

Leave of Absence

Friday, June 06, 1997

HOUSE OF REPRESENTATIVES

Friday, June 06, 1997

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that I received communication from the Member for Diego Martin East (Mr. Colm Imbert) who is indisposed and who has asked to be excused from attending the sitting today. Leave of absence is therefore granted to him.

PAPERS LAID

1. Report of the Auditor General on the accounts of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 1991. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]
To be referred to the Public Accounts Committee.
2. Report on the Preparatory Meeting of Caribbean Heads of State and Government and the Caribbean/United States Summit—Bridgetown, Barbados (May 08 to 10, 1997). [*The Minister of Foreign Affairs (Hon. Ralph Maraj)*]
3. Report of the Auditor General on the accounts of the Tobago House of Assembly for the year ended December 31, 1987. [*Hon. R. L. Maharaj*]
4. Report of the Auditor General on the accounts of the Tobago House of Assembly for the year ended December 31, 1988. [*Hon. R. L. Maharaj*]
5. Report of the Auditor General on the accounts of the Tobago House of Assembly for the year ended December 31, 1989. [*Hon. R. L. Maharaj*]
6. Report of the Auditor General on the accounts of the Public Transport Service Corporation for the year ended December 31, 1983. [*Hon. R. L. Maharaj*]
7. Report of the Auditor General on the accounts of the Public Transport Service Corporation for the year ended December 31, 1984. [*Hon. R. L. Maharaj*]

Papers 3 to 7 to be referred to the Public Accounts Committee.

8. The annual audited accounts of the Small Business Development Company Limited for the year ended December 31, 1995. [*Hon. R. L. Maharaj*]
To be referred to the Public Accounts (Enterprises) Committee.
9. Forty-fifth Report of the Salaries Review Commission on the review of salaries and other terms and conditions of service of Judges of the Supreme Court. [*Hon. R. L. Maharaj*]
10. Towards a new Public Administration—a Policy Agenda for the Public Service of Trinidad and Tobago. [*Hon. R. L. Maharaj*]
11. End of the First Year Report of the Consultative Committee to the Interim Operating Arrangement (GORTT/WASA/TTWS). [*The Minister of Public Utilities (Hon. Ganga Singh)*]
12. The Occupational Safety and Health Regulations, 1997. [*The Minister of Labour and Co-operatives (Hon. Harry Partap)*]

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

Agricultural Lands (Aripo)

37. (a) Is the Minister of Agriculture, Land and Marine Resources aware that through a process of public advertisement and interviews a group of farmers was selected and allocated parcels of agricultural land in Aripo during 1995?
- (b) Could the Minister indicate what steps have been taken to date to facilitate the occupation of these lands by the farmers who were so selected?
- (c) If no action has been taken, could the Minister indicate when the Government intends to make the lands available to the farmers? [*Dr. K. Rowley*]

Award of Contracts (Northern Construction Limited)

42. (a) Would the Minister of Finance and Minister of Tourism indicate whether any contracts involving state expenditure have been awarded by any Ministry, Government Department, State Enterprise or any other State Agency to Northern Construction Limited?

- (b) If the answer is in the affirmative, would the Minister indicate the work involved in each contract and the value of each contract? [*Mr. P. Manning*]

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I want to announce that the Government proposes to ask for a deferral of question No. 37 for one week and question No. 42 for two weeks.

Questions, by leave, deferred.

**Western Main Road
(Dilapidation)**

38. Dr. Keith Rowley (*Diego Martin West*) asked the Minister of Works and Transport:

- (a) Is the Minister aware that the Western Main Road in the vicinity of Big Yard and Pt. Cumana is collapsing into the sea?
- (b) Is the Minister also aware that for the past nine (9) months this unprotected road edge posed and continues to be a serious threat to the safety of all road users who traverse this roadway?
- (c) Could the Minister indicate when remedial works will commence to rectify this dangerous situation?

The Parliamentary Secretary in the Ministry of Agriculture, Land and Marine Resources (Mr. Chandresh Sharma): The Minister is aware of the matter raised by the Member for Diego Martin West. Corrective measures, in the form of a retaining wall using interlocking blocks and geogrid fabric, have been completed since 1996.

In answer to Parts (b) and (c), at this point in time and continuing, the backfilling and regrading of the slope is an ongoing process with the placing of road safety signs and markings. It will be completed before the end of next month.

Dr. Rowley: Mr. Speaker, I am not sure that we are talking about the same thing. I just want to know whether the Minister is aware that I was talking about the road collapsing into the sea. I was looking for a response as to what is happening with respect to retention of the road on the seaward side. What he has mentioned is not the same thing. I wonder if the Member can assist me with some clarification.

Mr. C. Sharma: Mr. Speaker, the road is held up by a retaining wall which collapsed but has since been replaced and the road repaired.

1.40 p.m.

Hon. G. Singh: I request that the reply to question No. 39 be stood down for a short while.

**Legal Briefs, Instructions and/or matters
(Messrs. Daltons)**

40. Mr. Patrick Manning (*San Fernando East*) asked the Attorney General:

- (a) Would the honourable Attorney General indicate whether any legal briefs, instructions and/or matters involving the state, state agencies and/or state enterprises have been given to the law firm, Messrs. Daltons of 8 Irving Street, San Fernando?
- (b) If the answer is in the affirmative, would the Attorney General
 - (i) give details of the briefs, instructions and/or matters which have been given to this law firm?
 - (ii) advise the House who are the principal partners in the firm ?
 - (iii) indicate what is the financial value of these briefs, instructions and/or matters which have been given to this law firm?

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, the Ministry of the Attorney General is responsible for providing legal representation on behalf of the state in civil and criminal matters. The retention by state agencies and/or state enterprises of private attorneys does not fall under the jurisdiction of the Ministry of the Attorney General.

The Attorney General, in determining whether private attorneys should be retained at any time for and on behalf of the state, gets recommendations from the Solicitor General with respect to civil matters and from the Director of Public Prosecutions with respect to criminal matters.

The Ministry of the Attorney General has not retained the law firm of Messrs. Daltons of 8 Irving Street, San Fernando in any matter. In the light of the reply at (a), part (b) of the question does not arise.

Mr. Manning: Mr. Speaker, I wonder if the hon. Attorney General could direct the Opposition to the proper channel to which we have to go in the context

of a parliamentary system to enlist the information that has been asked with respect to state agencies and/or state enterprises.

Hon. R. L. Maharaj: Mr. Speaker, if I may remind the hon. Member for San Fernando East that while he was prime minister a similar question was asked of his attorney general and the reply by the then government was the member of the Opposition should direct the question to the appropriate minister.

My advice to the hon. Member is that he can direct his question to the appropriate Minister responsible for the utilities.

Mr. Manning: Mr. Speaker, as we understand it, it is normal to address a question to a minister and the appropriate minister responds. If this is no longer the case, could you be kind enough to direct the Opposition? We need your guidance.

