other than the new car assembly which is now gone in Trinidad. Therefore, there is no need to remove duty on that.

**Hon. B. Kuei Tung:** Mr. Speaker, I did not realize that the Member for Diego Martin Central had planned to join this debate. This was really done out of pure innocence.

**Mr. Valley:** You do not do anything out of innocence.

**Hon. B. Kuei Tung:** This is merely intended to correct an incorrection which was attempted by the previous administration. With these few words I recommend this. I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Customs Tariff for the Assembly Industry (Reduction of Duty) Order be confirmed.

#### MILITARY TRAINING (PROHIBITION) BILL

*Order for second reading read.*

**The Minister of National Security (Sen. The Hon. Brig. Joseph Theodore):** Mr. Speaker, I beg to move,

That a Bill to prohibit the training, drilling and equipping of prisons with firearms, ammunition, artillery or explosives and the practice of military exercises otherwise than permitted under any written law, to increase the penalty for unlawfully wearing a police uniform and for related matters, be now read a second time.

The purpose of this Bill is to prohibit private military training and exercises which are likely to be used to undermine the peace and order of the country or to

destabilize the internal security of the state. In effect, the Bill seeks to fulfil the following objectives:

- (1) To increase the penalties attached at present to specified offences in respect of the organization of unauthorized private military training and exercises which constitute a threat to the peace and stability of the country.
- (2) To create a separate offence if such private military training and exercises are carried out for subversive reasons.

In the Bill “subversive activity” is stated as:

- (a) an act aimed at the overthrow of the Government; or
- (b) an act aimed at usurping the functions of the law enforcement agencies or the military forces of the state; or
- (c) the use or display of physical force by persons in promoting any object, political or otherwise, or in such manner as to arouse reasonable apprehension that those persons are organized, trained, drilled or equipped to carry out the acts described in paragraph (a) or (b).

**2.20 p.m.**

Mr. Speaker, the other objective of this Bill is to increase the penalties attached to meeting or assembling for the purpose of training or being trained, drilled, equipped or organized in the use of firearms or explosives, or in the practice of military exercises, unless so authorised by the Ministry of National Security.

The main pieces of legislation under which military and paramilitary training, exercises and manoeuvres incidental to such training are sanctioned in Trinidad and Tobago, are the Defence Act, Chap. 14:01 and the Police Service Act, Chap. 15:01. In addition we would also refer to the Firearms Act, Chap. 16:01 which sets out the conditions under which a person may possess, sell, transfer and use firearms and ammunition.

Mr. Speaker, we see from reports daily that a number of crimes are committed by persons who carry firearms and we are aware, and most people seem to know, that there are lots of firearms in the country. We wish, by this Bill, to ensure that holders of these firearms, be they illegal or otherwise, do not feel that they can



come together, using force of arms, to carry out any subversive acts which may seek to overthrow the duly elected Government.

Some of the provisions of this new Bill are already found in the Acts which I have just mentioned. However, the Bill differs in that it identifies all the offences that are committed when individuals engage in unauthorized military training and exercises for subversive reasons and attaches a penalty to each of them.

Under clause 3 of the Bill, the training of individuals or groups in the use of firearms, ammunition, artillery or explosives and in the practice of military exercises, unless authorized by the Minister is prohibited. To solicit or provide financial or other support for such training is also prohibited and a person who contravenes this section is liable:

- “(a) on summary conviction, to a fine of fifty thousand dollars and to imprisonment for five years;
- (b) on conviction on indictment, to a fine of two hundred thousand dollars and to imprisonment for a period not exceeding twenty years.”

I would like, with your leave, Mr. Speaker, to read an extract from page 577 of the *Commonwealth Law Bulletin Vol. 16 of 1990*. It deals with the international convention against the recruitment, use, financing and training of mercenaries. It states quite clearly:

“Convinced of the necessity to develop and enhance international co-operation amongst States for the prevention, prosecution and punishment of such offences,

Expressing concern at new unlawful international activities linking drug traffickers and mercenaries in the perpetration of violent actions which undermine the constitutional order of States.”

Article II on page 578 states that:

“Any person who recruits, uses, finances or trains mercenaries as defined in article I of the present Convention, commits an offence for the purposes of the Convention.”

I am trying to show here that internationally, this lawlessness has been recognized and in dealing with the sale and use of drugs it has been accepted internationally, that there are no boundaries; that these crimes transcend states. While the decision concerning international courts is being deliberated, various

countries, certainly in the Americas, are meeting to determine how best we can deal with this upsurge in crime.

Clause 4 of the Bill prohibits the assembly of persons for military training and exercises, unless authorized by the Minister and any person who contravenes this section commits an offence and is liable:

- “(a) on summary conviction to a fine of fifty thousand dollars and imprisonment of five years;
- (b) on conviction on indictment, to a fine of two hundred thousand dollars and to imprisonment for a period not exceeding twenty years.”

I remembered an earlier time when certain people had it to say that if the crime is as serious as we believe it is, the penalty should reflect the seriousness of this crime. I trust that the Members on the other side are satisfied that we have given due notice to establish that we are not taking this matter of subversive activity very lightly.

Further, clause 5 establishes that it is an offence for a person to organize, train, drill, equip, solicit or provide financial assistance or other support for equipping or training others in the use of firearms or in military exercises for the purpose of engaging in subversive activities.

- “(2) A person who commits this offence is liable:
  - (a) on summary conviction, to a fine of one hundred thousand dollars and to imprisonment for seven years;
  - (b) on conviction on indictment, to a fine of three hundred thousand dollars and to imprisonment for a period not exceeding thirty years.

Mr. Speaker, before moving on to take a look at the existing legislation, I wish to mention that we are aware that the last administration recognized that this matter of subversion was a live threat, and with our world, because of travel, having become so small, all countries are at risk. We know that the last administration found it necessary to draft a bill in April, 1995 containing similar provisions. While that Bill never came to the House, this Government of national unity is taking the necessary action to make sure that this Bill is brought before the House.

Mr. Speaker, I would like to read some comments on this very fact from an Article in the *Newsday* dated April 03, headlined:

“Preventing Another Coup.

Government's move to stop the establishment and the literal expansion of any private armies, or to use the official phrasing, to prohibit private military training and exercises 'likely to be used...to destabilize the internal security of the State,' though somewhat late in the day is necessary particularly in light of the attempted coup of July, 1990.

I quote from page 8 of the *Trinidad Guardian* dated April 04, headlined as follows:

"No Private Army.

The Bill introduced on Monday that would virtually outlaw the formation of private armies is one that we feel sure all loyal citizens would welcome. "

**2.30 p.m.**

Mr. Speaker, engaging in these subversive activities could lead to a conviction, and a person so convicted is liable on indictment to imprisonment for ten years. I should like to have a look at sections 218 and 220 of the Defence Act because at the end of the Bill one would observe that those sections were repealed.

Section 218 of the Defence Act prohibits members of an association from being organized, trained or equipped to be employed in usurping the functions of the defence force or police service or for the use or display of physical force in promoting any political object, or in such a manner as to arouse reasonable apprehension that they are organized, and either trained or equipped for that purpose.

Section 220 of the Defence Act prohibits a person from:

"(a) training or drilling any other person in the use of arms or the practice of military exercises;

(b) Assembling for the purpose of such training or drilling;

(c) Submitting one self to such training or drilling."

One will observe that the contents of the Bill that is before you, cover these areas quite adequately so it is no longer found necessary to have them maintained in the Defence Act.

Mr. Speaker, contravention of these provisions to which I referred in the Defence Act, constitutes the offence of a lawful drilling of a person who commits this offence and that person is liable on indictment to imprisonment for ten years. We are asking the repeal of these two sections.

If one looks at the Firearms Act, one would see in Chap. 16:01, Part 1 that a person must hold a firearms users' licence for any firearm or ammunition in his possession, or be liable on summary conviction to a fine of four thousand dollars and imprisonment for two years, on further conviction on indictment, he may be imprisoned for ten years.

The other provisions of this Bill which I would like to draw to the attention of the House is at clause 10, where, among other things, provision is made to increase the penalty upon conviction for unlawfully wearing a police uniform. That section of the Police Services Act, if I may be permitted to quote, in section 46 Chap. 15:01 page 21 states:

“Any person not being a police officer who puts on or assumes, either in whole or in part, the dress, name, designation or description of any police officer, or any dress, name, or designation, resembling and intended to resemble the dress, name or designation of any police officer, or in any way pretends to be a police officer, for the purpose of obtaining admission into any house or other place, or of doing any Act which such person would not by law be entitled to do of his own authority, is liable on summary conviction to a fine of seven hundred and fifty dollars, or to imprisonment for three months. “

It goes on:

“47. Any person, other than a police officer, who, not being specially authorised in writing by the Commissioner so to do—

- (a) wears the uniform of a police officer, or any portion thereof;
- (b) wears any costume or any article of clothing or apparel so closely resembling the uniform or any portion thereof of a police officer that he may reasonably be mistaken for a police officer,

is liable on summary conviction to a fine of four hundred dollars and to imprisonment for two months.”

It is in respect of this, that the amendment is sought where section 47 of the Police Service Act the words “four hundred dollars and to imprisonment for two

months” are substituted by the words “five thousand dollars and to imprisonment for two years.” So that section of the Police Act remains within the Police Act except for the conviction and the fine.

Mr. Speaker, the introduction of this Bill has become necessary, and I am sure is appreciated by all present, in light of the threats to internal security by the presence of private or quasi military organizations or groups. Existing legislation does not adequately provide for the prohibition of private military training and the attendant exercises pursued without authorization by the state which are likely to be used to undermine law and order in the country. Examples of such training and exercises being used to destabilize democracies throughout the world including Trinidad and Tobago, are well documented and it is in our interest to take steps to avoid, or at least minimize threats to peace and order. The Bill, has been drafted therefore, to redress the issue of the internal security of our country.

Mr. Speaker, I beg to move.

*Question proposed.*

**Mrs. Camille Robinson-Regis (Arouca South):** Mr. Speaker, even before I begin, I would like to welcome the Minister of National Security to this House and to make my initial statement by indicating that even though the hon. Minister has stated that the intention of the Bill is to seek to prohibit military training and to create certain offences, the Bill in its entirety has a particular drift of application that brings some concern to Members on this side of the House.

One of the issues which bring an immediate concern, is the lack of an effective machinery established by the Bill initially for obtaining the Minister’s consent if one wants to operate in a manner in which, on first reading the Bill seems to prohibit, but as clause 3 points out, there can be written authorization from the Minister.

The second concern is, where is the evidence that if one is prohibited, or the Minister does not give his consent, there is recourse to an appeal?

Another difficulty deals with the implementation when it is passed and that is the difficulty which the police service—if they are the ones to police this particular piece of legislation—may have in monitoring potential offenders and indeed in pursuing potential offenders. If, however, it is a Bill which seeks to target one specific group of persons, then it may not be as much of a difficulty as

it first appears. It would be a good thing if the Minister indicates in his winding up, whether this Bill seeks essentially to target a specific group of persons.

**2.40 p.m.**

Mr. Speaker, this Governmentt has said on several occasions that it will consult; it will refer to various organizations on all issues before bringing them to the national Parliament. The question that I want to ask is whether the Estate Police Association and the associations which operate within the police service were consulted on this particular matter; and whether other bodies, which may be affected by this legislation, were consulted, so as to ensure that the widest possible participation in the development of this particular piece of legislation has been received.

Mr. Speaker, this is a coalition which consistently speaks about consultation, transparency and openness. But words are easy to come by. What we have seen, Mr. Speaker, is a situation where there has been a lot of mouthing and talking; but the action that should go with that type of statement, or sentiment, we have not been seeing, which leads us to believe that this is, indeed, a Government which prides itself on transparency.

Mr. Speaker, when I say they have been consistent, they have, in fact said, even whilst in Opposition, that there should be consultation and I would like, with your leave, to quote from what I now like to call “the former guardian of democracy”, which is now perceived by many as part of the information arm of this particular coalition. That is, in the days when it was in fact “*The Guardian*”, and I am quoting from “*The Guardian*” dated April 17, 1993 and the headline is: “Government wants to give YTC inmates chance to study.” In Parliament the Opposition Chief Whip, Ramesh Lawrence Maharaj, stated that (and I am now quoting), Mr. Speaker:

“The Opposition Member said the measure ought not to be introduced until there was widespread discussion with the community and groups in the area. The Government, he suggested, should talk to interest groups to find out their views before a policy evolves.”

Additionally, Mr. Speaker, and I am quoting again, the Opposition Chief Whip “accused the Government of ‘gallerying’ to the population, because while the concept was good, he said, the measure was not properly thought out.”

Mr. Speaker, I am asking the question whether there was, in fact, any consultation with groups that may be affected by this particular piece of legislation.

**Mr. Hart:** We want to know. Tell us.

**Mrs. C. Robinson-Regis:** Mr. Speaker, the Minister of National Security in his presentation, referred to an international convention; he also referred to a situation which, he says, is an international situation where drug traffickers and mercenaries appear to be working hand in hand to ensure that the drug trade continues. In addition to that, he indicated that there is a great importance being attached to security of state and the type of security information which states need in order to ensure that their borders are secure.

It is interesting, Mr. Speaker, that that is one of the points on which the Minister, who presented this Bill, is basing the perceived need for this piece of legislation, because we have witnessed the firing of Major-General Ralph Brown who headed the Security Intelligence Agency of this country. Mr. Speaker, if the Minister is saying that security intelligence is of the utmost importance, we are of the view that someone of the calibre of that particular person should not have been treated in that manner.

Mr. Speaker, I would like to indicate why these concerns are being made at this time, when the Minister has linked the need for security intelligence with the drug trade in accordance with the particular convention which he quoted in the House this afternoon. Mr. Speaker, I am quoting from *Newsday* of today's date under the headline: "Major-General Brown: I feel betrayed," where he said, and I am quoting:

"he was surprised and felt betrayed. In his report he gave details of the illegal drug trade and the names of many who were involved and the extent to which 'overnight millionaires' were being created because of the trade."

I continue to quote, Mr. Speaker:

"He told Mr. Panday and the Security Council that the operations of the drug trade were so well organised, that swift and effective drug interdiction measures were needed to stamp out the drug trade in the country, which he described as very serious."

Mr. Speaker he said swift and effective measures were needed; and what was the swift and effective measure which this Government decided to impose?

Firing of the person who has brought this type of information to its attention and, Mr. Speaker, we have to be wary and be concerned when this type of information is coming to the coalition Government, and the swiftest thing that they can do is get rid of the source of that information. [*Desk thumping*]

**2.50 p.m.**

Mr. Speaker, it is strange that this Bill came to the House at a time when that kind of activity was being brought home by this coalition Government and their first reaction was to fire the person who brought the information.

I ask the question: Is this action another one of this coalition's wars where they take no prisoners but leave several casualties? We on this side are concerned about the several wars which this administration has created within sections of the community in its short and uneventful period, thus far. This particular Bill seeks to deal with a situation where there may be war against the Government or the state by organizations which may be involved in so-called "subversive" activities. Because of the fact that this Government has operated in a particular way we are concerned about the mechanism that may be employed by this Government in the implementation of this particular piece of legislation. We recognize that this legislation, in the wrong hands, can be very repressive, it can be draconian and can be used to ends which may not necessarily be the intent initially thought through by those who may have come with this legislation as part of an overall policy.

The Minister of National Security indicated that a Bill similar to this Bill was part of the policy of the previous administration. In a particular context the policy that brought this legislation to the Law Commission was one which was thought through, it was one which operated in conjunction with particular structures which were being set up. We are concerned that some of the provisions may, in fact, be draconian in the manner in which they have been drafted and, indeed, in the overall intent of the Bill and the implementation of this particular piece of legislation.

Mr. Speaker, I would like to go through this Bill clause by clause. In the definition section the word "explosive" has been defined in such a way as to include fog signals and fireworks.

My concern is whether persons in the commercial or pleasure boat industry who train their crew in the use of distress flares and the like, would find it necessary now to obtain a licence. In addition, to that, we understand that there



must be, according to the legislation that now exists, authorization for the use of fireworks. The concern I have is whether someone who has a boat and has to use a flare for reasons of their own safety and security, whether there would be the necessity to ensure that this licence was obtained before such fog—it is referred to as fog signals—have, in fact, obtained that licence. I am trusting that this will not create a problem.

I turn now to the definition of subversive activity and particularly subversive activity subparagraph (c) where it says:

“the use of or display of physical force by persons in promoting any object, political or otherwise, or in such manner as to arouse reasonable apprehension that those persons are organized, trained, drilled or equipped to carry out the acts described in paragraphs (a) and (b)”

I am contending that this particular part of the definition is too vague and wide and, in fact, can be directed against political organizations, trade unions, pressure groups or even women’s organizations which may, in fact, be engaged in lawful protest demonstrations. My concern is, to some extent, predicated on what we have heard in this House. And what we have heard in this House on a previous occasion? We have heard the Member for Couva North, the hon. Prime Minister state that he had information to which the “real” Minister of National Security was not privy, information which suggested that the PNM at a political meeting was planning to overthrow the Government.

Mr. Speaker, I looked at this and realized that it is related to the definition of subversive activity. I wondered what was the intent of this particular definition—and this was based on the fact that the Member for Couva North indicated that he had information which, in a nut shell, led him to believe that the PNM may have been engaged in subversive activity.

Mr. Speaker, based on all these perceptions, based on all these wars which have been taking place with the Government, or, I should say, wars which the Government have brought upon themselves, I am concerned about the implementation of this piece of legislation.

**3.00 p.m.**

I turn to clause 3 (1) of the Bill before the House. It states:

“Except with the written authorization of the Minister, no person shall—

- (b) solicit or provide financial or other support for the management, control, training, drilling or equipping of another person in the use of firearms, ammunition, artillery or explosives or in the practice of military exercises.”

My concern with this particular clause is based on the fact that when one considers that the offences captured in this Bill refer to persons who may provide financial support to an organization which is engaged in this particular function, then the range of persons who have to obtain the Minister’s authorization is even wider. Remember one of my overall concerns as it relates to this Bill is a concern with the width of the intent of this Bill and the number of persons whom this Bill may seek to capture. It is strange that persons who may in some way provide financial assistance to an organization which may legitimately be trained in military exercises would also have to get that type of authorization from the Minister. I feel that this should be looked at very carefully.

I have a concern born of the fact that the written authorization must come from the Minister whose portfolio covers issues of national security. The authorizing body for ensuring that these activities take place should not be a politician. That is my concern because the Bill may be used in a repressive manner. I suggest to those on the other side that there is an amendment to the Firearms Act which indicated that initially a person has to apply to the Commissioner of Police for a firearm and then he has recourse by way of an appeal. I suggest that perhaps, instead of the authorization coming from the Minister that it could come from a functionary in the Ministry of National Security. The concern is that the person who is by this Bill being given the opportunity to give the authorization is essentially a politician, and he or she may be tempted to use the Bill in a repressive manner.

I refer to clause 3(3). It states:

“For the purposes of this Act the Minister may authorize any person to do any act or thing which could be in contravention of this section or section 4.”

Again, my concern is using the Minister as a functionary to give this authorization.

The other concern which I have with clause 3(3) is one that this particular clause may in fact be superfluous. Clause 3(1) states quite clearly that the Minister or if the change is accepted whoever is the functionary must give

written authorization for an activity to take place. That issue of authorization is dealt with in clause 3(1) so there is no apparent need to include clause 3(3) which states almost the same as in clause 3(1). This superfluity is also found in clause 4(1) which again talks about the Minister giving his authorization. If the authorization for activities in the Bill is to be given by the Minister then that can be stated quite clearly and very specifically. Clause 3(3) because it appears to be superfluous in relation to clause 3(1) gives the impression that the Minister may authorize things which may otherwise be an illegality. That must be examined very carefully.

I refer to clause 4(3) which provides a defence where the person who is called by clause 1, reasonably believes that the organization was so authorized; then that can be used as a defence. The question which needs to be answered is if clause 4(1) appears to be a strict offence, how can there be in clause 4(3) the type of defence which is being laid out in this particular clause? So that persons who are not members of the particular association which may be caught under this legislation are the persons who may be able to avail themselves of that defence. But persons who are members and know what is the intent of the particular organization should be caught by the strict offence created in clause 4(1). I am asking that these clauses be looked at a little more carefully.

**3.10 p.m.**

Mr. Speaker, I turn now to clause 5 of the Bill. Clause 5 and, indeed, clause 4, deal with a situation that is not usual in terms of criminal law and the burden of proof where there is no burden on the accused to prove his innocence; the burden lies with the prosecution to determine the guilt of the person who is before the particular court charged with an offence. The wording of clauses 4 and 5 creates a situation where the burden or the onus of proof of guilt moves from the prosecution to the defence. That is not a normal course of action in any situation where evidence and criminal liability is brought before any court of law. There are certain specified situations where the onus of proof shifts and those are established rules of evidence. However, the wording of these clauses changes the onus of proof. If this is in fact so, then I am asking the Minister to look a little more carefully at the wording of those clauses to ensure that this is in fact the intention in relation to this particular piece of legislation.

Mr. Speaker, just to point the Minister in a specific direction in relation to my concern about the onus of proof. Clause 5(1)(a) states:

"A person commits an offence who takes part in—

- (a) organising, controlling, managing, training, drilling or equipping other persons...in the use of firearms, ammunition, artillery or explosives or in the practice of military exercises for the purpose of engaging in subversive activities."

I am stating that based on this section it would seem that the prosecution can say to the court that it is for the defendant to prove that he did not connive at organizing that type of training and then he can lead evidence or lead no evidence of the defendant's intent or participation. Mr. Speaker, in criminal law the intent is of the utmost importance.

I would go on by saying that if the intention to shift the burden of proof is not the true intention of the Minister who piloted this Bill, then there would be no need for clause 5(3) because it is always open to someone charged with a criminal offence to say in criminal proceedings that there was no intent. Remember, Mr. Speaker, I have indicated that intent is essential in proof of criminal proceedings. Clause 5(3) says: "In any proceedings against a person charged under this section, that person may as defence to the charge, prove that he neither consented to, nor connived at—" the following matters which constitute the offence. This, I am contending is shifting the burden of proof which is not a usual situation in the law, there are specific areas of evidence which state when the burden of proof shifts. So I am concerned about that.

Mr. Speaker, I move now to clause 6 which has as its marginal note "Admissibility of evidence". Clause 6 particularly seems to be a curious and sleight of hand attempt to get around the usual hearsay rule of evidence. Perhaps I should not be concerned about any sleight of hand attempt or any sleight of hand behaviour by this Government because sleight of hand appears to be their method of operation. *[Desk thumping]* I say this because how else can one explain Government's recent behaviour when quietly "Arrival Day" was renamed "Indian Arrival Day"—sleight of hand. Mr. Speaker, how can one explain their removal? *[Interruption]* I am hearing an explanation, Mr. Speaker—is it the word "tribal" the Member for Caroni East is saying? I am saying, Mr. Speaker, that that activity is sleight of hand. I am also asking how can one explain the removal of Republic Day which has such historical significance in such a callous manner? Sleight of hand! Mr. Speaker, there were two public holidays which were particularly national; one is Independence Day

and the other Republic Day and now Republic Day which has historical significance has been removed.

How can one explain the stopping of an important national project like the National Library Complex and leaving the site as an eye sore? That is sleight of hand.

**3.20 p.m.**

Mr. Speaker, I am saying that clause 6 is peculiar and curious because inherently, it is dangerous and I want to point out the danger if it is left in this piece of legislation. It is dangerous in that it could lead to a procession of false witnesses claiming to have heard things—

**Mr. Speaker:** Hon. Members, the speaking time of the hon. Member for Arouca South has expired.

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

*Question put and agreed to.*

**Mrs. C. Robinson-Regis:** I thank the Members. Mr. Speaker, clause 6 is inherently dangerous as it could lead to a procession of false witnesses who may claim to have heard things spoken by a person charged, but it may have the effect of placing the accused in a position where he or she must bring evidence to the contrary, and the hearsay rule of evidence is very specific in terms of bringing evidence of things said or heard by someone.

The hearsay rule of evidence may be offended by this particular section. I am saying that similar to the shift in the burden of proof, this may constitute a shift in the normal rules of hearsay and I believe that this section should be looked at very carefully. In fact, it may be that given this concern with regard to the admissibility of this type of evidence, the better option may be for the Government to delete this particular clause. I am therefore asking them to look at that possibility of deleting clause 6.

I continue to feel, apart from the concern with regard to the hearsay rule of evidence, that this clause is peculiar because it may be argued that it fundamentally affects the due process that normally exists in our country. The ability to ensure that if someone makes a statement or allegation against another person, one has the opportunity to refute what has been said or written. We must

be very careful with regard to this particular clause and I am saying that it is one which should be deleted from the Bill.

The Bill in its entirety, is a Bill which has several clauses which may be seen as repressive, draconian and which may, at the initial reading of the Bill draw some concerns, and I have listed some of the concerns that we on this side have with regard to the implementation of this piece of legislation based on two main areas of concern.

The need to ensure that if this legislation is to be policed, there is the ability to do that type of policing and the question may be raised that the sections of the Defence Act and the Police Service Act that are being repealed, are sections similar in nature to this particular piece of legislation. It can always be argued that there were similar pieces of legislation that existed.

Mr. Speaker, the legislation that is before this House gives an even wider scope to that type of legislation that existed in the Defence Act and the Police Service Act, so that in itself raises concerns on this side. I opened by stating that I have a concern about the scope and intent of this piece of legislation and I also stated that if this piece of legislation is intended to deal with one particular grouping, then the Minister may have said so. I am hearing the Member for Caroni East telling me that the legislation was designed to deal with the PNM. If that is so, say so. If that is so—and he sits in the Cabinet—I am wondering if he, through a subconscious need to purge his soul is indicating that this legislation is, in fact, to deal with the PNM.

**Hon. Sudama:** Will the Member give way to a question?

**Mrs. C. Robinson-Regis:** I am suggesting, Mr. Speaker, that—

**Hon. Sudama:** What kind of mentality are we dealing with?

**Mrs. C. Robinson-Regis:**—this legislation is to deal with a particular grouping.

**Hon. Sudama:** The last of the Manning supporters.

**Mrs. C. Robinson-Regis:** If the intention of that side is to get rid of their coalition partners, the Jamaat, then they should feel free to say so. We have no difficulty with that intention. [*Desk thumping*]

**Hon. Sudama:** Sit down! Sit down! You have nothing to say. Sit down!

**Mrs. C. Robinson-Regis:** If that is the intention, then they must say so. I would like to close by indicating that if this Government, is in fact, basing its

existence on transparency and on a situation where they claim they work via consultation, we have not been seeing that and we are asking in this particular piece of legislation which can, in fact, be repressive, that they must demonstrate and indicate that there has been consultation with groups that may be affected by this legislation and they must state very openly and transparently what are their true intentions behind this piece of legislation.

Mr. Speaker, I thank you.

**3.30 p.m.**

**The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar):** Mr. Speaker, I join this debate to support the Bill that is before this honourable House:

“An Act to prohibit the training, drilling and equipping of persons with firearms, ammunition, artillery or explosives and the practice of military exercises otherwise than permitted under any written law, to increase the penalty for unlawfully wearing a police uniform and for related matters.”

Mr. Speaker, I am very surprised that the hon. Member for Arouca South is asking this side of the House to say whether this Bill is intended to deal with one particular organization; one particular grouping; and that if this side of the House says that, the hon. Member says that she would have no difficulty in supporting the Bill.

**Mrs. Robinson-Regis:** Mr. Speaker, just in an effort to clarify—I am sure she would do the same for me, but I am saying that I would not do the same at this time for that particular Member. Mr. Speaker, I would just like to state categorically that I did not say that if they state if it is for one particular group then we would support. I never said that, Mr. Speaker, and I am afraid that the hon. Member is misleading the House.

**Hon. K. Persad-Bissessar:** Mr. Speaker, as far as my memory serves me, that is what the hon. Member indicated. The *Hansard* record is there, and we can have that record before the House, Mr. Speaker. But what I understood the Member to be saying is, that if we intended to deal with a particular grouping we should say so. Those are the words I heard from the hon. Member. We should say so; and in fact she went so far as to say if it were against the Jamaat, or if it were against X or Y, or if it were to be against the coalition partner; if it were to be against the PNM.

**Mrs. Robinson-Regis:** That is what I said.

**Hon. K. Persad-Bissessar:** If it were to be against one particular grouping. This is what I understood the Member to be saying.

**Mrs. Robinson-Regis:** That is what I said. That is what I said.

**Hon. K. Persad-Bissessar:** And she said that this side of the House should say so, if it were intended for a particular grouping, and the other side would have no difficulty in supporting the legislation.

**Mrs. Robinson-Regis:** That is not what I said.

**Hon. K. Persad-Bissessar:** This is what I understood the Member to be saying. Mr. Speaker, I am saying I am very surprised because the hon. Member, with the greatest of respect, has been in the Senate previously, has sat in the other place and in this House since November, and I wonder if the hon. Member would recall that the purpose of Parliament is to make laws for the peace, order and good government of the nation. If the hon. Member would then recall that when we make law in this Parliament it cannot be that we do it for a particular group; it cannot be that we must make law for an individual. It must be for the peace, order and good government of the nation, as a whole. *[Desk thumping]*

But you see, Mr. Speaker, perhaps it is that the other side, when they were in Government, that was their practice—to make law to deal with individuals. I always speak about bringing a Bill to Parliament to amend the Constitution to fire the Speaker of the House. I could never forget that. I was in the Senate at the time. I hold no brief for that Speaker at that time, but it is the principle. They brought a Bill; I remember at the time I termed it “the fire Occah Seapaul Bill”. They brought a Bill to Parliament to deal with an individual.

**Mr. Maharaj:** State of emergency to lock up the Speaker!

**Hon. K. Persad-Bissessar:** Mr. Speaker, it cannot be—and the other side speaks of the scope and intent of the legislation. The scope and intent of this legislation, as of any legislation that this side of the House brings, Mr. Speaker, I want to repeat, is for the peace, order and good government of the nation of Trinidad and Tobago. If one looks at the Bill it is very clear that we are dealing with particular groups and groupings, not with specific individuals and organizations. I think this is the difference. The hon. Member is asking us to say which specific groups or individuals. We do not deal with specific groups and individuals. What the Bill seeks to do is to deal with classes or categories of persons and organizations



So it is, when we look at clause 3 of the Bill, one category of offence is created which deals with persons who “organize, manage, control, train, drill, equip or take part in the organizing, controlling, training or drilling of another person in the use of firearms, ammunition, artillery or explosives or in the practice of military exercises;” So that, it catches, as it were, the managers, organizers and therefore the organization. Again, not specific organizations but any such organizations which are engaged in organizing, managing, controlling, training, drilling, equipping, taking part in these things in training another person in the use of firearms, ammunition, artillery, explosives. They are all in the package of military exercises.

Again, no person shall “solicit or provide financial or other support for the management, control, training, drilling or equipping of another person in the use of firearms, ammunition, artillery or explosives or in the practice of military exercises.” And if the person contravenes, then, guilty of an offence. So the offence is created; it is a strict liability offence that, if these activities are carried on without the written authorization of the Minister, then a strict liability offence is created. That is one category of offences created in the Bill; and therefore the design, scope or intent of that particular clause in the legislation is to catch that category of persons or that grouping of persons.

Clause 4, Mr. Speaker, states: “No person shall meet or assemble at any place or premises for the purpose of training, drilling or equipping another person or of being organized, managed, controlled, trained, drilled or equipped in the use of firearms, ammunition, artillery or explosives or in the practice of military exercises unless he is a member of an organization or association authorized in writing so to do by the Minister.” So another category of offence is created there.

It is only when we come to clause 5 we see the third category of offences which has to do with engaging in subversive activities. So whilst it is that clauses 3 and 4 create these offences, the scope and intent, in my respectful view, is to put into place a regulatory mechanism for groups and organizations who may be involved in military training, drilling and so forth. So all these other groups in the society, who wish to do so lawfully, will be authorized so to do. It is a regulatory mechanism. It creates the offence. If it is you do not get that consent from the Minister, then these offences are created.

Now, when you look at clause 5, it now creates offences which deal with the question of subversive activity such as organizing, controlling, managing, training, drilling or equipping other persons; or soliciting or providing financial

or other support for the organization, management control, training, drilling or equipping of other persons; any meeting or assembly at any place or premises for training, drilling or equipping in the use of firearms, ammunition, artillery or explosives or in the practice of military exercises.

When we look at the definition section which is clause 2 of the Bill, “subversive activity” is defined as—

- “(a) an act aimed at the overthrow of the Government; or
- (b) an act aimed at usurping the functions of the law enforcement agencies or the military forces of the State; or
- (c) the use or display of physical force by persons in promoting any object, political or otherwise, or in such manner as to arouse reasonable apprehension that those persons are organized, trained, drilled or equipped to carry out the acts described in paragraph (a) or (b).”

In other words, Mr. Speaker, there are clearly three sets of offences created. Only in clause 5 does the Bill relate to offences that have to do with actions aimed at overthrowing the Government; usurping the functions of military forces and so forth.

**3.40 p.m.**

The spoken intent of the entire Bill is not merely to deal with actions aimed against the state or the military forces, but to regulate as it were, anybody engaged in training and drilling in military exercises as set out in clauses 3 and 4.

Mr. Speaker, the hon. Member made heavy weather of clause 5, by saying that it attempted to do something that was unnatural in law, to shift the burden of proof from the prosecution to the defendant. With the greatest of respect, this is not what clause 5 attempts to do. Indeed, any prosecution will have to prove, as in any other criminal offences, the essential ingredients of the crime or of the offence. The burden of proof remains with the prosecution and that burden of proof has to be beyond all reasonable doubt where it is a criminal offence. On the other hand, in addition to the normal defences that are available to a defendant in the criminal law, this Bill gives any defendant an additional statutory defence which is set out in clause 5(3) of the Bill. He has that additional defence that he can bring if it is that he were to be charged with any of these offences.

I disagree with the hon. Member for Arouca South that clause 5 in any way displaces the burden of proof from the prosecution. The prosecution, as in any criminal matter, has the duty to prove the essential ingredients of the offence of the crime but the defendant is given an added statutory defence. What is interesting as Mr. Maharaj would tell you—and he just pointed out to me—that in the criminal law, on the side of the defendant, the burden of proof on the part of the defendant is not beyond all reasonable doubt when he has to prove his defence. It is only on a balance of probability. It will be on the same level as with any civil trial. It is incorrect, in my respectful view, to say that the burden of proof has shifted from the prosecution. It has not shifted at all. It remains as in any other criminal matter.