Hon. R. L. Maharaj: If the hon. Member was paying attention, the Ministry of the Attorney General is responsible for providing legal representation on behalf of the state in civil and criminal matters. The answer specifically states that the retention by state agencies or state enterprises of private attorneys does not fall under the jurisdiction of the Ministry of the Attorney General. It falls into compliance with what you are saying.

Mr. Manning: Mr. Speaker, could you please guide us.

Mr. Speaker: The question has been answered. If there are other issues to be discussed, I would be able to speak with both of you gentlemen in my chambers.

**Legal Briefs, Instructions and/or matters
(Messrs. Viziers)**

41. Mr. Patrick Manning (*San Fernando East*) asked the Attorney General:

- (a) Would the Attorney General indicate whether any legal briefs, instructions and/or matters involving the state, state agencies and/or state enterprises have been given to the law firm, Messrs. Viziers of 8 Irving Street, San Fernando?
- (b) If the answer is in the affirmative, would the Attorney General:
 - (i) give details of the briefs, instructions and/or matters which have been given to this law firm?
 - (ii) advise this House who are the principal partners in this firm?
 - (iii) indicate what is the financial value of each of these briefs, instructions and/or matters which have been given to this law firm?

Hon. R. L. Maharaj: Mr. Speaker, the Ministry of the Attorney General is responsible for providing legal representation on behalf of the state in civil and criminal matters. The retention by state agencies and/or state enterprises of private attorneys does not fall under the jurisdiction of the Ministry of the Attorney General.

The Attorney General, in determining whether private attorney should be retained at any time for and on behalf of the state, gets recommendations from the Solicitor General in respect of civil matters and from the Director of Public Prosecutions with respect to criminal matters.

The Ministry of the Attorney General has not retained the law firm of Messrs. Viziers of 8 Irving Street, San Fernando in any matter. In the light of reply, part (b) of the question does not arise.

Road Repairs (Laventille)

46. Mrs. Eulalie James (*Laventille West*) asked the hon. Minister of Works and Transport:

- (a) Could the Minister indicate whether there are plans to repair the Laventille, Trou Macaque and St. Barbs Roads?
- (b) If the answer is in the affirmative, could the Minister indicate when these works will begin?

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, the roads in question really fall under the jurisdiction of the Ministry of Local Government and I felt it was appropriate that I respond to the question.

Mr. Speaker, the Local Government movement in Trinidad and Tobago is divided into 14 corporations. These corporations are fairly autonomous in that they are allowed to manage their affairs without much interference by the ministry. The two roads in question fall under the jurisdiction of the San Juan/Laventille Regional Corporation. The San Juan/ Laventille Regional Corporation, at this point in time, is controlled by a majority of councillors belonging to the PNM.

It is strange that the PNM is not aware of what the councillors are doing. It is very strange because now I have to answer this question. Be that as it may, these two roads are down for repair and I have been advised by the corporation that the repair work would start on June 9, 1997 and will be completed by June 13, 1997.

Billion Dollar Guyanese Debt

39. Dr. Keith Rowley (*Diego Martin West*) asked the Minister of Finance and Minister of Tourism:

- (a) Arising out of the arrangements for the substantial write-off of the \$2.0 billion Guyanese debt to Trinidad and Tobago, could the Minister indicate what sums are now due and owing in the context of the reduced debt?
- (b) Could the Minister indicate whether any payment has been received?
- (c) Could the Minister further indicate what recent action has been taken in order to collect the interest payments that are now owed to Trinidad and Tobago?

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, the amount now due in the context of the reduced debt stands at US \$176.944 million.

The bilateral agreement between the Government of the Republic of Trinidad and Tobago and the Government of the Co-operative Republic of Guyana was signed on March 26, 1997. Under this agreement three interest payments fall due in 1997, the first being on March 27, 1997. I am to inform that the payment was received on March 27, 1997.

The Government would continue to monitor the arrangement to ensure that all payments are received as they fall due.

Mr. Speaker: Hon. Members two of the reports under Papers had not been dealt with and I call on the hon. Member for Point Fortin.

PAPERS LAID

Motor Vehicle Emission (Prevention and Control)

The Minister in the Office of the Prime Minister (Hon. Dr. Vincent Lasse): Mr. Speaker, I have the honour to lay the following paper:

13. Report of the Committee appointed by Cabinet to consider measures for the control and reduction of motor vehicle emissions into the atmosphere of Trinidad and Tobago.

Mr. Speaker, to appreciate the importance of this report and what it seeks to do, it will be useful to locate the report in the context, not only of the environmental

situation in Trinidad and Tobago but as well as in the context of the environmental challenge confronting the global community.

Mr. Speaker, the environmental challenge facing humanity at the global level is one of finding ways of making growth and development environmentally friendly; one of reconciling an unending process of striving for human progress which necessarily involves negative environmental impacts with an environment that is finite. So that devising strategies to minimize the negative impact of progress on the environment constitute the global environmental challenge.

1.50 p.m.

The Rio Earth Summit which was convened in 1992 brought the global environmental challenge centre stage and succeeded in catalyzing worldwide awareness of the importance of the environment in the human development and the human condition. The key message coming out of the summit was that unless countries of the world manage their environment capital more efficiently than in the past, the very existence of mankind would be in serious jeopardy.

We already have some frightening signals of what could be in store; the likes of global warming, ozone depletion, bio-diversity loss and so forth. But the message has not gone unchallenged. A new environmental awareness is sweeping through the world in the wake of the Earth Summit. Environmental concerns have come to the forefront in the policy agendas of most countries as the search for the path to sustainable development, a path which allows humanity to ensure that it meets the needs of the present without comprising the ability of future generations to meet their own needs.

This is the message which World Environment Day, which we celebrated only yesterday, is intended to re-echo annually. As you know, Mr. Speaker, we in Trinidad and Tobago have dedicated all of the current week to whipping up national awareness of environmental problems facing the country and support for our efforts at environmental protection and preservation.

It is of interest to note here that Trinidad and Tobago is currently a party to 23 international agreements and conventions relating to the environment. The country is also engaged in the implementation of Agenda 21, the action plan coming out of the Earth Summit, and in particular the component relating to small island developing countries. So that in Trinidad and Tobago, we, too, have made sustainable development; one of our national objectives. Government is committed to the protection and preservation of the environment.

However—and it is not certain to what extent this could have been avoided judging from the international experience—the growth and the development path pursued has incurred substantial environmental costs. The evidence of this is all around us; the pollution of the air, our rivers and coastal waters, the deforestation of our hillsides, the degradation of marine eco-systems, loss of wetlands and the loss of scarce farm land to industry and urban development. These are sometimes collectively referred to as the “environmental deficit” which we must urgently address.

Over the last few decades, Trinidad and Tobago has been trying to deal with the environmental problems facing the country. At the present time, there are some 40 pieces of environmental legislation on the statute books and some 29 state agencies charged with environmental functions.

In 1995, framework legislation in the form of the Environmental Management Act was put in place. This Act seeks to improve the institutional and legal framework for environmental management and also the operational effectiveness of the environmental management function. The Act provides *inter alia* for the establishment of an Environmental Management Authority, which has been in existence since 1995, and an Environmental Commission to adjudicate as a superior court on environmental matters. The commission should be in place very shortly.

Yet there appears to be a pervasive view in the country that sufficient is not being done to preserve the environment and that the environmental situation could become even more serious with the impending thrust into a new phase of energy-based industrialization.

What is certain is that we cannot be complacent. There has to be an intensification in our efforts at environmental management. The environmental management process has to become more dynamic, co-ordinated, focussed and sustained. The national community has to become more aware of the importance of protecting and preserving the environment and more supportive of initiatives taken in this regard.

Government is aware of all this and is committed to taking the required action. In fact, it is in keeping with this commitment that the report on Motor Vehicle Pollution is being laid in this honourable House today. This segment of air pollution has started to loom large in recent years with the growth in the motor vehicle population.

Papers Laid
[HON. DR. V. LASSE]

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The report makes recommendations on a number of critical issues relating to air pollution in the country due to motor vehicle emissions including:

- (i) measures for dealing with the motor vehicle air pollution problem;
- (ii) importation of motor vehicles, new and used;
- (iii) energy utilization in motor vehicles;
- (iv) regulatory and enforcement mechanisms;
- (v) institutional and human resource needs for the implementation of recommendations;
- (vi) improvement of public awareness and participation.

An action plan identifies the agencies responsible for the implementation of the recommendations as well as the time horizon envisaged for full implementation in each case.

I sincerely believe that implementation of the recommendations contained in the report will represent a significant advance in environmental management in the country and a major contribution towards the elimination of our national "environmental deficit".

I thank you, Mr. Speaker.

**WASA/Trinidad and Tobago Water Services
(First Year Report)**

The Minister of Public Utilities (Hon. Ganga Singh): Mr Speaker, on the authority of Cabinet, I wish to lay before this honourable House, the first year report of the Consultative Committee to the Interim Operating Arrangement (IOA) with Trinidad and Tobago Water Services to undertake the management of WASA. This Agreement was signed on November 1, 1995 but became effective on April 4, 1996. I had, indeed, apprised this honourable House on January 26, 1996 of the status of the private sector participation in the Water and Sewerage Authority.

The Consultative Committee, which is chaired by a Government representative (currently chaired by the Permanent Secretary, Ministry of Finance), was established as a joint committee of the three parties to the IOA to monitor and facilitate continuous consultation on the implementation of the Agreement.

The laying of this report is consistent with our commitment to transparency in the affairs of governance. It is also consistent with the principles which were

established early in the day for doing business at WASA, that is, the assurance that accountability, culpability and responsibility will be the key watchwords in WASA's business.

It is in this light that I now wish to make a statement on the performance of WASA at the end of the first year under the IOA contractual arrangement.

2.00 p.m.

Mr. Speaker: The *Hansard* reporter is indicating to me, Member for Tunapuna, that as she is sitting so close to you, she is having difficulty in taking down what the Minister is saying because of the running conversation you are having with a Member on the other side. Please, could you tone it down?

Hon. G. Singh: Mr. Speaker, after one year, quite a number of achievements have been attained at the operational level of the organization. Average plant downtime has been reduced from 54 days in the immediate Pre-Interim Operating Arrangement period to a little over four days currently, resulting in significant improvements in service to customers generally.

The average water production has increased from 139 million gallons Pre-Interim Operating Arrangement period to 163 million gallons in April, 1997.

Transmission of additional water to South Trinidad has been increased further by 5.5 million gallons per week.

Increases have been recorded in the reservoir efficiency and storage capacity, while plant efficiency is now being maintained at approximately 80 per cent.

In Mc Bean, Couva, scheduling of water availability has improved from 36 hours per week to 132 hours per week. Both Scarborough and Diego Martin now have a continuous 24-hour supply.

In April, 1997, repairs to leaks from mains and appurtenances reached a high of 3,338, significantly above the average of 2,226 per month achieved during the first quarter of 1996.

Financially, the operating ratio has significantly improved.

The collection ratio has increased from 81 per cent Pre-Interim Operating Arrangement to 88 per cent. Average daily collections is about TT \$1 million.

With regard to purchases and stores, a new integrated computerized purchasing stores and accounts payable system has been implemented. Purchasing has moved from cash on delivery to 30 days credit with most suppliers.

Under capital investment, Mr. Speaker, several projects were undertaken:

- (i) sixty-five km of pipeline was rehabilitated benefitting 142,398 households;
- (ii) five Booster Pump Stations and three Water Treatment Pump Stations were rehabilitated benefitting 150,000 people;
- (iii) the Scarborough Sewer Plant was commissioned benefitting 10,000 people;
- (iv) the Leeward and Rural Water Supply Project in Tobago was commissioned benefitting a population of 20,000;
- (v) the Ravine Sable Water supply project commenced in January, 1997 and was completed in May, 1997 to benefit 120 households;

Twenty-four of WASA's employees benefited from overseas training and pay negotiations for the 1993—1995 period successfully concluded.

Mr. Speaker, perhaps one of the most significant achievements is the insistence by the Government, and the entrenching of a fundamental and guiding principle of the utility sector, that it must be customer-driven and customer-focussed. In this regard, a new billing and charging policy was implemented. As a result:

- (a) all illegal disaggregations, assessments and reassessments of properties by WASA have ceased and rates for some 15,000 domestic customers reverted to the pre-October 1994 levels;
- (b) customers would now be able to schedule payments by installments rather than having the burden of balloon payments;
- (c) Three Customer Service Bureaus have been established in San Fernando, St. Joseph and Scarborough to provide timely information and responses to customer issues and complaints;
- (d) A 24-hour Customer Telephone Service was introduced where customers can channel their complaints and queries; and
- (e) An Outreach Programme was launched in three pilot areas. This programme is designed to enhance customer awareness of WASA's operations and to develop and maintain an effective relationship at the community level.

Overall, these achievements have led to an improvement in the water supply and service quality.

Mr. Speaker, notwithstanding these achievements, a less than smooth start-up to the Interim Operating Arrangement resulted from various impacting factors including the delay in effecting the Interim Operating Arrangement itself; developments surrounding, and consequent decisions arising from, the wells and vehicle contracts review; public concern and outcry with respect to issues such as property assessment, reassessments and disaggregations and the need to continuously respond to such concerns.

In fact, the malady at WASA runs too deep to have been cured in this short period and much is still expected of WASA. However, in our continuing efforts to further enhance deliverability of pipe-borne water to all communities in this country, significant capital injection is being projected over the next three to four years, since over the last 13 years there has been no major capital injection to improve water and sewerage facilities in this country.

In order to sustain the economic impact of this large investment programme, cost recovery mechanisms, in the future, should broadly begin to reflect the financial, environmental and economic costs of water. I am to emphasize, at the same time, that this Government is committed to putting in place mechanisms so that the less fortunate are not deprived of reasonable access to utility services.