The hon. Member expressed concern about the power that was given to the Minister of National Security in clauses 3 and 4, that is to say, that organizations or persons who wish to engage in any of these exercises set out in the Bill would have to get the written authorization of the Minister. The hon. Member expressed grave concern that to place in the Minister that power was, in a sense, to have the possibility of being repressive and could be used in a repressive manner. If that were so, I would share the view of the hon. Member that it would be cause for concern. There is an entire area of the law which is known as public law.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, in public law every public official who is given a power on the statute must exercise that power and, therefore, that discretion because the Minister being given the power to authorize is also therefore, given the power to withhold that authorization. The Minister then, as any public official, as any Minister, acting under the statute, has a duty to exercise that discretion in a particular manner. He must exercise it according to the principles of law. If he fails so to do, then the aggrieved person can have redress through the courts as any other aggrieved person. He can go to the High Court for what is known as judicial review of the decision of the Minister. If it is a bona fide organization that wishes to engage in training in the use of arms and ammunition with military training exercises, and the Minister refuses to grant authorization, it does not end there. I believe the hon. Member mentioned that if it were the Commissioner of Police, one would have an appeal. There are certain matters that go to the Commissioner of Police and then one would have a right of appeal if he refuses. If the Minister should unfairly refuse request for authorization to carry on military training and exercises one has a right of redress.

**Mr. Imbert:** What is it?

**Hon. K. Persad-Bissessar:** Judicial review under public law. Any person aggrieved with any Minister in the exercise of statutory function in his Ministry can go for judicial review of administrative action of the Minister's decision. Therefore, one has that first instance for application for judicial review and on top of that as with any application before the high court, one has an appeal thereafter that can be brought and one can take it as far as one wants to, as with any other matter.

Mr. Deputy Speaker, the question is being asked, at what cost? If it is that we live in a country of law and order and if it is that we live in a country that is bound to the administration of justice in the land, then all we can do as citizens in this land is to utilize the procedures that are available with that system of justice.

**Mr. Valley:** Thank you, very much, Mr. Deputy Speaker, and let me thank the hon. Member most graciously. I do not want to participate in the debate. I just wondered whether it would not be more efficient given that we live in a country of law and order, to make some type of provision within the legislation so that one would then avoid the ordinary person having to incur the cost of the judicial review?

**Hon. K. Persad-Bissessar:** The question the Member is asking is whether we could use some other mechanism. Whichever functionary is put, there is going to be the same kind of redress one would have—judicial review. That is the redress of a person who is aggrieved with administrative action. If we live in a land of law and order we must follow the system of administration of justice in the land. In fact, that is one of the things that this Bill seeks to deal with, the whole question of regulating military exercise to train in arms and ammunition by trying to protect, as it were, the decent citizens of the this land from those who would seek to take by force what they cannot get by law and order. That is what half of this Bill is all about.

The purport of it is to prevent those who would take by force what they cannot take through law and order, and through the system of justice. I see no difficulty whatsoever. It obtains for any Minister making a decision to be challenged by an aggrieved person before the courts of the land. That is the system of justice that we have in this country and that is the way that this Bill seeks to deal with it.

Mr. Deputy Speaker, the concern of the hon. Member that the Minister would abuse his discretion and refuse to grant authority in certain cases created cause for concern in the Member's mind. If I may, with your leave, Mr. Deputy Speaker, quote from "Constitutional and Administrative Law by Stanley De Smith and Rodney Brazier, seventh edition—any standard text book on administrative law would give the basic principles dealing with the misuse of discretion which is what the Minister has when he has to give or withhold that authorization. I quote:

"Today the courts have demonstrated that they can if they wish review the legality of the exercise of virtually any discretionary power. That a power derives from the prerogative or is subject to the approval of Parliament will not deter judicial examination of the propriety of the decision to act and the action taken."

**3.50 p.m.**

The courts will review and therefore grant relief to an aggrieved person who is probably not granted the authorization by the hon. Minister. That is if the application is made and one fails to act on it, the courts will give the application for judicial review. Acting in bad faith is also subject to judicial review. If irrelevant circumstances and matters are taken into account that too would be a ground on which one's decision would be overturned. One would be mandated to return a proper decision in the matter. Bias, unfair, prejudice, and irrelevant matters taken into consideration and bad faith are among some of the grounds on which the decision of the Minister can be challenged.

The point raised by the hon. Member for Arouca South with respect to the concern that the Minister would abuse his power, in my respectful view, is that he would be subjected to the law of the land as any other public officer would be.

Again, the hon. Member asked whether there was any consultation with respect to this Bill before the House. This Bill was drafted by the Law Commission. It is interesting to note—and I am sure that the other side would acknowledge—that in April, 1995 when the other side was in government, it was their decision that the existing legislation did not adequately provide for the prohibition of private military training and exercises which were likely to be used to undermine law and order in the country. Therefore, they approved draft legislation to make it an offence to organize, train, drill or equip persons for

certain prescribed purposes which contravene the law and compromise the maintenance of peace and order in the country.

It is very interesting to note that this might have been the time when the hon. Prime Minister of that administration was Minister of National Security. It was he who took to the Cabinet and asked it to agree to draft legislation with respect to training, organizing, drilling and equipping persons for prescribed purposes. He asked that this draft legislation be referred to the Attorney General to be brought to Cabinet.

The point is that since April, 1995 the other side recognized not just from the Attorney General and Minister of Legal Affairs, but from their Prime Minister at that time, that it was necessary that such a bill as the one before the House be drafted. The legislation was drafted but perhaps they did not have the courage to bring it to Parliament. *[Interruption]* Sometimes we would give way but everyday is not Sunday. The Member for Diego Martin Central is very clever. I was just about to make the point about his administration when he jumped up. In tennis you stamp your feet and throw the other side off. I do not know if that is his intention. *[Interruption]* It sounds so much like they are crying on the other side when they make those noises. As my hon. Prime Minister always says, "the coulda, woulda, shoulda government". The then government took the steps but when it came to bring the draft bill to Parliament, it chickened out and instead called an election.

We did not bring it in December. When we went into office our legislative review committee had to look at the draft legislation. So it was that we considered that Bill together with members of the Law Commission and we have brought it before the House today. I would like the other side to indicate if they are against this Bill or in support of it. The fears raised by the hon. Member for Arouca South can be dealt with quite easily with respect to the burden of proof and the powers of the Minister.

With those words I commend this Bill to this honourable House. Thank you.

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Deputy Speaker, it is truly unfortunate that the Member for Siparia chose to defend this Bill in a very superficial manner in typical fashion. Since she lost her portfolio she has found herself in this House jumping up like a Jill in the box seeking to defend legislation which clearly needs some work. It is truly unfortunate.

Before I deal with the Bill, let me deal with some of the statements made by the Member for Siparia which clearly is nonsense. Let us look at the whole question of judicial review. It is obvious that the Member is a neophyte in this House. If the Member for Siparia had been a Member of this honourable House previously, she would have heard the Member for Couva North and the Member for Couva South come into this House time after time and demand that in order to avoid abuse by politicians and Ministers in the exercise of their powers, that we establish appeal tribunals.

I remember in the debate on the Maxi-taxi Act when the Member for Tobago East, the Member for Couva North and the Member for Couva South very eloquently gave a rationale for avoiding judicial review because of the cost of engaging lawyers and the cumbersome nature of the bureaucracy. In the particular instance of the Maxi-taxi Act, because it was a three-fifths majority, we needed their support and we got it, but in return for their support they demanded that we put in an appeal tribunal. The amendment was crafted in some manner by the Member for Tobago East so that it could not be challenged by a court of law. This appeal tribunal was in the case of decisions of the Commissioner of Transport in the grant of maxi-taxi licences, in recognition of the fact that politicians can and sometimes do abuse the powers granted to them.

**4.00 p.m.**

I wish the Member for Siparia would do research. Her Prime Minister and her Attorney General have come into this Parliament and demanded that we put in appeal tribunals to deal with abuse of powers by politicians, so the entire presentation of the hon. Member was at variance to the arguments of her leader and her Attorney General in this honourable House—arguments to which I partially subscribe. It is a fact that there should be, in certain cases, recourse to appeal of a decision by a politician. As a matter of fact, again, the Member for Siparia is taking basket in her neophyte innocence.

The previous administration brought a Bill to this Parliament to amend the Firearms Act to create an appeals tribunal against decisions of the Police Commissioner in the grant of firearms licences. We recognized, that in that particular case, it was necessary to put in place an appeals tribunal against the grant of firearms licences by the Police Commissioner. Again, she was taking basket from the Member for Couva South. If the hon. Member wants to be a successful politician, please advise her to stop taking basket from the Member for Couva North and the Member for Couva South.

Mr. Deputy Speaker, I want to say at the outset that we on this side support the principle behind this Bill. *[Interruption]* Of course no right-thinking person would be against the principle behind this Bill. How could he be? We are saying that for good order and to avoid potential abuse, the legislation should be cleaned up. That is all we are saying. Again, the other side, in their usual contemptuous manner, dismissed the statements put forward by the Members on this side as they did with the Rent Restriction Act, and they had to come back into this Parliament with their tails between their legs and beg for the support of the Opposition, which we gave, because we recognized that it was in the interest of the people. I notice the Member for Couva North is descending into his usual trivia, but that is okay. He is the party king of Trinidad and Tobago—

[MR. SPEAKER *in the Chair*]

Mr. Speaker, before you came in the Member for Couva North was descending into his usual trivia, but it is not surprising; he is the party king of Trinidad and Tobago. If he is not dancing, he is seen with refreshments in his hand and so forth. He is the party king. *[Laughter]* I understand why he thinks everything is a big joke.

Mr. Speaker, before you came in, I was making the point that we on this side support the principle of this legislation and we simply wish the wording and the drafting to be cleaned up. It is quite possible that persons may bring proceedings challenging the constitutionality of some of the clauses in this Bill, and for good order we are requesting that those clauses which are unnecessary and which may lead to constitutional challenges, should be removed. Clause 6 is a case in point. Clause 6, as far as I am concerned, is totally unnecessary.

Under the present rules of evidence, if the authorities want to bring a charge against a person for intending to engage in subversive activities, then they can use the present laws of the land. Why put into a Bill a very clumsily drafted section which introduces the whole concept of hearsay? Take it out! If the Government wants to make “intent to engage in subversive activities” an offence, simply make that the offence and let the normal rules of evidence deal with that offence. This clause can cause conflict in interpretation on the whole question of hearsay; and as we know, hearsay is inadmissible in court. The Member for Couva South, more than any other person should be aware of this.

The Member for Couva South, when he was not in association with the Member for Tobago East, was quite annoyed several years ago because of the publication of the Scott Drug Report which was compiled in many cases based



on hearsay. Persons made statements about the Member for Couva South and as a result his character was impugned. He was accused of all sorts of crimes, including conspiracy to commit murder and so forth, but based on hearsay.

Mr. Speaker, that is a pertinent example of the damage that hearsay can do to someone's character. Therefore, I think that we should just remove clause 6 from this Bill and let the normal rules of evidence apply, rather than possibly shifting the burden of proof from the prosecution to the defendant. There is no need for it. If the objective is to make "intent to engage in subversive activity" an offence, make it so.

The other problem which I must come back to is the whole question of abuse. I have very high regard for the hon. Minister of National Security. I think he is an honourable man. *[Desk thumping]* I think Mr. Speaker, that sometimes he finds himself in situations where he is made to do things that he would not normally do. For example, a clear instance of a group engaged in subversive activity in our most recent history was the group of terrorists who sought to overthrow the Government when they invaded this Parliament on July 27, 1990. The Member for Tobago East is very familiar with that incident.

The hon. Minister, at that time, in another capacity, was heavily involved in the military activities which led the fight-back against this group of insurgents and terrorists who engaged in murder, who shot the Member for Tobago East, who sought to take over the country, and who held Members of Parliament imprisoned. The hon. Minister was at the vanguard of fighting back against these criminals. I can imagine his surprise, soon after being appointed Minister of National Security, at being instructed by the Member for Couva North, to sit down and speak nicely and peacefully to those very individuals, and shake their hands. Those individuals who had taken up arms against the state, shot the Member for Tobago East and had taken over this country. How did the Minister feel on being instructed by the Member for Couva North to sit down with subversives and talk nicely and smile?

#### **4.10 p.m.**

That is a pertinent example, in my opinion, of the hon. Minister of National Security being forced to do things he would not normally want to do. I know he is a Member of the Cabinet and because of collective responsibilities, he has to say that he has no problem with that, but behind it all, he would have had a problem being instructed to deal with subversives before he had to deal with anything else and before he met with the police 2nd division association and the

other arms of the defence force and so forth. He also had to meet with subversives who were former clients of the Member for Couva South—

**Hon. Member:** Former client and still friend.

**Mr. C. Imbert:** If this Bill had been in effect in 1990 or 1991 or from 1991 to 1995, the Member for Couva South could very well have found himself guilty of an offence under this Bill, because he was meeting and assembling with persons who had actually engaged in drilling and training in the use of firearms and explosives. *[Desk thumping]* As a matter of fact, if this Bill had retroactive effect, the Member for Couva South might be in jail. *[Laughter]* Mr. Speaker this gets more and more curious.

**Mr. Hinds:** It is a question of morality.

**Mr. C. Imbert:** If this Bill had been in effect during the 1996 carnival celebrations, then the Minister of National Security, the Prime Minister and the Attorney General might have been guilty of meeting and assembling with persons engaged in subversive activity in the VIP Box in the Grand Stand. This is why—and I notice the Member for Siparia is not here—people are suspicious, why they wonder about the true intent and whether they should believe that the Government’s intent is honourable. Whether this Bill is in fact, intended to deal with terrorists and subversives, or whether it is in fact intended to harass persons engaged in legitimate opposition to the Government. *[Desk thumping]*

One must be suspicious, Mr. Speaker. Why in the definition of subversive activity on page 8 of the Bill do we have clause (c)?

“subversive activity” means—

(c) the use or display of physical force by persons in promoting any object, political or otherwise, or in such manner as to arouse reasonable apprehension that those persons are organized, trained, drilled or equipped to carry out the acts described in paragraph (a) or (b).”

What is this creeping into the Bill for? What is this thing about political? “the use or display of physical force by persons in promoting any object, political...as to arouse reasonable apprehension...” What is this political matter doing inside there? All I am saying is that we support the principle of the Bill. If a subversive act is an act aimed at overthrowing the Government, then this matter about politics does not have to be brought in. Leave the definition clean. Do not bring in these things where a future politician could try to harass politicians opposed to

the Government in power because he has reasonable apprehension that they are engaged in acts to overthrow the state.

The Member for Couva North has already said in this session of Parliament that the hon. Leader of the Opposition had intended to engage in activities to overthrow the Government. The Member for Couva North, a politician, has said that he had evidence of that. This was in a political meeting where the hon. Leader of the Opposition was simply saying that we shall use legitimate means of protest such as writing letters to the newspaper to make our voices heard in opposition to the Government. That was all he was saying. But according to the Member for Couva North, we on this side were intending to overthrow the Government and this is why one wonders why the word “political” has crept into this definition of subversive activity. Under this Bill people could be accused with trumped up charges barely on the whims and fancies of an irresponsible politician and I have already said that the hon. Member for Couva North is the party animal of Trinidad and Tobago. I am saying just take it out, let us have a clean Bill and we will support it wholeheartedly.

During the 1991 general elections members of an organization which, in the past, had engaged in subversive activities, were on political platforms with the other side in a meeting in St. Augustine acting as security. Now, if one takes page 8 definition of subversive activity,

“subversive activity” means—

(c) the use or display of physical force...”

What is that? Is a big, strong man physical force? It could be. There were these big strong men of the UNC standing up on the platform in a St. Augustine meeting, and they were persons who belonged to an organization which, in the past, had engaged in acts to overthrow the Government and the display of their physical presence could be interpreted as a display of physical force and therefore the— *[Desk thumping]* UNC would have been guilty of participating or assembling with persons who by their manner—this is how it is worded you know—“...in such manner as to arouse reasonable apprehension...”

I put it to you, Mr. Speaker, that any objective person looking on at these security personnel on the stage at that UNC meeting at St. Augustine would have come to a reasonable conclusion that those persons were trained and equipped to carry out the act described in paragraph (a) or (b) and therefore, the entire UNC hierarchy would have been arrested if this Bill had been in effect, and an

irresponsible administration such as theirs were in power. That is why I say take it out, or at least take out the word political.

The Minister spoke about the international drug trade and that it knows no boundaries and people can move into a country. That is a fact. I cannot deny that at all and that is why we support the Bill in principle. In the recent troubles in St. Kitts, one view was that international drug lords were creating a state of uncertainty and instability in St. Kitts which caused the Prime Minister to call for help. That was one theory at the time and it was supported by reasonable evidence. Therefore, it is a fact that international drug lords, because of the stakes involved could presume to overthrow a government. There is no doubt about that and therefore, again the principle of the Bill is very desirable and necessary.

We on this side have the greatest respect for the hon. Minister, so when he comes into this House, he should not make statements that give the impression that he is casting aspersions on us on this side. He made a statement to the effect that he hopes that we would take seriously the question of dealing with subversives in the country. I feel the Minister definitely wants to deal with subversives, I take him very seriously.

I continue. They had these persons in the VIP Lounge for carnival, when there are persistent reports of certain individuals taking over and managing the Unemployment Relief Programme, acting as security officers in the programme even up to the highest levels of administration and so forth. When stories are heard about persons providing a body guard service for Ministers, one has to wonder how serious is this Government? I say the Minister is serious about dealing with subversives.

Or is it a case that the Member for Couva South, having no more use for his former clients now intends to get rid of them? Is this what this Bill is all about? Is it that the Member for Couva South, having attained the exalted office of Attorney General now intends to deal with his potential enemies one by one?

**4.20 p.m.**

Is that the intention? That now he will deal with his former clients in a very severe manner? I do not know. I am only posing questions. We will find out. We do not know. One really has to question the ulterior motives of certain persons. *[Interruption]* Oh, the party king has woken up! You can dance good, you know. I never saw a Prime Minister dancing with his feet off the ground like

that. You are really good! But, Mr. Speaker—*[Interruption]* Yes, showing his high-heeled boots to all and sundry.

**Miss Nicholson:** What is wrong with that?

**Mrs. Robinson-Regis:** High-heeled shoes.

**Mr. C. Imbert:** You know, one must question the ulterior motive—

**Mr. Narine:** Cowboy boots in Tobago.

**Mr. C. Imbert:** Mr. Speaker, one must question the ulterior motives of certain Members on the other side. They are not all bad, just some of them. Not all bad. Mr. Speaker what we are saying is that they should look very carefully at the definition section in this Bill. I will not be surprised if—

**Hon. Member:** I now know why you all do not dance.

**Mr. C. Imbert:**—the Minister is advised to ignore what we say on this side. That is how they operate. We bring up a serious point and indicate that a Bill is unconstitutional. They laugh at you and come and talk all kinds of legal gobbledegook and then come back and say, “Well boy, sorry, I was wrong.” I would ask persons on the other side to examine what we are saying very carefully, and do not deal in their usual contemptuous, dismissive, flippant, superficial, trivial, pedantic, puerile and infantile manner with the proposals made on this side.*[Desk thumping]*

To deal with the point, the Member for Siparia said the PNM did not have the courage to bring this Bill before the House. The Bill went to the Law Commission. My information is that it did not come back. We sent it. We had a Cabinet decision. We sent a Draft Bill to the Law Commission, and it did not come back in sufficient time to be laid before this Parliament. That is all it is! There is no need to engage in frivolity here. We have stated very clearly that we support—

**Mr. Panday:** It did not come back.

**Mr. C. Imbert:** —the principle of this Bill, Mr. Speaker.

Mr. Speaker, the legislative agenda in this Parliament during the last administration—

**Mr. Valley:** It was the same six months they took.

**Mr. C. Imbert:** It was a very serious legislative agenda. And with all the flippant dismissal and their snide remarks, November to May is six months.

**Mrs. Persad-Bissessar:** You had three years and ten months.

**Mr. C. Imbert:** April to November. November to May is six months. We sent the Bill to the Law Commission in April. It came back in November or December. They have now brought it in May. So we sent it for six months. They took six months. It is the same six months. The same superficial, trivial, puerile approach to serious matters, making flippant remarks. If this Bill was so important, why did they not bring it to this Parliament in December of 1995? It is May 03, 1996.

**Mr. Hart:** You did not threaten them yet.

**Mr. C. Imbert:** No, you see what happened, the Member for Couva South was not yet Attorney General. That is what happened. He was dealing with cleaning up his law cases and so forth. Two hundred cases that were supposed to take twelve months. But all the time he was planning to take the wicket of the Member for Siparia. And take it quick! He bowled a googlie and a chinaman—whap! Gone in 45 minutes! The poor hon. Member for Siparia was right here in this Parliament, not knowing anything; and was advised just half an hour before, that the hon. Member was to be replaced. But, you see, when the Member for Couva South came in—

**Mr. Hinds:** Not even the acting appointment.

**Mr. C. Imbert:**—he started to run afoul of his former friends. Apparently he has been the recipient of death threats.

So this Bill that was on the back burner in the UNC legislative agenda, suddenly floated up to the top because, as I said, the Member for Couva South is a very self-centred person and he felt threatened. So he brought this Bill up, as I have said, perhaps to deal with his former friends. That is what this is all about. So there is no honourable intent from everybody on that side. The Minister's intent is honourable but not the Member for Couva South, and so on. Not them. They definitely have ulterior motives. Clearly, if they can, they may wish and they may think of harassing Opposition Members of Parliament. Not just with this. When there is this situation here in clause 6 about proof of things done or words written, whether or not in the presence of any party to the proceedings by any person assisting.

**Dr. Mohammed:** You dealt with that already.

**Mr. C. Imbert:** So what this is saying is that an individual can make a statement that Mr. So-and-so, Member of Parliament for So-and-so is engaged in the organizing, training, drilling and equipping of people to overthrow the state and it is going to be admissible as evidence of intent! That is what Section 6 say. Leading to search warrant, charge, arrest, and so forth.

Mr. Speaker, one cannot trust certain Members on the other side. Look at the amendment to the Habeas Corpus Act where a fundamental right of habeas corpus is being removed or tampered with. If the Habeas Corpus Act were in its original state, then when they bring trumped-up charges against a Member of the Opposition, at least one could use the right of Habeas Corpus and say “dismiss the case” because there is no evidence.

But they have interfered with the habeas corpus provisions and with the whole question of evidence. They have allowed statements made before notaries public in foreign countries to be laid admissibly. So let us take it back. Not just hearsay in Trinidad, hearsay in North American. Somebody in North America says that some Member of the Opposition was engaged in military exercises to overthrow the Government. A notary public says this person swore to that before me. The Member for Couva South brings it to the police, and they lock up a Member of the Opposition because of intent. That is why we are asking: in order to avoid all reasonable doubt, take out clause 6 and remove this reference to political and subversive activity. And you know, talk about bush—

**Mr. Panday:** Not a bush, it is a shrub.

**Mr. C. Imbert:** The Member knows what I am saying is correct. He knows that he has interfered with the right of habeas corpus.

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

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

**5.00 p.m.:** *Sitting resumed.*

**Mr. C. Imbert:** Mr. Speaker, before we took our leave for tea, I was making the point that certain actions of the present administration give rise to suspicion and, as a result, one always has to look very carefully at Bills they bring before this House. The situation has reached the point where many sectors of the population are taking the position that they cannot believe what this Government says—and they are instead waiting to see what this Government does. They are judging the administration, not by its words, but by its deeds. This has happened

because of the number of actions of the Government. One that is pertinent is the dismissal of Brigadier Ralph Brown, with no real and proper reason given. When people see this sort of thing they wonder and they lose their respect for administrations, and the administration loses its credibility. That is why we virtually question every action of the present Government. In the definition section of the Bill, clause 2, which deals with "military exercise" says:

“an exercise, manoeuvre or other tactical campaign of a training nature ordinarily carried out by the military forces.”

The view has been expressed to me that this could be used to apply to persons engaged in activities which could resemble training ordinarily carried out by the military forces such as persons in gyms, persons engaged in training in the martial arts.

There are several sporting organizations which train in a manner that could be viewed as similar to the training ordinarily carried out by the military forces and, therefore, there is a view that this definition should be tightened by the addition of the words “as such”. It would read “military exercise, manoeuvre or other tactical campaign of the type carried out by the military forces in the exercise of their functions, as such.” It is clear that it means for military purposes. Just a suggestion.

We do not want somebody from some sporting organization, club, karate school or whatever to be liable to suspicion because their training resembles, perhaps, the physical education or self-defence training of the military agencies.

Mr. Speaker, I think I have made my point. I hope that the Members on the other side will take careful note of what we have said. We are simply asking that the drafting be cleaned up. We do agree in principle with the Bill. It is a very commendable step and we are simply asking that those loose areas of drafting that could, perhaps, inhibit the hearsay rule could, perhaps, inhibit freedom of association, freedom of expression, the right to belong to political parties, the right to engage in legitimate training exercises which have no military intent, that the other side look at that. We believe our suggestions have merit and we believe that with some simple amendments all of the loose, grey areas in the Bill can be corrected.

I simply wish to say that this whole question of an appeals tribunal is a development in law; both principles of natural justice, the right of an aggrieved person to seek redress and in the same way that an appeals tribunal was



established for the Firearms Act, where persons aggrieved against a decision of the Commissioner of Police were given the opportunity to go before an appeals tribunal, that is perhaps an area one can look at. There are a number of legitimate private security agencies who certainly engage in the training, drilling and equipping of persons in the use of firearms.

At some time in the future—I am not saying that it is this Minister certainly not, some unscrupulous politician in some future administration may take vindictive action against a private security agency and refuse to authorize them to engage in training, equipping and drilling of their personnel purely out of spite or for politically motivated reasons.

Therefore, for good order, I see nothing wrong with an appeals tribunal once the appeal tribunal is properly constituted. Since there is ample precedent, and the Members for Couva North and Couva South have, on many occasions, demanded an independent appeals tribunal in cases where persons' bread and butter is involved.

The maxi-taxi situation involves a man's right to earn a livelihood. He might be aggrieved at a decision of the Transport Commissioner, he might not have the money to hire an expensive lawyer to go for judicial review and, therefore, this appeals tribunal was put into the law to allow the low income maxi-taxi driver to seek redress in a simple manner.

I ask hon. Members on the other side to consider what we have to say very carefully. I make the point that the Minister of National Security sometimes is unaware of the actions of some of the other Members of his Government. Sometimes he is not involved and he has to take the blame.

In that list of names of persons involved in drugs perhaps, there might be an associate of a member of the Government who cropped up. Who knows? We do not know. Perhaps, that is why the order came to fire Ralph Brown. I am simply speculating. The person might not be known publicly to be involved in any illegal activities but their name just cropped up by accident. Perhaps, that was what happened. I do not know. I ask the Minister to be very careful in the things that he does, in the advice given to him from certain Members of his administration.

Just the other day I saw a perfect example in the demolition of the old police headquarters. I noted that the work was being done in Port of Spain but the transport contractor was from Central Trinidad, not that there could be anything

wrong with that, but it simply struck me as curious, that the Unemployment Relief Programme, regions 1 and 2 which is Diego Martin and Laventille, would be utilizing contractors from outside of the Port of Spain area.

If the Minister finds merit in it, I ask him to make the appropriate amendments to the Bill.

I thank you, Mr. Speaker.

**5.10 p.m.**

**The Minister of Labour and Co-operatives (Hon. Harry Partap):** Mr. Speaker, thank you for the opportunity to lend my support to this Bill before us this evening. I do not know why the Member for Diego Martin East keeps accusing us of being contemptuous. He had been part of a government that was so contemptuous of the people of Trinidad and Tobago that the people have put them on that side of the House. Contemptuous applies to the PNM and not the UNC/NAR Government. Every time the Member for Diego Martin East opens his mouth, he betrays a frustration in losing office. He speaks for a long time on the Parliament floor— *[Interruption]*

**Mr. Speaker:** Hon. Members I appeal for good sense to prevail. Let us hear the Member. Please continue.

**Hon. H. Partap:** Thank you for your protection, Mr. Speaker. Every time the Member for Diego Martin East opens his mouth he betrays a frustration at losing office. He spends a long time on the Parliament floor venting that frustration. This sometimes results in a lot of trivia.

The Bill before us this evening seeks to prohibit military training and exercises which can undermine the peace and good order in the society. This Bill is intended to discourage the destabilization of the internal security of the state by those who may have ulterior motives. In other words, this Bill is an act of patriotism, a demonstration by this UNC/NAR Government of its commitment to protect, defend and deepen the democratic system in Trinidad and Tobago.

This Bill when it becomes law will not only act as a deterrent to those who may wish to upset the democratic process, but also regulate those engaged in training, drilling and equipping of persons with firearms, ammunition, artillery and explosives. It is not intended to deal with any particular group of people as the Opposition would have us believe. A careful study of this Bill will reveal that its intention is not to go witch hunting as some of those opposite would have

the public believe. We are not in the business of witch hunting. That is not the ethos of this UNC/NAR Government. We are not looking for witches and devils. We are seeking to bring people into the mainstream of social and economic development.

This Bill sets out in 10 clauses steps which would enhance the protection of our democratic way of life. There is no need for those opposite to drag in extraneous matters and complicate what is relatively a simple exercise. We have to be vigilant and alert.

**Mr. Speaker:** Hon. Members I get the feeling that many of us are not paying attention. There is this principle that one must hear the other side. To be fair one needs to hear the other side. Please let us hear him.

**Hon. H. Partap:** Thank you, Mr. Speaker. The PNM has always been a one track government. They listen to only themselves. They do not listen to anybody else.

The Bill seeks to prohibit the organizing, managing, controlling, training and drilling of persons in the use of firearms and ammunition, artillery or explosives or in the practice of military exercises. The Bill also makes it an offence to solicit or provide financial or other support for the management, control, training or equipping of persons to do some of the things which I mentioned earlier.

The Bill sets out penalties for such actions. Those penalties are in my mind comparable to the severity of the offences. The Bill makes it illegal to assemble to take part in exercises which can undermine the state. Clause 6 makes it clear what can be admitted as evidence of the intention of persons who want to engage in subversive activities.

At the same time clause 4 provides a defence to a person charged who had no knowledge that he was part of an organization that had no permission by the Minister to engage in that particular meeting.

Clauses 7 and 8 provide protection to citizens from arbitrary action by the police in the execution of search warrants. These are well established practices which this Bill seeks simply to reinforce.

It is the duty of the Government to act in a manner at all times that would protect citizens. A government is duty bound to create an environment where citizens enjoy peace and tranquillity. We must perform that duty. We cannot wait until something happens before taking action. This UNC/NAR Government

should be applauded for its proactive approach for the protection of our democracy.

**5.20 p.m.**

One writer tells us that the price of freedom is eternal vigilance. That is not simply a cliché. It has painful meaning to some of us even in this House. I believe that freedom is never absolute, but is circumscribed by rules, regulations and the Constitution. It is that which gives meaning to democracy. That is why freedom is never absolute and some of the Members on the other side want to make us feel that freedom is absolute. It is never absolute. So whether it is society or the media, there must be mechanisms in place to protect the rights of others. I make the point, and I am by no means, original in making this point, that absolute freedom can lead to anarchy. Mr. Speaker, this nation of 1.3 million souls is too small to allow those bent on subversion to traumatize its people. We are too familiar with the television pictures of dislocation, murder and mayhem caused by sectional fightings in countries far away from us. This Bill seeks to prevent just such activities from developing and flourishing.

The Member for Arouca South sought to introduce some mischief in her contribution in reference to the resignation of Major-General Ralph Brown. I want to stress "resignation". In answer to her mischief I want to say that this UNC/NAR Government has done more in six months to tackle head-on the drug trade than the PNM did in 34 years. The Member for Arouca South also introduced a second bit of mischief when she referred to the removal of Republic Day from the list of public holidays. I simply want to remind her that it was the PNM government that placed a low priority on Republic Day. They did this by decreeing that Republic Day be celebrated 55 days after this country achieved republican status. *[Desk thumping]* I want to simply remind the hon. Member that republican status was achieved on August 01, 1976 but the PNM chose to celebrate the occasion on September 24. Will the PNM stand up and tell this country why September 24? What was the significance of September 24? Why was it not on August 01?

Mr. Speaker, let me get back to the Bill before us. The Military Training (Prohibition) Bill is a well-balanced Bill that seeks to protect the nation as it guarantees the freedom of its citizens. I ask those opposite to give their support to the Bill as a demonstration of their loyalty to Trinidad and Tobago.

I thank you, Mr. Speaker.

**Mr. Fitzgerald Hinds** (*Laventille East/Morvant*): Mr. Speaker, I rise to join in this rather important and interesting debate; I rise at a juncture that is doubly interesting because I have had the displeasure of hearing some inaccuracies from the Member for Nariva, unsurprisingly. I recall while he was making his contribution you intervened and reminded this honourable House about that Latin maxim *audi alteram partem*, not "Partap". Mr. Speaker, the inaccuracies that came from the mouth of the Member explains why it is difficult for one to sit and listen patiently to him. The first inaccuracy is to suggest, as the Member for Nariva did, that the people of this country put us on this side. The facts do not bear that out. Two people in Trinidad and Tobago put us on this side—two people from Tobago not the people of Trinidad and Tobago, and the history of this country would be rather unkind to them—Tobago East and West.

**Mr. Speaker:** Hon. Members, it is still necessary to hear and digest what the Member says, so that you all would be able to deal with it.

**Mr. F. Hinds:** Mr. Speaker, I am rather grateful for your time and effort, Mr. Speaker.

**Mr. Robinson:** On a point of explanation. May I inform the hon. Member that if they prove themselves worthy they would be put back on this side of this House. *[Laughter]*

**Mr. F. Hinds:** Mr. Speaker, in response to that rather interesting input from the Member for Tobago East, who like most of the people in Tobago must be thoroughly ashamed of the association that he has found himself in, I wish to say that we on this side want no part of that vacuous unholy arrangement. We want no part of it. I happen to have in my hand a copy of a document called heads of agreement between the UNC and the National Alliance for Reconstruction. It was only recently that the Member for Tobago East in another place told the nation that everything was working rather well with this agreement but at the same time it warrants a renegotiation. Confusion! What is more interesting is that I have observed—*[Interruption]*

**Mr. Robinson:** Mr. Speaker, would the Member give way? I never said renegotiation, I said review—which is very different.

**Mr. F. Hinds:** Mr. Speaker, I understand that the Member for Tobago East is a good lawyer of renown—he is accustomed to making much play on words, but review, renegotiate, they all have the same meaning—Confusion! Confusion! Confusion! *[Laughter]*

**Mr. Speaker:** Hon. Members, I appreciate that all of this, may be very engaging but I am asking that you all stick to the Bill, the Military Training (Prohibition) Bill that is before us, please.