In fact, one of the seven new initiatives negotiated by this Government after the Interim Operating Arrangement contract had been signed was the provision of a Hardship Relief Programme. I am glad to inform this honourable House that this initiative was recently implemented. This Programme is, in effect, a cushioning mechanism to ensure the universality and equitable distribution of utility services and is part of the Government's overall policy for buttressing the vulnerability of marginal groups. With immediate effect some 6,300 deserving old age pensioners and recipients of public assistance would be relieved of up to 25 per cent of their annual water bill. [*Desk thumping*]

Indeed, Mr. Speaker, to improve and implement an equitable water supply system in the country, we are adopting strategies which will foster the provision of efficient and effective water and wastewater services.

I thank you, Mr. Speaker.

OCCUPATIONAL SAFETY AND HEALTH BILL

A Bill respecting the safety, health and welfare of persons at work. [*The Minister of Labour and Co-operatives*]; read the first time.

FIRE SERVICE (AMDT.) BILL
Senate Amendments

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

That the Senate amendments to the Fire Service (Amdt.) Bill listed in the appendix be now considered.

Question proposed.

Question put and agreed to.

Clause 3.

Senate amendment read as follows:

“Add at the end of the clause the following subclause:

‘(c) in the definition of ‘public premises’ by inserting the words ‘enclosure or any other area’ after the word ‘building’.’”

2.10 p.m.

Sen. Brig. Theodore: Mr. Speaker, the purpose of this amendment is to expand the clause to include other areas which are enclosed normally, such as car parks and fields, to put them under the jurisdiction of the fire service. Instead of saying public premises would be described only as buildings or part of a building, now it would include enclosures or any other designated area to which the public has access either generally or conditionally, and whether on payment or otherwise.

I beg to move that the House doth agree with the Senate in the said amendment.

Question proposed.

Question put and agreed to.

Clause 5.

Senate amendment read as follows:

Add at the end of proposed section 3A the following new paragraph:

“(d) to conduct investigations in order to ascertain the cause or origins of a fire, or other hazard requiring the services of the Fire Service”.

Sen. Brig. Theodore: Mr. Speaker, the said amendment is designed to include the conduct of investigations by the fire service. This is primarily to allow the fire

service to provide data and facilitate the activities of other bodies which require professional opinions, either for criminal charges, insurance claims, statistical information or otherwise. It is also to keep the Act in line with the preventative aspects of the duties of the fire service.

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:

In paragraph (a) line 4 delete the words “caused by” and substitute the words “arising from”.

Sen. Brig. Theodore: Mr. Speaker, the purpose of the amendment is to allow the fire service to be more proactive in its response to emergency situations. It is felt that to use the term “caused by” would suggest reactive response, hence the reason for requesting that the term “arising from” be used instead.

I beg to move that the House doth agree with the Senate in the said amendment.

Question proposed.

Question put and agreed to.

LIQUOR LICENCES (AMDT.) BILL
[SECOND DAY]

Order read for resuming adjourned debate on question [May 16, 1997]

Question again proposed.

Mr. Speaker: When this matter was debated on Friday, May 16, the Attorney General was speaking. He has 12 more minutes to make his contribution. We shall now resume the debate.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, when this honourable House met on Friday, May 16 to debate the Bills, Members on the other side raised certain points as matters of concern. In deference to the Members on the other side, I decided to consider the points raised by the Opposition. Although I do not agree entirely with all the matters, we on this side of the House recognize a few points which were raised on that side, that have some merit. We have taken note of these and we caused certain amendments to the Bill to be circulated.

Liquor Licences (Amdt.) Bill
[HON. R. L. MAHARAJ]

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The hon. Member for Diego Martin East had expressed the view that the definition of “discrimination” was limited and it should be widened beyond the categories of sex and colour as stated. The definition used throughout the three Bills follow accepted definitions used in legislation of this type. We took into consideration the point the hon. Member made. The Bills have been amended accordingly to give the Minister the power, subject to the affirmative resolution of Parliament, to increase the grounds on which a person may claim to have been discriminated against. It is a matter which we can continue to look at to see whether the grounds can be increased.

The hon. Member for Toco/Manzanilla made two points for consideration. He suggested that the definition as contained in the African Charter of Human and People’s Rights be considered as an alternative to the existing definition of “discrimination”. Although this definition is wide and covers many grounds, we on this side believe that the existing definition and the amendment to which I have alluded would enable us to see what grounds are to be extended from time to time, and would give Parliament greater flexibility to deal with any new situation which smacks of discrimination.

If one looks at the amendments to the Liquor Licences (Amdt.) Bill, one would see that the point raised by the hon. Member for Laventille East/Morvant and the hon. Member for San Fernando West was that although it can be interpreted that people have a right of hearing, then there should be no harm in having it expressly stated. In respect of all the legislative measures, we have stated specifically that where a complaint has been made against a licensee that the committee shall summon the licensee to appear before the committee on the date set for the hearing of the complaint, to respond to the allegations. The licensee may either represent himself or be represented by an attorney-at-law. There can be no doubt whatsoever that if there is an intention to revoke or suspend anybody’s licence, the committee must give the person a right of hearing.

2.20 p.m.

There has been some criticism of clause 21A.(4) and we have redrafted it to say:

“Where a members’ club gives access to the public or any section of the public, to the whole or any part of its premises, on special occasions in accordance with the provisions of the Registration of Clubs Act, any trade or business conducted thereon shall be done as not to contravene section 21B.”

When I come to deal with the amendments to the Registration of Clubs (Amdt.) Bill, I will demonstrate that what we have done is to recognize that in respect of a members' club, since there are certain constitutional requirements that people who have to associate must have the right not to associate, I will refer to what Justice Clement Phillips said in the Country Club inquiry.

We also recognize that where members of the public have access to a members' club, the section which applies to discrimination would apply. We have also taken the point raised by the Member for Diego Martin Central in that we do not want members' clubs to be used for proprietary purposes or for business purposes without any regulation. We have, therefore, put in amendments to the Registration of Clubs (Amdt.) Bill, that permission to use the club for any purpose other than that set out in the Act must be granted by a magistrate and there will be a fee for the use of the club for any purpose. This will also make persons who operate members' clubs decide whether they want to continue running members' clubs or proprietary clubs.

The hon. Member for Laventille East/Morvant has asked me to congratulate the Member for Diego Martin Central, but I did not think that was necessary. I was congratulating the Opposition in relation to the points made. I was also demonstrating the kind of government we have which is open to criticism and suggestions, which we take into consideration in dealing with legislation. I am also congratulating the hon. Member for La Brea.

Mr. Speaker, you will see the point I have made with respect to increasing the grounds of discrimination by an affirmative resolution. We have also, in this amendment, given the Minister power to make regulations to give effect to the carrying out of these measures because we would like to know that licensing committees operate in a uniform way in respect of procedures.