**Mr. F. Hinds:** Much obliged, Mr. Speaker. I was really responding to the input of the Member. Mr. Speaker, we are called upon in this honourable House to debate what I regard as a rather important Bill—the title in short, the Military Training (Prohibition) Bill. From the contributions that you have heard from the Members on this side, it is by now entirely clear that we have taken a statesmanlike approach to this debate. We recognize that this is the kind of debate that goes well beyond the bounds of narrow partisan concerns and this concerns the serious business of the security of Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker, this is why the Members from this side have, in principle, agreed with every thought that has gone into this Bill. In fact, it has become quite clear to the Members of this honourable House that as was said by the Member for Siparia, that we initiated the idea a very long time ago.

**5.30 p.m.**

As is well known, the state is responsible for its own protection and it is so responsible whether the threat is an external or an internal one. I need not detain this honourable House with all the external implications for the security of the state, except to acknowledge that in today's very modern world, we live in what has already been described and properly so, a global village. Things that happen in any corner of the world bear an impact on every person anywhere in the world and as I use those words, I remember the words of Dr. Martin Luther King. May his soul rest in peace. He said on another matter, that injustice anywhere threatens justice everywhere. We live in a global village and this is quite correct whether it is in business, environmental matters, or in the field of communication, it is truly a global village.

Consequently, when we sit at home before our television sets and listen to our radios and read the newspapers, at least to the extent where it can be trusted in Trinidad and Tobago today, we see the very harsh and bitter realities of the activities of insurgents and terrorists around the world. Whether it is in South America, Europe, South East Asia, the Middle East and even rather recently in Oklahoma city in the United States. We must not be fooled into thinking that Trinidad and Tobago is immune from that kind of manifestation. It is certainly

not, Mr. Speaker. It is in this regard that we give full support to the thought that has gone into these measures.

Mr. Speaker, I am well aware, as has been indicated by Members on the other side, that this Bill is more concerned with internal threats to our security and our national well-being. As I had a close look at the Bill myself, much has already been said about clauses 4 and 5, in particular, subclauses (3) of those clauses. There is no need for me to re-read, or even to rehash them because we have heard sufficient about them in this debate for their terms to be rather clear.

I want to respond in particular, to the contribution made by the Member for Siparia as she attempted to explain away some of the inadequacies of the legislation. She made mention of the strict liability offences and indicated that was being attempted in the legislation to really put in place some kind of regulatory regime.

**Mrs. Persad-Bissessar:** A part.

**Mr. F. Hinds:** At least part, as I am being told Mr. Speaker, from across the floor. It is well known that that type of regime is generally applicable to legislation or bye-laws in general which deal with consumer type and in some instances, regulatory type offences. It is not often that one would find this type of offence being treated under the banner of that kind of regime. Therefore, to suggest that this Bill is attempting to create a regulatory regime insofar as organizations that are authorized, I find that a bit far-fetched and difficult to accept.

We have in this country, organizations like the Trinidad and Tobago Cadet Force, security firms of which there are many, the Trinidad and Tobago Rifle Association and these are some of the organizations engaged with the authority, in some cases with the Ministers in the kind of issues that we are debating today with these measures, but regulation insofar as they are concerned already exists. Security firms are required to be registered and their members precepted. I do not know what other regulation to which the Member for Siparia was making reference. The Rifle Association of Trinidad and Tobago is well known and well regulated. I do not know what other regulation to which the Member was making reference.

The Member indicated that insofar as subclauses (3) of both clauses 4 and 5 are concerned, that the Bill is proposing an additional defence which comes in addition to ordinary defences. She makes this suggestion, wanting us to accept

that all the other defences that are available to an individual if he or she is charged under this legislation would remain in place, but a statutory defence is being created by the subclause (3) from both clause 4 and 5. That too, I find difficult to accept and even if I concede that a new statutory defence is being created hereby, I submit and I want the Members from the other side to take note, that even if that is so, it does not answer the question of the shifting of the burden of proof. No one is speaking about the standard. I think it is quite trite as any first-year lawyer will understand that if the burden of proof is shifted to the defendant in a particular matter in a criminal situation, then the burden will no longer be one that is required to be beyond a reasonable doubt, but it will now be on the balance of probability and that is quite trite, Mr. Speaker. That does not surprise or alarm anyone.

What I am suggesting is that even if we concede that there is a new statutory defence that is being created, then the burden is still on the person accused under the legislation to prove—and this is the language of the Bill—that he was unaware that it was an unregistered or unauthorized organization. It does not answer the question and with those few words on that point I wish to move on.

The Member for Siparia made much hue and cry about the concept of judicial review in public law. For the non-lawyers amongst us, that might be new terrain, but for the lawyers amongst us, it is certainly not. Even for myself as a lawyer and the others here, she articulated a few inaccuracies which I must address in the course of this debate for the sake of the record and to make quite clear the position when we take objection to this legislation, that the Members on the other side will not be heard to say we are being obstructionists but we demonstrate that we take objection, not against the principle of the Bill, but for very sound and good reasons.

Judicial review, as is well known by the Member for Siparia, is a matter that the courts look at and the approach really is to look at the procedure that was adopted by the decision maker in large part. Procedural irregularities and the case law are replete with cases which make quite clear that the judges refuse to get involved in matters of policy. In other words, no court when it uses the authority, the inherent right—or whether it is a statutory one—to review a decision made by, or taken by an administrator or a decision-maker, in this case the Minister, will look at the policy of his decision. No court will tell the Minister that he has a right to give a firearm to “x” and not to “y” for whatever reasons. The court will not want to get involved in that.



**5.40 p.m.**

The court is concerned that, as the Member said, that he exercises his discretion that he assumes the proper procedure. I concede, Mr. Speaker, in the question of judicial review that there are times when, by taking even the approach that I have described, sometimes the courts manage to touch on substantive issues. But that is not what the court overtly does, neither what it is overtly able to do. *[Interruption]* Yes, I have. I can assure you. To set the record straight, judicial review is not an appeal. When the Member for Diego Martin East spoke and, I recall, the Member for Arouca South, the suggestion was that an appellate institution be in place much like the one that has been put in place with the firearms legislation so that one can have an appeal against the decision. That is quite distinct and apart from a judicial review. An appeal is an entirely different matter, and the rules for judicial review are different from the course that one would take if one wants to make an appeal.

Mr. Speaker, even when the court reviews a matter, assuming that what the Member for Siparia suggested was correct and someone applied for judicial review against a decision by the Minister not to authorize its getting involved in some kind of training exercise. The Minister refused. The court will not tell the Minister that he has to give the authorization. It cannot. It will tell the Minister that he must go and consider the matter once again, following the proper procedure. So that the Minister may then go, follow the proper procedure, but he may still come up with the answer no; and he may still not give an authorization, and there is nothing that the court could do because judicial review is quite distinct and apart from an appeal.

Mr. Speaker, when the Member for Diego Martin East, in the course of this rather important debate, told the Member for Siparia that she must be mindful of the fact that the Attorney General, the Member for Couva South, is on record in this House as taking an entirely different position, one that is diametrically opposed to the one that he encouraged her, I suspect, to take today, Mr. Speaker, the Member for Diego Martin East was quite right, because I have sat in this House and have seen so many examples of two-facedness, Janus-like behaviour, that the advice given by the Member for Diego Martin East to the Member for Siparia must not be taken lightly. It must be taken rather seriously.

Mr. Speaker, the Bill provides for the prohibition of training—military training exercises, if you like, drilling, equipping and that sort of thing. It also, quite properly to my mind, and I am sure the police service would be quite

happy with this, and members of the public in general, that there is an amendment to Section 47 of the Police Service Act, which of course significantly improves the penalties for someone who is convicted of the offence of making use of police uniforms. It is the kind of offence that is becoming rather prevalent. I have heard about two cases recently, and quite properly so, it is a matter that ought to be addressed.

Mr. Speaker, I would like, however, to ask the Minister merely to explain and this is not any—well, in fact, in his contribution the Minister said that the House would have observed that Sections 218 and 220 of the Defence Act already dealt, in large part, with some of the issues in the Bill. Some of the issues. So it is a question of repealing them and I have no real problem with that, Mr. Speaker.

As I indicated earlier, it is quite established in our political tradition and in our jurisprudence that the state is the only entity that should be able to exercise coercive powers. It was Max Weber—if I pronounced that name accurately—

**Mr. Valley:** Correct.

**Mr. F. Hinds:** —who said that, and I wish to quote: “—The state has a monopoly of the legitimate use of physical force. It alone is responsible for international affairs and for deciding what level and character the country’s armaments should be”. No one else, Mr. Speaker. No other entity. None. And I applaud them and my party who initiated it—this is on record today—for implementing these measures, because we must take a rather firm stand.

**Mrs. Persad-Bissessar:** But you did not implement it.

**Mr. F. Hinds:** Initiated, if I may correct myself, with your leave, Mr. Speaker. Initiated. Mr. Speaker, as I have indicated at the top of this discussion, to my mind it is quite clear that this goes beyond party concerns. I am quite happy to stand and make a contribution to this debate in this honourable House on this rather important measure. The state must be the only agency that must be properly able to exercise coercive powers. Otherwise, as in the words that are well known, enunciated many years ago by Thomas Hobbes: “Life in this country and elsewhere, if this happened, would be brutish, nasty and short.”

Mr. Speaker, the measures before us today are useful, and we support the Bill in principle. But clause 6 of this Bill is one that you have heard the previous speakers from this side—the Members for Arouca South and Diego Martin East make quite clear. We have serious concerns about clause 6 of this

Bill. I find it wholly unnecessary to develop the arguments because I am in total admiration for the way that the arguments developed from this side; and I am confident that even with a scintilla of reasoning ability on the part of the Government, they would have accepted the thoughts that went into our objections; and would act appropriately. Delete the thing, altogether.

Mr. Speaker, I would like the Minister, in closing, to make clear a matter I thought about as I read the Bill, and I suspect that it is what clause 2, under the heading subversive activity at (a), (b) and (c), was suggesting: that even where people are authorized to conduct the exercises that we are debating today, they can still be charged and found guilty, perhaps, for offences under this measure if they act, of course, outside of the bounds of that authority. I think that is fairly clear, and I like that; and I like to see it spelt out in the legislation and I support it entirely.

Mr. Speaker, it is well known that if people in a society are not able to express themselves politically; and not able to express their consciences as outlined in our Constitution; and if journalists and as I say journalists I remember, again, the contribution from the Member for Nariva. I am sure journalists outside and, indeed, inside of this House, might be very well ashamed at hearing the words of his contribution here today, when he talks about “freedom is never absolute”. He would never have dared to write that when he was practising as a journalist—if he ever did. Because he appeared for years as an ordinary innocuous journalist, Mr. Speaker, only to appear here—

**Hon. Member:** As an enemy of the PNM.

**Mr. F. Hinds:** Yes, only to appear here, Mr. Speaker, as an arch enemy of the PNM, wearing—I was about to say “the tie of the UNC” but wearing, not the “tie”, Mr. Speaker, but the “noose” of the UNC.

Mr. Speaker, I observed in his contribution, as well, that he made it quite clear. He described “his” as the Government of the NAR and the UNC. It is interesting and rather heart-warming, Mr. Speaker. I have not heard the term “national unity” for a very long time. It appears as if they have become tired of that vacuous concept that meant nothing; that was a sham; it was a ploy that was meant to deceive and to trick; a ploy that was designed to lure the Member for Tobago West, and for Tobago East; and once they have been lured, Mr. Speaker, the concept of national unity has been thrown completely out of the window. When last have we heard it? *[Interruption]* Mr. Speaker, a long time. So as we discuss this rather important measure, it is rather warming to know that they

have eventually thrown that vacuous concept outside and the real identity is clear. It is the NAR from Tobago *sans* the NAR from Trinidad; and the UNC.

**Mr. Sudama:** Who is your leader?

**Mr. F. Hinds:** The Member for San Fernando East, the hon. Patrick Manning. [*Desk thumping*] Let me repeat. My leader is the Member for San Fernando East, the hon. Mr. Patrick Manning. [*Desk thumping*]

**Mr. Sudama:** You have no leader.

**Mr. F. Hinds:** Mr. Speaker, if I asked a similar question, I would get at least three answers, but that will not surprise me. I have spoken about the Greek mythological creature that we know as “Janus” They speak on both sides of their faces. You will hear three, Mr. Speaker. We have grown accustomed to that.

Mr. Speaker, while I take a short deviation from the course of this debate, and I am properly entitled, because the Member for Nariva raised the spectre, the discussion, the question of Republic Day.

**5.50 p.m.**

Mr. Speaker, I am a Christian and very proudly so, and I am aware that we celebrate Christmas Day on December 25. No one is certain whether Christ was, in fact, born on that day, but we celebrate it nonetheless. I would not be surprised if that Government attempted to remove that holiday; so “vaps”, whimsical and heartless they are. They have removed the Republic Day holiday and one still has to ask—and I put it on the record of this House—why did they? We all know, as everything else they do, that it was surreptitiously done, and found itself in a small corner in the press some two or three days later. But the people of Trinidad and Tobago are being made aware, and they shall pay in due time.

While I speak about Republic Day, which I am entitled to do, because I learnt of the connivance and the plotting of the Members on the other side, that this is no plot to overthrow anyone or any Government. I simply mean, in electoral terms, come the local government elections and when they collapse the general elections come.

Mr. Speaker, it is not at all unknown for very powerful groups to attempt to destabilize societies in which they operate. The spectre of what is now known as Narco-terrorism faces countries everywhere around the world, not the least,

Trinidad and Tobago. We see it on the television and we read in the news that there are some groups that are politically motivated but they get a large part of their resources and funding from groups that are involved in the illicit drug trade and Trinidad and Tobago is certainly not immune.

As we have said over and over again we support, entirely, the purport of this legislation. We have a duty as parliamentarians, consistent with section 54 of our Constitution, to produce good laws for the governance and the good government of Trinidad and Tobago.

While we implement this measure it behoves me as well, because implementation is crucial, to ask the Minister—as I am sure the hon. Minister has been doing and would continue—to ask the Members of our police service, the customs department, the defence force and the coast guard to be vigilant and to take their duties seriously. Mr. Speaker, all this legislation would come to nought if when Brian Lara is batting, six customs officers gather themselves together to listen to him make a century and a bag with two guns come in; or if somebody, as is alleged—and I have no brief or facts on this but I think it is common knowledge, that persons might turn a blind eye to irregularities. I urge the Minister to remind the forces under his care that they must treat their duties as they perhaps have done in the past, rather seriously, and be vigilant. The individual citizens of this country must also be rather vigilant as we on this side would be as we watch closely the manifestations of the Members on the other side.

Mr. Speaker, in conclusion, I wish to say that in addition to the suggestions that we have put forward, we have taken note. The previous speakers must have made mention of the fact that the Security Intelligence Agency which was put in place had a particular project, and that was to garner intelligence so that the security forces can act in a timely fashion to deal with the threat of terrorism, whether it is Narco-terrorism, or politically-motivated terrorism. The head of that SIA, as it has now come to be known, has been callously and heartlessly thrown out of office a mere few hours, or even minutes, after submitting a critical report which he claimed, carries in its bosom, the names of members of our society who are involved in this illicit, wicked, devious operation. That really begs a number of questions about that Government. One must ask, as a matter of common sense, if there is something in that report of which they are afraid? The Government can sweep it under the carpet, it can do what it wants, it cannot stop the sun from shining, it cannot block the sun with its fists. What is to be will be, Trinidad and Tobago will be UNC free.

Mr. Speaker, with those few words, I thank you for the opportunity to have made this rather useful contribution and to reaffirm our support for this measure, and in fact, any measure that will be for the good governance of Trinidad and Tobago. We in the PNM have demonstrated this for 40 years as a political party and 34 years in government. We have a proud and strong record. We are all very proud PNM members, and we know that there are Members on the other side who would not dare say the same about the Government or their party.

In closing, we urge the Government, through the Minister who piloted this Bill, to take seriously the suggestions we have made and to take note of the amendments we have circulated. If they do this, Mr. Speaker, they will get our wholehearted support.

Mr. Speaker, hon. Members, I thank you.

**6.00 p.m.**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, the contributions of the Opposition in this debate have demonstrated how in such a serious matter it has decided to come to this House totally unprepared with respect to the legislation and has decided to use *mauvais langue*, bacchanal and confusion. They hope to get away with it in order to divert the population, Parliament and probably the media from the main issue in this debate.

This debate necessitated an apology from the Opposition and the Leader of the Opposition. I wonder why the Leader of the Opposition, the Member for Diego Martin West, the Member for Port of Spain North/St. Ann's West who are senior members of the party are not here today. They are not here because they are guilty of misconduct in the affairs of government. Since April, 1995 the then Prime Minister of Trinidad and Tobago recognized that as a matter of urgency, good governance of Trinidad and Tobago necessitated the passage of this Bill. Having made a request of the Law Commission to draft a bill, he had it in his possession. It contained all the material particulars in this Bill. In April, 1995 he said that such legislation is absolutely necessary for the good governance of Trinidad and Tobago. If that was his view in April 1995, one must presume that all the Members of his Cabinet knew that.

**Mr. Valley:** We voted for it.

**Hon. R. L. Maharaj:** He said they voted for it. He is giving me information. According to the hon. Member for Diego Martin East, they got it in September or October 1995.