In relation to the Registration of Clubs (Amdt.) Bill, we have done the same amendment—give a person the right to be heard. One would see that we are deleting subsection 14A(3) and we are saying:

“Subject to section (3)(a), where a members' club proposes to give the public, or any section of the public, access to the whole or any part of its premises, on any special occasion, it shall first obtain the permission of a Magistrate and—

- (a) any trade or business conducted thereon; or
- (b) where the club is used for purposes other than that of a members' club, as defined in section 2 of this Act, such trade, business or

Liquor Licences (Amdt.) Bill
[HON. R. L. MAHARAJ]

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purpose shall be done or carried out in such a manner so as not to contravene section 14B.”

which is the discrimination clause.

“(3)(a) For the purposes of subsection (3) the members’ club shall pay a fee of one thousand.

(3)(b) A members’ club which contravenes the provisions of subsection (3)(a) is guilty of an offence and liable on summary conviction to a sum of five thousand dollars.”

This is because we want to make a heavy fine so that members’ club owners would know that if they contravene, they would be subjected to a heavy fine.

We have put, under this Bill, the same amendments of having an affirmative resolution and regulations to implement the provisions of the Bill. We have also done a similar amendment in respect of the Theatres and Dance Halls (Amdt.) Bill, 1997.

Mr. Manning: I wonder if, as you just said, the arrangements being made will preclude the use of private members’ clubs as casinos.

Hon. R. L. Maharaj: Mr. Speaker, that is one of the reasons for putting it because one of the concerns raised by the hon. Member for Diego Martin Central was that if something was not done, it could mean that the private members’ club, by the amendment, could be used for a casino-type operation or business. We have recognized that a members’ club can only be used for the purposes set out in section 2. If it has to be used at all—because a members’ club is not supposed to have concerns that are making money—in any such way, the permission of a magistrate has to be secured.

Mr. Valley: But, hon. Attorney General, I think these amendments in themselves will not deal with the problem of casinos in members’ clubs because that is a different type of problem. I think you had undertaken to look at that.

Hon. R. L. Maharaj: I should have also mentioned—and I did mention this to the Hon. Member for Diego Martin Central—that it is quite clear that some of these clubs have been misusing and abusing the law and are being used for other purposes. I would like to give an undertaking that I would conduct an investigation to see what other measures are to be put in place to prevent this. We would like to ensure that members’ clubs are not used for business purposes. If

they are going to be used for business purposes, there will be sufficient safeguards to ensure that the public and the public revenue are protected.

Mr. Speaker, I think that we all recognize that these three Bills would attempt to prohibit discrimination on licensed premises to which the public has access. I think all of us recognize that in dealing with members' clubs, which are not supposed to be making money, one really cannot prevent the club from having its members. However, these Bills will give us an opportunity to see how these matters operate and what other changes can be made. We wish to assure the Opposition that we will be very open in this matter and will be happy to reconsider extensions or even reforms if, for some reason, there are loopholes and the Bills are not working well. I think that on both sides, we recognize that we have to try to do everything possible to prevent discrimination at all levels in the society.

Mr. Speaker, I think that I will be correct in saying that this is the first set of legislative measures ever to be introduced in Trinidad and Tobago which would impose restrictions on the private sector in respect of taking action which could amount to discrimination.

We all know that under the Constitution of Trinidad and Tobago, restraints are imposed on the state, whether it is the Executive, Judiciary or the Legislative arm, not to do anything which would amount to discrimination in any form as guaranteed by the Constitution. The right to equality as entrenched in the Constitution is a right against the state or any arm of the state.

2.30 p.m.

Mr. Speaker, when the matter of *Maharaj vs Attorney General of Trinidad and Tobago* went to the Privy Council and was reported in 1978 *2 All England Reports* at page 670 it dealt with the question of the scope of the anti-discrimination provisions of the Constitution which were discussed by the Privy Council. Lord Diplock said in that case that the scope of the anti-discrimination provisions of the Constitution of Trinidad and Tobago only protects individuals from discrimination by the state and its agents on the basis of race, origin, religion, colour or sex. Therefore the private sector remained unredressed under the ordinary law.

Before these measures, there was no legislation to regulate the activities of private individuals in the interest of equal opportunity. So this Bill really can be considered to be a measure of great historical importance, in that it is the first piece of legislation from the Parliament of Trinidad and Tobago in which the private sector would have to conform to the rights of equality as guaranteed in the

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Constitution of Trinidad and Tobago. It provides machinery whereby if the principles are contravened there can be punishment in some form or the other.

The Working Paper on Equal Opportunity Legislation which was prepared by the Law Commission in 1996 concluded that the existing anti-discrimination provisions of the Constitution needed to be buttressed in the law, particularly with respect to private actions; the areas of activity in which discrimination becomes actionable should be expanded, and an administrative, investigative and quasi-judicial body established by an Act of Parliament.

One sees that we are doing it in stages, and we are also in the process of having an Equal Opportunities Commission set up in Trinidad and Tobago, but we are also effecting law reforms in order to promote equality in our society.

Mr. Speaker, it is very significant that we should look at what *Justice Clement Phillips' Commission of Enquiry into the Country Club* has to say about problems of discrimination especially on the grounds of race. It is not an easy matter for any Government to deal with, it is a very sensitive issue and we also recognize that legislation in itself cannot solve the problem; it has to be solved by the people themselves and their recognition of its importance for us to live in harmony.

Mr. Speaker, on page 3 paragraph 10 of Justice Clement Phillips' Report, says;

"History shows that questions involving considerations of ethnic origin and cognate matters evoke the deepest human emotion, and often give rise to well-nigh intractable problems. For this reason, above others, it is imperative that any attempt to provide a solution to problems arising from such questions in our society must be made in a rational and objective manner, and not in such a way as may be likely to exacerbate the very problems for which a solution is being sought."

Mr. Speaker, the learned judge quoted from an excerpt from the *Foundations of Freedom* by D. V. Cowen, Professor of Comparative Law, University of Cape Town, (Oxford University Press, 1961). He said:

"The history of every community reveals a struggle between the forces which cause men to live together, and those which disrupt communal life and keep men apart. Trade and economy, geography, defence, language, religion, race, education, law and custom, indeed the whole fabric of cultural heritage and its emotional content—these are the pervading forces of attraction and repulsion in human affairs. These are the hard facts with which every constitution has to deal; and, in devising a framework of government for a

country, it is essential to have them constantly in sight. Their action will either preserve or destroy a constitution—preserve it if it has given them due recognition and scope; destroy it if its provisions turn out to be opposed to the sweep of irresistible currents. Indeed, the forces which tend to unite or dissever society are to the constructive statesman what the forces of nature are to man. They can be overcome, in Bacon's phrase, only by obeying them. If he defies or misunderstands them, they overthrow his work. If he knows how to use them, they preserve it."

Mr. Speaker, when Justice Phillips had to—

Mr. Speaker: Hon. Members, I wish to advise that the speaking time of the hon. Member has expired.

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

Hon. R. L. Maharaj: Mr. Speaker, I am indebted to hon. Members for the extension of time, and I wish to give them the assurance that I will not stay for 30 minutes. I think this matter is important enough to be put on the record because I know many things have been said about them and it is important for the Government to place its position on the table.

One of the points which has been raised, was whether these measures solve some of the problems which exist at members' clubs. As you know, members' clubs in which there is a contractual relationship are operated in such a way to benefit the members. That is an issue that has been getting attention, not only in Trinidad and Tobago but also throughout societies in the Commonwealth, and common law jurisdictions have recognized the need for these clubs, and a balance had to be struck.

The balance that was struck was that in the Constitution of countries, the Universal Declaration of Human Rights guaranteed the right to the freedom of association, and the freedom of association also means the right not to associate. Therefore, with a private members' club which is not operating where members of the public have access to it, there is the entitlement of a private members' club to have the members it desires.

If I may refer to page 6 of Justice Phillips' Report—and for those of us who did not know Justice Clement Phillips, he was regarded as one of the most brilliant jurists in the Commonwealth. The judgments which he gave, his analytical mind and knowledge of the law have been quoted in several cases, not only in the

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Commonwealth, but also in the United States and the United Kingdom. He was a man of great ability.

2.40 p.m.

At page 6 of Justice Clement Phillips' Report it says:

“The common law right of ‘freedom of association’, which has thus been entrenched in the Constitution of Trinidad and Tobago, is a right which all citizens of the country exercise for the purpose of carrying on the multifarious activities of daily life. The association of persons in partnerships and companies for the purpose of engaging in industry and commerce, the activities of trade unions (whether of employers or employees) for protecting their group interests, the meetings of religious bodies, charitable organizations, societies for the promotion of education, art or culture, the establishment of private clubs for political, sporting or recreational purposes—all these derive from the existence and exercise of the fundamental ‘freedom of association and assembly’.

It is to be observed that this right connotes the right of the individual citizen to associate with other individual citizens for the pursuit of any lawful purposes. This right has recently been the subject of judicial exposition in the case of Learie Collymore and anor. v. The Attorney General, (Civil Appeal No. 3 of 1966 of the Court of Appeal of Trinidad and Tobago; Privy Council Appeal No. 26 of 1967). As Wooding, C. J. observed in the course of his judgment in the Court of Appeal:-

‘Freedom of association means
freedom to enter into consensual arrangements to promote the common-interest objects of the associating group.

The objects may be any of many. They may be religious or social, political or philosophical, economic or professional, educational or cultural, sporting or charitable.’

In the words of Professor Hood Phillips, (Constitutional and Administrative Law, 3rd edn, p. 477):

‘The rights of association and assembly consist in the liberty of two or more persons to associate or meet together, provided they do not thereby infringe any particular rule of common law or statute.’

It is, therefore, the fundamental right of the individual to associate with whom he pleases in the pursuit of lawful objects, just as it is his right to choose his own friends—a choice which is usually dictated by the accidental circumstances of one's birth, education, etc. In my opinion, any attempt, by means of legislation or otherwise, to compel him to associate with particular persons or groups of persons would be running counter to a principle which is basic to democratic institutions as we know them. Moreover, from the practical point of view, any such attempt is not only foredoomed to failure, but is likely to have results exactly the contrary to those intended."

Mr. Speaker, one sees the principle which the Government has to use in dealing with a matter and allegations of this nature. The process of racial integration in any community cannot only be dealt with through the application of legislation by the exercise of cohesive power by the state. One also has to depend upon a change in the hearts and the mental attitudes of the people of that society, aided by the force of public opinion and, by the example we in the Parliament set in various spheres of life in the community, and the role we can play in influencing that opinion.

I say that because the point has been made by Members on the other side, that we recognize that one cannot deal with this matter only by legislation. I want to say that the reason we could not deal with members' clubs in the way in which people could be prevented from having membership of a members' club is that I rely on the well-known reasoning and principles that Justice Phillips has stated.

Just for the records also—not that one wants to slavishly follow matters and cases from other jurisdictions—there is a case discussed in Vol. 36 of the *Modern Law Review* in which one was dealing with the Race Relation Act of 1968. At page 529 it is discussed that a Mr. Shah, of Indian descent, who was a member of the Conservative Party had applied to a private members' club. The question arose then as to whether the Race Relation Act in the United Kingdom would have applied. The argument was being put forward that a private members' club could be considered as a club to which the public or a section of the public could have access. This was rejected and it was recognized that where there is a genuine private members' club one really could not deal with the matter in that way.

The principle and the philosophy of the Bill with respect to clubs is that where the public or a section of the public, not the members, has access to the club we can deal with it. But where members of the public want to participate in the normal activities of the club and want to compel the club to allow them to join, it is difficult for us to enforce that.

Mr. Valley: Mr. Speaker, is the Minister aware that under the private members' club a member may have a visitor or visitors? I think that is part of the problem in the private members' club. If a member says: "These are my visitors," they would be allowed in? What happens in a situation where, for example, the same discrimination is used against some guests? Or, what happens in a situation where the club would use that facade, as it were, to discriminate against other persons coming into the club? The point I am making is, how do we really define when a private members' club is open to the public?

Hon. R. L. Maharaj: That is outlined in the Bill, if there is a special occasion and the public has access to it. For example, if the club is having a function—a private members' club operates normally as a club not to make any profit—to raise funds or to make money, that will be to where the public has access.

Mr. Valley: The point I am making is that if we take one of these places in Chaguaramas where there are about, let us say, 20 members, but on a particular evening there are 200 guests, is that considered a private members' function or would that be a public function? How do we define that?

Hon. R. L. Maharaj: It would seem, under the Bill, that would be a public function because it is to where the public has access. *[Interruption]* No, it is not supposed to be making money.

With respect to the first point you raised, as mentioned by Justice Clement Phillips in the Country Club matter, under the existing law then, if a guest was refused entry at a private members' club, one could not do anything about it. But if the club is considered to be having any functions to which the public or a section of the public has access, that is a matter where there would be a contravention of the provisions.

Mr. Valley: I thought the whole purpose of this legislation was to avoid discrimination in private members' clubs.

Hon. R. L. Maharaj: Not only in private members' clubs at all.

Mr. Valley: But *inter alia*, in private members' clubs, and I think what you are saying now is that, one cannot really stop discrimination if a private members' club is operating as a private members' club. It is only in a situation where a private members' club is operating as a public place that one can prevent discrimination. Is that correct?

2.50 p.m.

Hon. R. L. Maharaj: No, Mr. Speaker. As a matter of fact, I think the law recognizes that if people apply to become members of a private members' club, one cannot compel the private members' club to have anybody as its members. If persons are not members of that club, they cannot enter. The law has recognized that. That is what I have just read from what Justice Clement Phillips said. The Constitution also says that.