**Mr. Imbert:** On a point of clarification. I am not accusing him of anything. I am just saying I did not say that. I said that we sent it to the Law Commission and as far as I am aware, from what I had been told, it did not come back in sufficient time. I do not know if it came back. I was told that it did not come back.

**Hon. R. L. Maharaj:** At first he said that it did not come back; then he said that it did come back. He does not know whether it came back or not.

They can respond to this. The fact of the matter is that the then Prime Minister had a draft bill in April 1995 that went to the Law Commission and came back.

**Mr. Imbert:** When?

**Hon. R. L. Maharaj:** You said it came back.

**Mr. Imbert:** No.

**Hon. R. L. Maharaj:** If this Bill was so important for the good governance of Trinidad and Tobago, do you mean that April, May, June, July, August, September and October passed and elections were called? The Opposition knows that it did not have the courage to introduce such a bill and it decided to forget it. There has been no explanation. The Leader of the Opposition is not here and he decided to absent himself from this House because he was not prepared to face the fact that he decided to abandon his duty to the people of Trinidad and Tobago. That is why they come today and talk about the National Carnival Commission; who is dancing, one love and national unity. They would not talk about the action of the PNM in not performing its duty to the people.  
[Interruption]

**Mr. Speaker:** Hon. Members, it is becoming more and more difficult for us to conduct the debate in the manner in which we have grown accustomed. We may not agree with something someone is saying, but hold your fire. Reply to it. The answer, I suggest to you, is not to engage in cross talk and shouting down the Speaker. I ask you please, could we try to bring a certain decorum back into the Parliament?

**Hon. R. L. Maharaj:** Mr. Speaker, I sat here and all sorts of allegations were made; people's motives were questioned; people were even accused that they would commit criminal offences if the law were retrospective. All sorts of allegations were made in this House in order to *mauvais langue* and make

bacchanal in a serious debate which involves the security of the country. That is how they ran the government and how they have decided to run the Opposition. I think the people of Trinidad and Tobago are happy and rejoicing that the PNM did not form the government and they are saying that they would never form the government of Trinidad and Tobago again. [*Desk thumping*]

They are suffering from so much *bazodee, too tool bay* and are so disoriented that they do not seem to even remember that just this afternoon the hon. Minister of Education mentioned the government of national unity. The Member for Laventille East/Morvant, a lawyer by profession said that he has not heard a Member talking about a government of national unity. I do not want to talk on this Bill about the Member for Laventille East/Morvant. He has made all sorts of statements about lawyers and the Attorney General. I do not want to deal with that. He as a lawyer would know that if he reads the Law Report, that is evidence.

However, what I want to deal with is the contribution he made in respect of the statement made by the hon. Minister of Legal Affairs. That is to say that if there is a minister and he exercises discretionary power, and anyone is dissatisfied with that decision, it is trite law—any law student would know it now—that a person who is aggrieved can apply for judicial review in order to test the decision, whether it is illegal or came as a result of procedural impropriety, or is unreasonable.

In the Law Report there is a case of Rampersad Kitwaroo and the Commissioner of Police. Even with respect to a firearm user's licence, there was the question of the Commissioner of Police allegedly not acting properly. That action was challenged and it reached the Court of Appeal. He tried to respond to the statement of the hon. Minister of Legal Affairs to the effect that there is no need to have an appeal tribunal where a person can have redress through the High Court. As a matter of fact, the High Court is a more effective redress. To argue that safeguards are being taken away; to use the words of the Member for Arouca South, it is a draconian piece of legislation. Strange enough this is the same piece of legislation that her Prime Minister had in his hand since April 1995. When I say the same, I mean same in content and substance.

Just to give one illustration because I do not think one needs to trouble oneself with some of these statements which were made by the Members on the other side. The Opposition has obviously taken a decision that clause 6 of the Bill before us is unacceptable.



**6.10 p.m.**

It is unacceptable because hearsay evidence cannot be used; it is contrary to law and, in effect, it would be used for injustice, it would harass politicians, and all sorts of allegations have been made. This clause 6 is clause 4 in the Bill which the former Prime Minister had in April 1995 which was re-submitted in the same form to the then government. It seems as though the Member for Diego Martin East is not talking to the Member for San Fernando East and he does not know what the PNM wanted. Mr. Speaker, it is quite clear that the Opposition has come here today to make bacchanal and confusion and waste time.

Mr. Speaker, all that clause 6 does is to permit evidence to be admitted in order to prove the state of mind of an individual and to assist in showing that the person was engaging in subversive activity. This Bill is quite simple. The intention of the Bill obviously is to protect the security of the state and the Bill in clause 3 would obviously create the offence that in order for one to practise military exercises one would have to get the written permission of the Minister of National Security. The whole purpose of that is to know who is doing military exercises and to be able to monitor and to know whether they are lawful activities. What is wrong with that?

As a matter of fact, under section 220 of the Defence Act, which has been in force since 1962, it says:

"No person shall—

- (a) train or drill any other person to the use of arms or the practice of military exercises;"

So it is not that military exercises have been prohibited even at 1962 before we became a republican state. All that is being done in this clause is putting in machinery in order to know who is doing it and to see whether it is being done lawfully or not. Mr. Speaker, what could be the objection to clause 3? There could be no serious objection.

Clause 4 of the Bill deals with persons meeting or assembling in order to practice military exercises. We are saying that one cannot do that in an organization unless the organization or association is authorized in writing by the Minister. What is wrong with that, Mr. Speaker? Why does the Opposition consider that to be wrong?

Clause 5 deals with a situation where an individual or an organization is conducting activities, for the purpose of engaging in subversive activities. It provides a defence that if you did not know that the organization was doing that, you are entitled to go to the court and be able to establish that. What is wrong with that? Then comes the statement that it is wrong because the onus of proof is changing, shifting the burden of proof. That is not so. As a matter of fact, under the present law if someone has unlawful possession of goods it puts the obligation on the person who is in possession of goods to satisfy the court, on a reasonable basis, that he is in possession of goods on a lawful basis. Mr. Speaker, if one is in possession of drugs in certain circumstances it shifts the burden if one wants to establish a defence.

In other words, if a person is an innocent member of an association in respect of which there are offences of strict liability, the criminal law is full of instances where the person would have to establish that on a balance of probability. So, Mr. Speaker, what is wrong with that? Where in this Bill is it stated that a person who has to establish any defence would have to prove it beyond any reasonable doubt? This Bill does not alter the existing principles of criminal law. That is part of the common law that is entrenched; it is an existing law.

Mr. Speaker, I am coming to the conclusion that really and truly they do not understand these Bills. Since they had nothing to say they come here to talk about "people take away their right of habeas corpus." We introduce law in this Parliament in order to make the more effective, to give both the applicant and the state right of appeal and the Opposition says that takes away the right of habeas corpus. Mr. Speaker, the Opposition does not really understand these matters. I think that they should take a course; they should probably invite me to lecture to them. I would be happy to do that for the people of Trinidad and Tobago. *[Laughter]* Mr. Speaker, certainly it is not right for them to come to this Parliament and make these spurious submissions which cannot be supported.

Mr. Speaker, I have dealt with the whole question of clause 6. I am doing this to show that there is nothing draconian about this Bill. The words that the Member for Arouca South has used "it is draconian" and "it is repressive." What is repressive and draconian about this Bill so far? The only thing that is draconian and repressive about this Bill is that the Opposition is guilty of not introducing it in Parliament in 1995.

Mr. Speaker, the Member for Arouca South boasts about her leader, the Member for San Fernando East and I noticed that when the Member for Laventille East/Morvant said the leader is Mr. Patrick Manning she was pounding the desk with the stiffest fist, and I noticed that the Member for Diego Martin East was not pounding the desk at all. *[Laughter]*

Mr. Speaker, let us see what is repressive and draconian about this Bill again. Clause 7 says that a magistrate has to be satisfied on reasonable grounds that an offence is committed and then the magistrate, on an application by an officer of a rank not lower than that of an inspector, would grant a search warrant under this Bill. Is that repressive? Is that draconian? What is repressive and draconian about that? If the person is dissatisfied about the warrant he also can get judicial review; he can go to the court also; he can even go up to the Privy Council and have his matter determined. What is draconian about that?

**6.20 p.m.**

Mr. Speaker, clause 7 states:

“(3) Every search of a female person under this section shall be conducted by a female officer.”

The protection in the Bill specified that there could be no abuse. The other side is saying that this Bill could be used to harass trade unionists, women’s organizations, and politicians. Where, so far in this Bill it is seen that such things could be done?

**Hon. Member:** Who said those things?

**Hon. R. L. Maharaj:** Mr. Speaker, they are looking for things to say and they do not have any.

**Mr. Hinds:** Will the hon. Member just briefly give way? Mr. Speaker, this is unusual, but I wanted to express courtesy to the Member for Couva South. I spoke, he is now speaking, but I am forced to be leaving now because of another circumstance. I merely wanted to indicate that it was not about discourtesy.

**Mr. Panday:** No. You are running.

**Hon. R. L. Maharaj:** It is not about what?

**Mr. Hinds:** My car is locked in a car park. I am sorry, I have to leave.

**Hon. R. L. Maharaj:** Mr. Speaker, I know that he has public meetings to go to and only 50 persons attend those meetings, but I must thank the Member.

**Mr. Panday:** And that is a good crowd.

**Hon. R. L. Maharaj:** I understand that the largest crowd they are having now is 50 persons, so if they need some supporters, we can lend them some for the time being.

Mr. Speaker, I feel very sorry for them to have a former Prime Minister walking around the country and nobody is walking with him. He has an important debate and he is afraid to come to the Parliament. I am sorry for the PNM, Mr. Speaker.

Let us see how this Bill continues with protection and safeguards. In respect of clause 7, if a warrant is executed, a list of the articles taken will be made and supplied to the occupier of the premises. Look at the kind of safeguards that are put in this Bill. Clause 8 of the Bill also provides safeguards for the matters being forfeited.

I have gone through every clause of this Bill and, on an objective analysis, it cannot seriously be said that anything in this Bill is draconian or repressive. This administration recognized that the previous administration abdicated its responsibility and we decided that this Bill is necessary in order for the peace, order and good government of Trinidad and Tobago, and to protect the people of Trinidad and Tobago. We have a duty to protect and to provide for the security of the people of Trinidad and Tobago and it is on that basis, in the execution of that trust and duty which are placed upon this administration that we have decided to introduce this Bill in the Parliament.

May I say that what we are doing here, and what the hon. Minister of National Security said is that even on the basis of the international community, the international norms and international human rights that the international convention against the recruitment, use, financing and training of mercenaries which was adopted by the general assembly of the United Nations on December 4, 1989 has since then been encouraging countries to pass this kind of legislation. The reason for that, is that where there are organizations which can, or individuals, who can, by their activities undermine democratic governments, there is a situation where the whole question of peace in the world can be affected.

We see in this House that the Member for Diego Martin East is so accustomed to lawlessness, he had a lawless administration, as a matter of fact, that administration passed law as the Minister of Legal Affairs said, for

individuals. They declared a State of Emergency to arrest the Speaker in order to pass a law.

**Hon. Member:** Why do you not get her out the house?

**Hon. R. L. Maharaj:** They attempted to pass a law to fire the Commissioner of Police. This administration enacts laws on the basis of principles—[*Desk thumping*] on the basis of its duty; and the lawlessness of the Opposition is evident in the fact that the Member for Diego Martin East knows that the laws of Trinidad and Tobago are to the effect that lawyers must not be associated with the facts of cases in which they represent their clients. That is in the Legal Profession Act. He knows that there is a sacred and constitutional duty on lawyers, and yet he comes to this Parliament—he did it in government and now he is doing it in Opposition—his lawlessness.

**Mr. Panday:** He is mentally stunted.

**Hon. R. L. Maharaj:** Mr. Speaker, we are not concerned with those matters. He can get those matters printed and disseminated by whom and where he wants. In the final analysis, the people of Trinidad and Tobago will be the jury and this Government of national unity would ensure that the PNM would not be imposed upon the people of Trinidad and Tobago for another hundred years.

Thank you very much, Mr. Speaker.

**Mr. Roger Boynes** (*Toco/Manzanilla*): Mr. Speaker, I did not intend to speak in this debate, but as a result of my Friend, the hon. Attorney General and Member for Couva South, I feel obligated to ensure that I set the record straight beyond a shadow of a doubt and beyond all reasonable doubt.

The fact is that we on this side agreed with the purport, intent and principle of the Bill. As was mentioned some time in April 1995, it was the PNM administration that decided to push this piece of legislation by first of all drafting and referring it to the Law Commission.

I have heard the Member for Couva South and I have been listening to the proceedings for the past few hours, and what has been coming from their side is that the Bill went to Cabinet. It did not go to Cabinet; we had it; we did not implement it. Mr. Speaker, let us set the record straight.

The fact is that the Bill was drafted and it was sent to the Law Commission, we were awaiting the Bill to return from the Law Commission so that the Attorney General's office and that of the Minister of National Security could

liaise, thereafter, the Bill would have had to be sent to an inter-ministerial committee and to the legislative review committee for comments and thereafter, sent to Cabinet for approval. All of these things were not completed.

The Attorney General mentioned that it took us about six months and in that time nothing was done, but if it is more or less the same legislation that they are piloting here today, with the same contents, as was stated by the Member for Couva South, then why it took him November, December, January, February, March, April, we are now in May, before bringing this Bill before this honourable House?

**6.30 p.m.**

**Miss Nicholson:** Why are you debating it?

**Mr. R. Boynes:** And bring it in the form that it has come here today. This is but a fig-leaf that the hon. Member for Couva South is taking to hide his nakedness before this House.

**Hon. Member:** Banana leaf.

**Mr. R. Boynes:** Fig-leaf, Mr. Speaker, because whereas we on this side agree with the purport, intent and principle of this Bill, we are simply indicating to the Members on the other side that there are certain amendments that they need to make in this Bill for the protection and safeguard of the fundamental rights of persons in our blessed Trinidad and Tobago.

**Miss Nicholson:** All the time everyone is saying the same thing.

**Mr. R. Boynes:** This is our position, it is clear and simple; and as we rise on this side, Mr. Speaker, to deal with the country's business in this honourable Chamber, it is clear beyond a shadow of a doubt, that time and time again we rise to save this country from confusion and bacchanal.

I heard the Member for Couva South mention this, but they are responsible for the confusion and bacchanal. They have heard us, on this side, refer to the fact that there are changes we are looking at, but, quite apart from that, he gets up here and misleads this House, and behaves as though we do not agree with every section in this Bill. In order for the Members on that side to understand, perhaps, I may just go through this Bill, Mr. Speaker, to reiterate the fact that we on this side agree with the intent and purport and we are here to ensure that the picture is very clear, for the protection of the people of our nation. *[Interruption]*

“Military exercise,” Mr. Speaker. When the hon. Member for Arouca South mentioned the wide net of people that would be caught as a result of this Bill and that police may not have the requisite amount of manpower to monitor it, she was referring to the meaning of “military exercise”—

“an exercise, manoeuvre or other tactical campaign of a training nature ordinarily carried out by the military forces”.

Mr. Speaker, time and time again, I would see the military forces running up and down Flagstaff Hill. They would be training. Is it that we want to go with this particular section and not tighten it? Then you may find that persons jogging around the Savannah would be caught by this net. That is, basically, one of the things we are saying. Someone operating, as I do, in a gym—I am part of a karate class—may well be cornered. We will all have to seek the permission of the hon. Minister. So we are humbly submitting that, whereas the purport and intent is honourable, one needs to pay attention to certain changes.

Mr. Speaker, the Member for Couva South mentioned “subversive activity” under the interpretation clause. He asks why is there a need on our side to delete this particular section. When one looks at the meaning of this particular section “the use or display of physical force by persons in promoting any object, political or otherwise.” Clearly, Mr. Speaker, this section can be left out, because it can refer to trade unions and if, for instance, the churches feel that they want to express an opinion, they are disturbed about something, they may wish to march around the Red House. I remember at one time the cane farmers came around the Red House with canes on their backs. Is that subversive activity? No, it is not; and we have to be very careful. So that by deleting this particular section the purport and intent of the Bill will remain; but the protection of the person that may be caught by this net would be safeguarded.

Rather than going through the entire Bill, let me simply deal with clauses 4(3) and 5(3) which deal with the fact, as we on this side have indicated during the course of the debate, that it offends and shifts the burden of proof to the defendant or the accused person in this particular scenario. I have listened to the Member for Siparia and the Member for Couva South, but still I am not convinced about this particular clause—and I will read it—

5(3) In any proceedings against a person charged under this section, that person may, as defence to the charge, prove that he neither consented to, nor connived...”

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He has to prove his innocence. Now we all know *Wilmington v. DPP*, which is very much alive. It states that in criminal proceedings the defendant is not called upon to prove his innocence, but the prosecution must prove beyond a reasonable doubt. Basically, we are submitting that this clearly takes away the burden from the prosecution and places it on the defendant.

With respect to Section 6, we on this side have looked closely at that section which states, *inter alia*:

“In any proceedings under section 5 of this Act, proof of things done or of words written, spoken or published, whether or not in the presence of any party to the proceedings...is admissible as evidence of intent to engage in subversive activities.”