We have proposed an amendment which says that in respect of a members' club, in any case, where it can be construed that members of the public can have access to the club and there is discrimination, that can be covered. That is why the legislation was drafted in that way. That is to say, if the situation—and it was mentioned in this case—is such, that the courts can regard that the public was having access to the private members' club, it could be regarded as a matter in which this section would apply.

I want to make it quite clear that as far as the Government is concerned, it recognizes in respect of the membership of members' clubs, the Government cannot compel clubs to have particular members. Where the club is functioning and access to the public is given to persons other than members, the legislation can deal with that matter. I think that is the way in which we had to try to deal with it. We recognized that some of these members' clubs were, in effect, being used in such a way to try to prevent members of the public from being treated equally.

Mr. Speaker, I beg to move.

Question put and agreed.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mr. Maharaj: Mr. Chairman, with respect to clause 2, I wish to propose an amendment as circulated:

Delete the word "21B" and substitute the word "21A".

In clause “2(a)(e)” there is a typographical error.

Question put and agreed to.

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

Clause 3.

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

Mr. Maharaj: Mr. Chairman, I beg to propose an amendment to clause 3 which reads as follows:

Clause	Extent of Amendment
“3	<p>(i) Add immediately after section 21A(1), the following new subsection:</p> <p style="padding-left: 40px;">(1)(a) Where a complaint has been made against a licensee under subsection (1), the Chairman of the Committee shall summon the licensee to appear before the Committee on the date set for the hearing of the complaint to respond to the allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law.’;</p> <p>(ii) Delete subsection 21A(4) and substitute as follows:</p> <p style="padding-left: 40px;">‘(4) Where a members’ club gives access to the public or any section of the public, to the whole or any part of its premises, on special occasions in accordance with the provisions of the Registration</p>

of Clubs Act, any trade or business conducted thereon shall be done so as not to contravene section 21B.':

- (iii) Delete subsection 21A(5) and substitute as follows:

'(5) This section applies to any person who has been discriminated against in any manner, including a refusal of admission or service or refusal of access to facilitate on any licensed premises, on the ground of that person's race, colour, religion or sex.:'

- (iv) Add a new subsection as follows:

“(6) The Minister may, by Order, subject to affirmative resolution of Parliament amend subsection (5) to increase the grounds on which a person may claim to have been discriminated against.”;

- (v) In section 21B(2) in the definition of the expression “licensed premises” delete the word “curtailage” and substitute the word curtilage”.

Mr. Chairman, may I take it that if I say, “as circulated in respect to the other (iv) and (v), is it sufficient, or do I need to read them?”

Mr. Chairman: Once there is agreement.

Mr. Maharaj: Okay.

Mr. Valley: Mr. Chairman, I have a slight problem with clause 3(ii)(4) which reads as follows:

“(4) Where a members’ club gives access to the public...to the whole or any part of its premises, on special occasions in accordance...”

I am still bothered about the fact that a members’ club, under the legislation, can have guests and so forth. A while ago, in winding-up, the Attorney General pointed in that direction and I wondered whether he would consider that change. It reads:

“Where a members’ club gives access to other than members...”

The point I was making a while ago, again, we have to look at the practical example. For example, if there is a members’ club with 25 members, what they are running is a business—the club is open on Monday, Tuesday and Friday nights and so forth, but they are deeming their patrons to be guests.

Mr. Maharaj: Mr. Chairman, that is why we have put it this way, if the club is running as a business—

Mr. Valley: How would this capture it? That is my concern. They are deemed to be guests.

3.00 p.m.

Mr. Maharaj: This is the Liquor Licences Act. If you look at the Registration of Clubs Act, you could see how it is dealt with as I explained it. If the club is not functioning as a club in accordance with that Act, it has to get permission to function in any other way. Therefore if it is running as a business, it will have to get permission, without which, the licence will be revoked.

Mr. Valley: I think we may have to come back to this. Let me leave it and take it up under the Registration of Clubs Act.

Mr. Maharaj: I think it will be difficult to come back to it, because we would have dealt with it. I have explained it.

Mr. Valley: But if we can look at the provision under the Registration of Clubs Act.

Mr. Maharaj: We can look at it now. I have no problem with looking at it now.

Mr. Valley: It is 2(ii) which says:

“Subject to subsection (3)(a)—”

First of all, I cannot find that reference to (3)(a).

Mr. Maharaj: That is on the other side of the document.

“Where a members’ club proposes to give the public, or any section of the public, access to the whole or any part of its premises, on any special occasion, it shall first ...”

Mr. Valley: I am sorry. I am looking for the reference, first of all, for (3)(a). You said subject to section (3)(a). That has to be (3)(a) of the legislation; this Bill here. The (3)(a) has to refer to the Bill.

Mr. Maharaj: There is no (3)(a) in the legislation.

Mr. Valley: It has to be the (3)(a) in the Bill before us. This is merely an amendment.

Mr. Maharaj: We are amending (3)(a). Look at the back of the Registration of Clubs (Amdt.) Bill.

Mr. Valley: I see what you are talking about, Mr. Attorney General, but I think it is extremely confusing. Would you want to change it to 3(i)?

Mr. Chairman: Would it not be achieved by simply saying “subject to section 14A(3)(a)?

Mr. Valley: Yes.

Mr. Maharaj: My draftsperson tells me the same thing.

Mr. Valley: No problem. I am going to the substantive issue.

“Subject to subsection (3)(a), where a members' club proposes to give the public, or any section of the public,—”

I have a difficulty there.

“access to the whole or any part of its premises, on any special occasion, it shall first obtain the permission of a Magistrate and—”

Let us stop there.

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The reality is that the members' club has guests there every night—I am talking about Chaguaramas—but they are deemed to be guests, and I am wondering, how is this going to be captured here in this section?

Mr. Maharaj: If the club is not being used as a club—if they are having members every night and it is being used for purposes of money—it can be dealt with under the Act, because it would mean that they would not have got permission from a magistrate to operate as that and the licence can be revoked. I cannot change the law to prevent a club from having a member. A club is entitled to have a member.

Mr. Valley: Not a member; a guest.

Mr. Maharaj: Sorry. A member of the club is entitled to have a guest. If the club is operating as a business—in that it is having people every night and it is operating as a business—it could be dealt with, whether there is discrimination or not.

Mr. Valley: First of all, I am saying that the owners of the club can go to lawyers—you know lawyers can argue. They say, “Listen friend, I am operating as a members' club. I not opening to the public. These are the guests of members.”

Mr. Maharaj: That is why there is the committee to decide the matter. The committee will have the power to revoke the licence.

Mr. Valley: I am saying that it is not getting to the magistrate. He is not going to look for any licence. He is not going to seek the permission of a magistrate, because he is saying that he is not doing anything wrong. I have members in my club; the members are bringing guests; each of them is bringing 10 or 20. I am not doing anything wrong. I do not need the magistrate's permission or any of the things you are asking for below.

Mr. Maharaj: Mr. Chairman, I do not know how I can explain this, again. I think that the existing law provides for members to be able to take guests. We are not changing that. What we are trying to do is that if the members' club is operating otherwise than a members' club and they are using it as a business, we can do something about that.