[MR. DEPUTY SPEAKER *in the Chair*]

The Member for Couva South is trying to defend his position by saying that this does not amount to hearsay. Mr. Deputy Speaker, if someone in this honourable House, the Member for Tobago East, for instance, hears something from the Member for Oropouche and the Member for Tobago East tells the Member for Oropouche that the Member for Toco/Manzanilla is participating in the training of persons to overthrow the Government, what will happen, Mr. Deputy Speaker, is that the Member for Tobago East or Oropouche could go to the authorities and ensure that the Member for Toco/Manzanilla is arrested.  
[*Interruption*]

Mr. Deputy Speaker, the whole point about it is, that is hearsay evidence and that is so wrong! I have to read one small aspect for Members: a transparently honest and careful witness cannot make information reliable if, instead of speaking of what he has seen and heard for himself, he is merely regaling what others have told him.

**6.40 p.m.**

Mr. Speaker, the whole thing about this is he may be an honest person but it is so unsafe in law to use this type of evidence. If it is we are using this type of evidence, we on this side are humbly suggesting that using hearsay evidence in this regard goes against due process. Due process is protected in our Constitution. It reminds me of the situation in Jamaica when, for instance, there was the gun court in which offences were tried in private. The Privy Council held in that particular scenario that that offended the whole principle of due process and so it was struck off. This needs a clear majority if this section is to



remain. It does absolutely nothing to this section. This is one of the reasons why we are asking for this section to be deleted.

If I may just indicate to the Member for Couva South, when the Member for Laventille East/Morvant was making his contribution he mentioned what was required in this particular Bill was a need for appeal just as the Firearms Act was amended to put in the procedure of appeal. We are suggesting that we can do a similar amendment and put in a condition where persons aggrieved, or persons who do not agree with the Minister's authority, can appeal. It is as simple as that.

Mr. Deputy Speaker, I can go on and on but the evening is far gone and I do not want to keep Members here any longer than is absolutely necessary. In closing, I emphasize the fact that we have no difficulty with the intent and the purport of this Bill. We have put forward to hon. Members certain amendments. We kindly ask that they be considered in the best interest of safeguarding the wider populace of Trinidad and Tobago and ensuring that the mischief we intend to deal with is adequately dealt with.

Mr. Deputy Speaker, I thank you.

**The Minister of National Security (Sen. The Hon. Brig. Joseph Theodore):** Mr. Speaker, I have listened with patience to the Members on the other side. It was very enlightening to have had almost total participation. Unfortunately, the participation was not as fulfilling as the time it took for us to get through this Bill. However, I am quite educated and I am glad to see that in the main the Opposition agrees in principle with the Bill.

I have found that in going through the various clauses of the Bill, in criticizing and raising suggestions and amendments, the main points that came out to me were problems with the drafting which the Member for Arouca South asked us to pay attention to lest this Bill becomes a draconian Bill.

I have heard my legal luminaries on this side reply quite distinctively and clearly to the various points that were raised.

From the point of view of the Member for Laventille East/Morvant who strongly affirmed his support and regarded this as a rather important Bill, he was particularly concerned about police uniforms, that the fine has increased in section 47. Actually, his main concern was clause 6 and he recommended that we delete it because he is of the opinion that hearsay evidence will creep into this clause of this Bill.

In reading this as a lay person not legally trained but not exactly unaware what the legal implications are, that “proof of things done” is admissible—I get the impression here that when anybody decides to make a complaint or make a report against people who are assisting or taking part in the control or management of an association, organizing training and so forth, with the intent to engage in subversive activities, I see no resemblance in somebody making a report and being required to give proof of what was done, what they thought was being done or words written, spoken or published. I see very little relevance to the Scott Drug Report, which one of the Members said was done in secret and people were not given an opportunity to defend themselves. There is nothing in this Bill which suggests there will be any lynch mob to deal with anyone who breaks the law. The people we are talking about will have the advantage of the due process of law in this country which is a democratic republic. The law is paramount and our Constitution is what we are guided by.

Some of the earlier Members on this side said it is the responsibility of this Government of national unity—you have been hearing it—to pass the laws that will protect our population, our people who are resident in this country.

As has been said, we are living in a global village and we may be receiving threats not only from within but from outside. People believe as a Third-World country that we are not sufficiently astute in providing our defences and wish to use Trinidad and Tobago as a place where they can mobilize forces, whether it be for Trinidad and Tobago or may be other Caribbean territories. We do have a responsibility not only to our population, but certainly to people of the region that we do not allow people to take advantage of any laxity in our laws and in our defence.

**6.50 p.m.**

The Member for Toco/Manzanilla also agreed in principle. It seems as though the goodly gentleman had the privilege of being involved with this Bill at the drafting stage. It went to the Law Commission but nobody knows exactly what became of it after that. I am sure they are glad to see that it has surfaced here today so we can deliberate on it.

He submitted that with the "military training" there are certainly changes that should be attended to. When soldiers run up and down Long Circular Road, as has been seen, they do so legitimately because they are members of the Defence Force. It is the same with the police whom one sees running around the savannah. I am sure it is not the intention that registered clubs, such as karate

and sports clubs or any such organizations should be afraid that this Bill is designed to stop them from conducting their legitimate training or in any way to hamper or interfere with their membership.

Subversive elements may wish to use membership in certain organizations as for example, the Rifle Association. One would observe that shooting ranges are being developed in Trinidad and Tobago; there is one on Broadway and more recently, one at Chaguaramas. Nobody is vexed with these people who join these associations. They apply to the Commissioner of Police for weapons. One of these days further amendment to the Firearms Act may permit people to go into a gun club, rent a weapon, register and use it as is done in the United States. People have complained, how can they learn to use a firearm if they cannot go to a gun club to practise; and how would they learn to use a weapon if they have to wait to get a licence, buy the firearm and then learn to use it. We are heading in that direction.

By going in that direction it means the availability and use of firearms would become easier. At present there is a club on Broadway that has virtually removed all entrance fees and membership charges. One can go in, register and pay for the ammunition. This makes it very easy for persons who have an intent to carry out these subversive activities to learn to shoot and afterwards acquire weapons from whatever area. There are stories of persons having joined the Police Service and the Regiment, and once training has been completed after four or six months and they have become qualified, they leave. They must leave to go somewhere. These are the people whom we wish to discourage from getting any ideas about using their skills to subvert the law enforcement agencies or the government.

I welcome the support and appreciate the points made about the amendments. I wish to assure Members that the intent of this Bill is certainly not to interfere with citizens going about their legal business in this country, but to protect them. If it is that someone finds within an organization to which he/she belongs something that does not seem to be in keeping with the nature of the club, that person could report what is going on at that club. There might be groups of people who seem to be going off by themselves and carrying out little private exercises. If that person reports such we are not going to get a squad to descend on the place. I am not aware that the Ministry of National Security, the Police Service or the Defence Force is so inclined. Do not forget that a warrant is needed. Do not expect that there will be some squad going around to apprehend these people, drag them off to a jail, have somebody lie on them and put them

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away. It does not work like that. *[Interruption]* You can try it. Do not let anybody lie on you. You will have a problem.

After this short interruption I would like to continue. *[Laughter]* The point is, for what it is worth, I give the assurance that when this happens these people would be seeking to protect their freedom and would be within their rights to report any subversive activity or threats to this nation. Do not be too overly concerned that this would turn out to be a matter where people's names would be tarnished and there would be some mark against their names, while quite innocently they might only have been in the company with somebody whose name was called. This is not the intention.

I see the burden of proof being on the person making the report to convince the authority about what took place. There is still the normal process to follow where the prosecution would have to adduce evidence to deal with the matter. As far as I am aware, this Bill seems to be very well balanced. While there may be queries about the drafting style, I think it clearly transmits the intent. Basically, this Bill is to ensure that we discourage any so-called "bright people" from trying to take over this country by force of arms. I believe the hon. Minister of Legal Affairs made it quite clear that this is not designed for any particular group or groups of people, but for our protection so that we can go about our business in peace.

I am very pleased to have had the opportunity to be here today. I thought it was very enlightening to hear the contributions from the various Members. I look forward to another opportunity to come back to this House.

Thank you.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

*Clause 1 ordered to stand part of the Bill.*

*Clause 2*

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

**Mrs. Robinson-Regis:** Mr. Chairman, we have several amendments to clause 2 as were circulated before this honourable House. I beg to move that the word

“commissioner” be inserted and a definition be given to the person appointed to the office of commissioner in accordance with section 123 of the Constitution of the Republic of Trinidad and Tobago.

**7.00 p.m.**

Mr. Chairman, this insertion is based on the argument that the Minister should not be the authorizing agency, as stated throughout this Bill, and we are suggesting that rather than use the Minister we should use the Commissioner of Police, the functionary which gives the authorization for any of the activities which occur under this piece of legislation. Consequently, we are requesting that the term "commissioner" be inserted and defined as it is defined in the Constitution of Trinidad and Tobago.

**Mr. Maharaj:** Mr. Chairman, if the Minister is the person to perform the functions under the Act, it would mean that the Minister can be directly responsible to the Parliament for any alleged misuse or abuse of power. One of the things that the Opposition stated is, that there can be in these kinds of matters, abuse of discretion. Therefore, by the Minister being the person or the functionary, he would be directly responsible to Parliament, and there will be more openness and transparency in the implementation of the legislation if the Minister is there. The Commissioner of Police or any person who occupies that office would not be here and therefore there would not be direct accountability. So it would seem to us that in respect of the policy of the Bill that the Minister be the appropriate person, if one wants more openness and accountability, and one wants to use any safeguards and give the Parliament an opportunity to monitor the operations of the Bill and the functions and duties of the Minister under the Bill.

**Mrs. Robinson-Regis:** Mr. Chairman, that reasoning is all well and good but the question that can be asked is: How is the Act to be called into question by the Parliament? There is nothing in the Act which suggests that there has to be a document laid before the Parliament in relation to this particular piece of legislation or how it operates? If the answer to that is through questions to the Minister, in any event, if the commissioner acts, questions can always be posed to the Minister because this particular piece of legislation falls within the Minister's portfolio and a question can always be brought on any aspect of a Minister's portfolio. So it does not mean that he has to be the functionary in order for transparency if the Act is to be called into question by the Parliament. We are suggesting that if that is the explanation, we are not in agreement with it.

**Mr. Maharaj:** Mr. Chairman, the Standing Orders provide not only for questions but motions in respect of a Minister's portfolio and the Minister being a Member of the Parliament, therefore if the Commissioner of Police has to perform these functions the Minister cannot interfere in the exercise of his discretion. Whereas if the Minister has to perform the functions he would be responsible for his actions, but in the same principle that we are talking about, it would be impossible if the Minister even considers that the Commissioner of Police has acted wrongly for him to interfere. It seems to me that in order to provide proper safeguards in the execution of the duties under this Bill that the Minister is the proper forum. I regret very much that we cannot accede to the request of the Opposition.

*Question, on amendment, put and negatived.*

**Mrs. Robinson-Regis:** Mr. Chairman, there are other amendments to clause 2. I beg to propose that clause 2 be amended by substituting the definition of the term "military exercise", and the proposed definition is that, "military exercise means exercise, manoeuvre or other tactical campaign of the type carried out by the military forces in the exercise of their functions as such".

The reasoning behind this particular amendment is to avoid any confusion when the term "exercises", tactical or otherwise is used.

We are contending that for a particular piece of legislation to be specific the definition must state that the type of exercise which is being carried out is an exercise which is normally carried out by the military forces in their function as a military organization. We are of the opinion that that would prevent any confusion when it comes to types of exercises which other people may carry out quite legitimately but which may be similar in nature to manoeuvres or training ordinarily carried out by the military forces. That, in particular, is why we are stating that the definition should read, "in the carrying out of the exercise of their function as such;" as such relates back to the term, "military exercise". That is our reasoning for the particular amendment.

**Mr. Robinson:** Mr. Chairman, with respect, you do not think that amendment adds to the meaning and in fact can create some confusion, because military exercises, may be training as well as they may be actually engaged in combat. If one says that in the exercise of their functions as such, it would mean a come back. Or do you mean in training? Or do you mean both in combat and in training?

**Mrs. Robinson-Regis:** Mr. Chairman, the insertion of the two words "as such" seeks to ensure that the entire definition refers specifically to military exercise as military exercises occur when the military is doing a particular form of training or a particular tactical campaign or manoeuvre. That is why we have inserted the words, "as such" because in the original definition it states, "military exercise means that exercise ordinarily carried out by the military forces". That may lead to some confusion if another group other than a military group, carries out exercises, innocently, which may be similar in nature but may not be done as a military exercise. That is why we are saying that the term, "as such" relates back to the original word, "military exercise while they do that campaign "as such" as a military organization. That is our reasoning.

**7.10 p.m.**

**Mr. Maharaj:** I think that what is important to note is that the definition of "military exercise" is really qualified in the third line of the definition of "military exercise" "...of a training nature ordinarily carried out by the military forces;".

Obviously what can happen is if it is that a person's defence is that this is not "...of a training nature ordinarily carried out by the military forces;" he can adduce evidence of that and there will be evidence on both sides. We cannot put a section in the exercise of their function where there will be dispute as to whether the function is in combat or in any other field of activity. I do not think it adds anything, it will just create a loophole and make it very difficult and confusing, and I regret very much that we cannot go along with it.

**Mrs. Robinson-Regis:** Mr. Chairman, subclause (c) suggests the deletion of the definition of the word "minister" and that relates to our argument that "commissioner" should replace the term "minister".

**Mr. Chairman:** Could we then also pass to subclause (d) because I guess the same arguments would apply with respect to subclauses (c) and (d).

**Mrs. Robinson-Regis:** Mr. Chairman, with regard to subclause (d) in particular, we are of the opinion that the definition of "subversive activity", paragraph subclause (c), should be deleted in its entirety. We are of the view that any act which should take place under this definition, or which could take place under this definition would reasonably be caught under subclauses (a) and (b). We feel that subclause (c) therefore, is superfluous in its very nature because subclauses (a) and (b) clearly state the types of activities which are normally associated with "subversive activity."

**Mr. Robinson:** Mr. Chairman, there is an amendment there, and it says “the use or display of physical force by persons in promoting any object,... in such a manner as to arouse reasonable apprehension that those persons are organized, trained, drilled or equipped to carry out the acts described in paragraph (a) or (b).” That will cover guerrilla warfare and that sort of thing.

**Mr. Chairman:** Are you suggesting to delete from “political” down to “or”?

**Mr. Robinson:** Yes.

**Mr. Chairman:** Is there a basic agreement on that?

**Mrs. Robinson-Regis:** Yes, Mr. Chairman.

**Mr. Chairman:** And put “a” before “manner”?

*Question put and agreed to.*

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

*Clause 3*

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

**Mrs. Robinson-Regis:** Mr. Chairman, from the amendments circulated, we are suggesting a deletion of subclause (3) of clause 3. That proposal is based on the argument that clause 3(1) states that the written authorization of the Minister is necessary for any person to proceed with certain activities which are outlined here, and consequently, it seems superfluous for clause 3 to state “For the purposes of this Act the Minister may authorise any person to do any act or thing...” It seems to be superfluous to the opening sentences of 3(1) which state at the outset, that the Minister may give written authorization.

*Question put and agreed to.*

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

*Clause 4*

*Question proposed, That clause 4 stand part of the Bill.*

**Mrs. Robinson-Regis:** Mr. Chairman, I beg to move that clause 4 (3) be deleted and substituted by the amendment as proposed in the list of circulated amendments.

The argument for that proposal is that clause 4(3) as drafted should be more specific when it comes to allowing a particular defence in this type of legislation. We are saying that the defence should be for a person who is a member of the organization or association. This is so because the intention is that these persons who claim to be members of a particular organization, if they are to raise a defence, must be able to show that they reasonably believe that the organization or association was authorized by the particular functionary. Because of the fact



that someone who is not a member could raise that fact as a defence, we therefore feel that the defence that is created by this section must be more specific.

**Mr. Maharaj:** Mr. Chairman, I think that will make it more restrictive and what this section is intended to do is to give a person a defence. He can prove that he reasonably believes that the organization or association was authorized by the Minister.

**Mr. Panday:** Because he does not have to participate, he may be associating with the member and he may not be a member.

**Mr. Maharaj:** It gives the court a wider latitude to consider his defence.

**7.20 p.m.**

**Mrs. Robinson-Regis:** Mr. Chairman, the essential element to this particular substitution is that the person who is to avail himself of the defence should be a member of the organization, because a person who is a non-member can always use the defence that he is not a member of the organization and consequently, he should not be caught up.

**Mr. Maharaj:** The person may not be a member, but the person may be there and may be regarded as assembling. So that person would also have the defence.

**Mrs. Persad-Bissessar:** Mr. Chairman, if that were accepted, we would in fact be making it more repressive and draconian because the defence would not be open—

**Mr. Maharaj:** It is not draconian.

**Mrs. Persad-Bissessar:** We make it, as the Member has been saying, draconian/repressive because it means that an honorary person who may happen to be assembling and may have gone there, perhaps, to pick up someone for a drink, or whatever it may be, may also be caught and be afforded no defence in what is, basically, a strict liability offence.

**Mr. Imbert:** What we are driving at is not the person who is not a member. We appear to be arguing at cross purposes here. What we are driving at is the person who is, in fact, a member of an organization, but did not know that that organization was involved in these activities. It is not the completely innocent person who is in no way involved. It is somebody who is a member of an organization which is found to be involved in illegal activities. That is where we are coming from.

**Mrs. Robinson-Regis:** Mr. Chairman, if you relate subclause (3) back to clause 4(1), you will see why the argument is that the person who can avail

himself of this defence has to be a member of such an association, because 4(1) states very clearly that “no person shall meet...unless he is a member of an organization or association authorized in writing so to do by the Minister.” So clearly, the clause, by its very intent, intends to deal with persons who are members of the organization or association, not non members. The clause does not open it up.

Mr. Speaker, the clause states very clearly that “no person shall meet...unless he is a member of an organization or association authorized in writing so to do by the Minister.” So this clause seeks to deal with persons who are members of an organization and consequently subclause (3) relates to persons who are members of an organization. The defence to members of such an organization is that they reasonably believed the organization to be authorized by the Minister. Consequently that is why we are stating that the clause should read in a particular way, in order to relate very clearly to the issue of membership of the organization which clause 4(1) clearly sets out, Mr. Speaker.

**Mr. Maharaj:** We could probably come to—would this do? “In any proceeding against a person charged under this section, the person may as a defence to the charge prove that he reasonably believed that the organization or association of which he is a member was authorized by the Minister?”

**Mrs. Robinson-Regis:** It amounts to the same thing, so we could compromise.

**Mr. Chairman:** Could you just run that again please? “In any proceeding against a person charged under this section, that person may as a defence to the charge prove that he reasonably believed that the organization or association”, then we insert “of which he is a member was authorized by the Minister.”

**Mr. Maharaj:** They are inserting “of which he is a member”. Is that okay?

**Mr. Panday:** I do not think it is necessary, but still—

**Mr. Chairman:** That should read “In any proceeding against a person charged” Proceeding or proceedings?

**Mr. Maharaj:** Proceeding.

**Mr. Chairman:** “In any proceeding against a person charged under this section, that person may as a defence to the charge prove that he reasonably believed that the organization or association of which he is a member was authorized by the Minister.”

**Mr. Humphrey:** If a person is a member and he is charged, then he has the defence, but if a non member is charged, he does not have that defence. That is the defence offered here. It is only the members who will get the defence. If I am meeting and I am not a member, I am breaking that.

**Mr. Boynes:** But you would not be charged under that section. *[Interruption]*

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6*

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

**Mrs. Robinson-Regis:** Mr. Chairman, in relation to clause 6, we are asking that clause 6 be deleted in its entirety. Our argument is, that clause 6 attempts to admit hearsay evidence as evidence of the intent of persons who may be charged or may be in proceedings which are against them that they have engaged in subversive activities.

**7.30 p.m.**

Mr. Chairman, we are stating that this cannot be right. That if this is, in fact, hearsay evidence, there is a clear rule of evidence which operates against the admissibility of hearsay evidence in that particular form. There are instances where hearsay evidence can be admitted but we are of the opinion that will be a situation of the admission into evidence of hearsay evidence and consequently, this would not be correct, and as such, we are of the view that clause 6 should be deleted in its entirety.

**Mr. Maharaj:** Mr. Chairman, if clause 6 is deleted, it may be very difficult to prove by words done, actions spoken, things done in order to prove the state of mind of individual. The law is full of circumstances where, in respect of conduct, things said by persons, what people do, what they may say would be able to prove to some extent what they had in their mind and, therefore, for example, in the whole law of conspiracy that is permissible and there are many other areas of the law.

We are dealing with a situation in which the whole question of whether people were doing things for subversive activity and, therefore, we think that this clause is necessary. I have looked at it and I cannot at this time see any reason to have it deleted.

**Mr. Valley:** Mr. Chairman, I am concerned about the section which says “whether or not in the presence of any party to the proceedings”, so that one is talking about things done or words written, spoken or published, whether or not in the presence of any party to the proceedings. One is not aware of all of these things but one is charged.

**Mr. Maharaj:** It is not that. If the party to the proceedings is between complainant (a) as against person (b) and things were said, but not in the presence of any of the parties to the proceedings, but in effect it can show evidence of state of mind of the individual or party to the proceedings, then that can be admitted in evidence.

**Mr. Imbert:** Mr. Chairman, the difficulty we are having with this clause is really the first three lines. The question of what constitutes the meaning of the word “proof” as it is here and this whole question of “whether or not in the presence of any party to the proceedings.” What does this really mean? If the Attorney General could give us an example perhaps, it will help us to move on. *[Interruption]* I am trying to be serious.

**Mr. Panday:** What do you think we are doing? Do you understand what the hearsay rule is or are you arguing? What is the definition of hearsay? You do not understand what you are saying. This does not violate the hearsay rules—you do not even understand.

**Mr. Imbert:** I simply asked the Attorney General if he could perhaps, clarify.

**Mr. Maharaj:** I just gave an instance. I do not think I can do better than that. I gave an instance that even if it is not in the presence of the party to the proceedings, it is Mr. A as against Mr. B that there is, in effect, evidence of words

spoken or anything done that is admissible in a conspiracy matter—that is the position now.

**Mr. Imbert:** For example, if someone comes to the police and say, I heard mister so and so say something, is this interpreted as intent to engage in subversive activities? Does this apply to that situation?

**Mr. Maharaj:** Mr. Chairman, even in some instances that kind of evidence is admissible but not to prove the truth of the matter contained therein but to prove a course of conduct, and in effect, if the criminal law did not have that kind of rule it would be impossible sometimes to prove the conduct and the intent of persons, and bearing in mind that the evidence is admissible, the right of that evidence is always a matter for a judge or for a jury, and the weight would depend upon the nature which it comes from and what kind of value it can have.

**Mr. Imbert:** So you are saying this would allow someone to be charged or whatever as intending to engage in subversive activities based on the ‘say so of someone else.

**Mr. Maharaj:** What it says is that the court is entitled to admit evidence in respect of the state of mind of individuals which may be one aspect in proving an essential ingredient of the offence.

**Mr. Valley:** Mr. Chairman, this seems to be saying to me—I just want to be assured—proof of things done or words written, spoken or published, whether or not in the presence of any party to the proceedings.” I have a difficulty with that.

It seems to me I am being implicated in something I do not know about. That is the sense I am getting.

**Mr. Panday:** I can give you an example. If the Articles of Association of the company states that it is there for military training, that is a publication of a statement which will be proof that the organization is engaged in military training.

**Mr. Imbert:** Fine, I can see that. What about a statement about the words spoken?

**Mr. Panday:** That is admissible. Read it. It is in writing, it is published in the absence of the person involved but it is to be used as proof that the organization is subversive because it has published a pamphlet saying so. It has published an Articles of Association saying so...

**Mr. Imbert:** What about “words spoken?”

**Mr. Valley:** If I am a member of an association, then I ought to know what the Constitution says. I do not have a problem but what about this thing about “words spoken and things done?”

**Mr. Panday:** For example, the meeting of the association is held in which they admit to one another that this is.

**Mr. Valley:** I am in an association somewhere and somebody in my association takes a drink of rum and makes some statement, does that implicate me? I do not understand. Try and help me understand. That is what I am trying to understand.

**Mr. Panday:** That is hard. It will take about three years of learning and studying the law first.

**Mr. Maharaj:** Mr. Chairman, that is our response. *[Interruption]*

**Mrs. Robinson-Regis:** Mr. Chairman, we are concerned because of the possibility of instances of fraudulent statements being made and used as evidence of a person’s state of mind. That is the concern that we have if this particular clause is to be used, essentially to be the linchpin on which this piece of legislation stands. If this is, as the Member for Couva South said, then there is a difficulty with enforcing the legislation. We do not want the legislation to be difficult or impossible to enforce, but we do want it enforced properly and we are of the opinion that there is, in fact, a difficulty where “words spoken” particularly can be used as evidence of the intent of someone wanting to engage in subversive activity.

And that essentially is our concern. It may be that there is a mechanism for dealing with this particular clause, but we feel that clause 6 is not the mechanism for dealing with admissibility of evidence or the ability to prove intent.

**7.40 p.m.**

**Mr. Valley:** It would seem that we need to give the member some type of safeguard. If someone in the organization makes some statement and based on it the member resigns the following day from that organization; how could he be liable for those statements? I cannot see how one can be responsible for statements made by other persons. If the Constitution says this is a paramilitary organization, I can understand that. If I am in an organization and someone gets up and says this is a paramilitary organization and I never knew it was, and I have no intention of being in a paramilitary organization, how can that be held against me? I have a difficulty with that.

**Mr. Boynes:** For something to be constituted as hearsay evidence it has to be evidence of the truth basically to be admitted. We are suggesting that evidence of intent is similar to evidence of the truth. As such that is hearsay evidence. That is our objection from a legal position of this particular clause. It is in fact hearsay.

**Mr. Maharaj:** We regret that we cannot agree.

**Mr. Chairman:** It does not seem that we can get agreement on this.

**Mr. Panday:** It is the legal entity. That is one way not the only way.

*Question put,* That clause 6 be deleted.

*The Committee divided:*           Ayes: 9                           Noes: 18

AYES

Valley, K.

Robinson-Regis, Mrs. C.

Imbert, C.

Narine, J.

Hart, E.

James, Mrs. E.

Griffith, Dr. R.

Joseph, M.

Boynes, R.

NOES

Maharaj, Hon. R.

Panday, Hon. P.

Persad-Bissessar, Hon. K.

Robinson, Hon. A.N.R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P.

Rafeeq, Hon. Dr. H.

Khan, Dr. F.

Singh, Hon. G.

Nanan, Hon. Dr. A.

Partap, Hon. H.

Mohammed, Hon. Dr. R.

Singh, Hon. D.

Ramsaran, Hon. M.

Sharma, C.

Ali, R.

*Amendment negatived.*

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

*Clauses 7 to 10 ordered to stand part of the Bill.*

*Schedule ordered to stand part of the Bill.*

*House resumed.*

*Bill reported with amendment.*

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

*The House voted:           Ayes: 18*

AYES

Maharaj, Hon. R.

Panday, Hon. P.

Persad-Bissessar, Hon. K.

Robinson, Hon. A.N.R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P.

Rafeeq, Hon. Dr. H.

Khan, Dr. F.



Singh, Hon. G.

Nanan, Hon. Dr. A.

Partap, Hon. H.

Mohammed, Hon. Dr. R.

Singh, Hon. D.

Ramsaran, Hon. M.

Sharma, C.

Ali, R.

*The following Members abstained:* K. Valley, Mrs. C. Robinson-Regis, C. Imbert, J. Narine, E. Hart, Mrs. E. James, Dr. R. Griffith, M. Joseph, R. Boynes.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**7.50 p.m.**

#### INTEGRITY LEGISLATION

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move the following Motion standing in my name:

*Whereas* the Green Paper on integrity legislation was tabled in the House of Representatives on Friday, February 02, 1996 and in the Senate on Tuesday, February 06, 1996.

*Be it resolved* that a Joint Select Committee of Parliament be established to receive and consider the comments of members of the public and to submit recommendations to Parliament thereon.

Mr. Speaker, I would not be very long. I just merely wanted to state the matter leading up to this.

On July 26, 1994, the Opposition in the Senate moved the following Motion.

*"Whereas* present legislation does not currently extend to a host of dishonest and improper acts and conduct as it relates to the public officers; and

*Whereas* recent evidence and instances have revealed serious misconduct in public office by a host of public functionaries; and

*Whereas* the present integrity legislation is too weak and does not cover a series of illegal acts and criminal activities;

*Be it resolved* that this Senate call on the Attorney General to introduce comprehensive legislation within a period of a year aimed at outlawing or making illegal the following acts:

- (1) Conflict of interest, particularly involving persons who participate in discussions decisions calculated or capable of furthering their private interest.
- (2) Use of insider information not available to the general public in an effort to seek one's private interest.
- (3) Unlawful use of influence to further one's own private interest.
- (4) Unlawful acceptance of benefits in connection with the performance of one's office.
- (5) Carrying on business incompatible with one's public office.

*Be it further resolved* that this Senate call on the Government to establish as an interim measure, in view of the gravity of the situation, a Joint Parliamentary Committee to monitor these activities whilst appropriate legislation is being prepared for introduction, deliberation and ultimate passage in the national Parliament."

Mr. Speaker, the motion which had been on the Order Paper for some three years before it was debated, was subject to two amendments by the then Government:

- (1) The deletion of the words:  

"*Whereas* recent evidence and instances have revealed serious misconduct in public office by a host of public functionaries"
- (2) After the words, "Be it resolved", the substance of the motion was deleted and replaced by the following; "That this Senate urge the Attorney General to institute a review of legislation to ensure that the Integrity Legislation is strengthened so as to enhance the scope and powers of the Integrity Commission, and to present to Parliament, within one year, a Green Paper for public comment and consultation."

The motion as amended, was passed in the Senate on August 23, 1994.

The then Attorney General and Minister of Legal Affairs appointed a working team chaired by Mr. Justice Guya Persaud, Chairman of the Law Commission, to carry out this mandate. The following organizations were represented on the working team:

- The Integrity Commission
- The Law Association
- The Public Service Commission
- The Office of the Ombudsman
- The Auditor General's Department
- The Ministry of Finance
- The Ministry of Trade and Industry

The present Green Paper on Integrity in Public Life is as a result of the review of existing programmes and legislation in other Commonwealth jurisdictions and the United States of America. It is believed that the implementation of the proposals as contained in the Green Paper, would result in:

- (1) the promotion of integrity in public life
- (2) higher standards of accountability and transparency
- (3) the development of the Integrity Commission so as to allow it to become a more effective tool in the prevention and detection of corruption
- (4) the restoration of respect for the ethical values inherent in the idea of public service.

Specific legislation was advocated in this Green Paper to address a perceived weakness in the existing law with regard to disclosure of financial interests of persons in public office.

It is proposed, too, that a code of conduct should be developed and the Integrity Commission be given the teeth to enforce sanctions for breaches.

Further, an offence known as “public misconduct” is proposed for acts against public morality; for example, conflicts of interest, insider trading and lobbying. This offence is recommended to be punishable ultimately by loss of the public office.

On February 01, 1996, Cabinet considered the Green Paper and found it consistent with the stated policies of this Government on accountability and transparency in public life, and agreed that a Joint Select Committee of the Parliament be established to consider the comments of members of the public and to submit recommendations to Parliament.

I beg to move.

*Question proposed.*

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, we on this side support the Government's action with respect to this Motion. Members would know that the last Government had the review with respect to the legislation. Going way back to this legislation in 1987, the Opposition at that time made the point that the legislation was inefficient, that it left a large gap and those persons who like to quote from this little book may want to look at that section. In the contribution of the Senate at that time the point was made that not only was there that gap but even when the commission knew of information they could not pass it on to the DPP.

My own feeling is that with respect to the annual declarations in addition to submitting the declarations to the commission that Members of Parliament should have to lay those declarations in the Parliament. I think that is going to do two things; it is going to put a break, as it were, on those who were corrupt; and it is going to protect the others.

Mr. Speaker, we live in a society where there a number of persons who go up and down and say all types of things. There is this underground patriot that, from to time, say all types of things of persons in public life. The last one for example—I did not see him for some time—I saw one in the Parliament on the last occasion—making statements of a number of us.

In my own situation in that article, somebody said Ken Valley did not only receive cash on the BWIA/Acker deal, he also received unlimited free travel from BWIA.

**8.00 p.m.**

I want to state categorically here in the Parliament, for whoever is the editor of the underground patriot, that there is no one under the sun who an can ever even consider bribing Ken Valley. There is no one. I am glad I have opportunity

to speak on this matter, and that is why I am saying that if we are mandated to lay our declarations in the Parliament, let all parliamentarians put it there so that it becomes public knowledge. If we are in public life we ought to have nothing to hide. Let us lay the declarations, let us not simply send it to the commission whose members are then tight-lipped and even if they see a corrupt deal they can tell no one because they are sworn to secrecy. I am saying let us have it at the Joint Select Committee, it would come back here, and we would debate it.

My position however, is that we have to avoid that gap and most importantly I think that persons in public life should have to lay their declarations in the Parliament. We support this move, Mr. Deputy Speaker.

**Hon. Member:** It is Mr. Speaker.

**Mr. K. Valley:** I am sorry. Perhaps I am afraid of the term “Speaker”, Mr. Speaker. *[Laughter]*

**Mr. Panday:** *[Inaudible]*

**Mr. K. Valley:** I am staying away from that issue. Not me and that at all. I have had sufficient trouble with Speakers.

Mr. Speaker, we support this move because I believe that the country requires persons in public life to be of a certain level of integrity.

Thank you.

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, we are very happy that the Opposition has decided to support this Motion. We want to assure the Opposition Chief Whip that maybe declarations being filed in the Parliament is not sufficient and that is why we want this to be discussed. We believe there should be more teeth in the legislation so that influence peddling in which public officers—after they leave public office—and even after they leave being a Minister of Government, one can see what activities they perform in order to show whether there was any link between public office and leaving office.

One has to consider also, the whole question of misconduct in public office because the question of Ministers of Government being reckless in even agreeing to do certain projects in which the public has lost money are all matters of integrity.

We are very happy that the Opposition has supported it. Mr. Speaker, I beg to move.

*Question put and agreed to.*

*Resolved:*

*Integrity Legislation*  
[HON. R. L. MAHARAJ]

*Friday, May 03, 1996*

That a Joint Select Committee of Parliament be established to receive and consider the comments of members of the public and to submit recommendations to Parliament thereon.

**ADJOURNMENT**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that the House do now adjourn to Friday, May 10, 1996 at 1.30 p.m.

May I also announce that we shall debate on that date the Coroners Bill and also the Patents Bill and thereafter the motions.

**Mr. Valley:** Friday is Private Members' Day.

**Hon. R. L. Maharaj:** We will discuss it.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 8.05 p.m.*