Where the members' club is being operated in such a way that the public, or a section of the public has access to it, in any event, if there is discrimination it can be covered by the Act. The evidence can be adduced.

Mr. Valley: Mr. Attorney General, I am really pointing to something else. I am saying, for example, ought we not to consider that a members' club, which has a special function five nights of the week, should be allowed to be registered under this Act? You are speaking about a special occasion. What is a special occasion? If the club has a special occasion on every night, it is not special. It is merely a business.

Mr. Maharaj: Mr. Chairman, I think we have really given all the explanation we can give. What we are doing is that we have found this way to attack the problem. I have had extensive discussions with the drafting people; the Law Commission; the Chief Parliamentary Counsel, and this is the way we have to deal with the problem.

Mr. Valley: I hear you, Mr. Attorney General. I am submitting that it would not work.

Mr. Maharaj: If it does not work, we come back. I give you that assurance.

3.10 p.m.

Mr. Valley: We will come back to this and argue it again. Mr. Speaker, let me just try once more with my very good friend. Would it be doing too much, if we say, in (4) here:

"Where a members' club,...gives access"

Because I think those were the words used by the Member a while ago, "access other than members". If we look at *Hansard* in his winding up, he made that point. Rather than saying: "to the public" if we say "give access to other than members to the whole or any part of his premises", I would still leave "on special occasions". I think that we can capture this every night thing. I think a good lawyer would argue that is not a special occasion; that, in fact, the person is running a business. I think we could, rather than say, "to the public" we should say "to other than members".

Mr. Maharaj: It would not be workable, in light of the fact of what is already in the legislation. I have been advised that it will have to be dealt with in this way.

Mr. Valley: I hear you. Remember, you are only talking about 'special occasions' so that the member could have guests on other occasions.

Mr. Maharaj: If they are having a fete, that is a special occasion.

Mr. Valley: But that is the point. If, for example, the club has its normal operations, a member wants to have his guests; that is fine, but on any special occasion then this is going to apply. Otherwise this thing will not work. There will be no capacity for it to work.

Mr. Maharaj: Mr. Chairman, I think that the Members have to understand that legislation must be passed in order to be able to give the committee, the courts, a way of adjudicating and, therefore, if a members' club is being used every night for particular purposes, then that club can be stopped under this legislation. If the members' club is used for business every night, one does not even have to resort to the fact of discrimination. One can even stop it without that.

Mr. Valley: I am not even on the point of discrimination.

Mr. Maharaj: The fact of the matter is that where the members' club is used for the public to have access to, sections of the public have been recognized. As a matter of fact, if a members' club is being used as a bogus members' club, it is really not a genuine members' club. I think I should put this on the record.

Mr. Valley: I rest my case.

Mr. Maharaj: I want to read something to you. Where the courts have to decide matters like these which concern the members' club— The case of *Charter vs. Race Relations Board, 1972*. Both the Court of Appeal and the House of Lords. The House of Lords' decision is 1973 1 AER (Volume 1, All England Report) 5:12. If it is found that a members' club is really not a genuine members' club, that it is really having fetes every night and it is circumventing all these rules, then you revoke the licence.

Mr. Valley: That is what I am saying, they should revoke the licence.

Mr. Maharaj: So that one does not even have to use the allegation of discrimination. It will depend to a great extent on the enforcement. In addition to what we have done to revoke it on that ground, we are saying that if it has access to the members of the public we can revoke the licence.

Mr. Valley: Mr. Chairman, I want to disabuse the Attorney General's mind. I am not on this point of discrimination. I am making the basic point that he has just made. A business house that is hiding behind the registration of a members' club ought not to be allowed to register. The amendment we need here is to say that, if one is having a special occasion every night, then one cannot qualify for membership under the members' club.

Mr. Maharaj: Under the Act itself, the Act which exists—the committee can revoke the licence where the club is not being conducted in good faith as a members' club, or it is being kept or used for unlawful purposes—that does not apply where persons who are not members are habitually admitted to the club for the purpose of obtaining intoxicating liquor. It has to do with enforcement and it has to start somewhere. So all I can ask you to do—this legislation is drafted in a way in which, even if you cannot prove that a club is discriminating on the grounds of race, but you can prove that it is not operating as a members' club, it will be easier to revoke the licence.

Mr. Valley: I rest my case. I have made my point. We will see what happens.

Question put and agreed to.

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

New Clause 4.

Mr. Maharaj: Mr. Chairman, I propose a new clause 4 which reads as follows:

"4. The Liquor Licences Act is amended by adding the following new section:

83A. The Minister may make regulations, subject to affirmative resolution of Parliament for the effective carrying out of section 21A."

New clause 4 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 4 added to the Bill.

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

House resumed.

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

REGISTRATION OF CLUBS (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Registration of Clubs Act, Chap. 21:01, be now read a second time.

Mr. Speaker, the contributions which I made in relation to the Liquor Licences Act dealt exclusively with those matters of which the Members of this honourable House are very familiar, and I do not think I need to elaborate. May I say that the Bill attempts to deal with discrimination with respect to the functioning of clubs and there have been amendments which have been proposed based on what the Opposition has requested.

Mr. Speaker, I beg to move.

3.20 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 2 be amended as circulated. The entire amendment as circulated is as follows:

"(1) Add immediately after section 14A(1), the following new subsection:

"(1)(a) Where a complaint has been made against a licensee under subsection (1), the Chairman of the Committee shall summon the licensee to appear before the Committee on the date set for the hearing of the complaint to respond to the

allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law.";

(ii) Delete subsection 14A(3) and substitute as follows:

"(3) Subject to subsection (3)(a), where a members' club proposes to give the public, or any section of the public, access to the whole or any part of its premises, on any special occasion, it shall first obtain the permission of a magistrate and -

(a) any trade or business conducted thereon; or

(b) where the club is used for purposes other than that of a members' club, as defined in section 2 of this Act, shall be done so as not to contravene section 14B.

(3)(a) For the purposes of subsection (3) the members' club shall pay to the Licensing Committee a fee of one thousand dollars.

(3)(b) A members' club which contravenes the provisions of subsection (3)(a) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars."

(iii) Delete subsection 14A(4) and substitute as follows:

"(4) This section applies to any person who has been discriminated against in any manner, including a refusal of admission or service or refusal of access to facilities on any licensed premises, on the ground of that person's race, colour, religion or sex.

(4a) The Minister may, by Order, subject to affirmative resolution of Parliament, increase the grounds on which a person may claim to have been discriminated against."

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

"At subclause ii(b) on the next page, insert before "shall", "such trade, business or purpose" shall be done,"or carried out in such a manner" so as not to contravene section 14B."

Registration of Clubs (Amdt.) Bill
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It should read:

"Where the club is used for purposes other than that of a members' club, as defined in section 2 of this Act, such trade, business or purpose shall be done or carried out in such a manner so as not to contravene section 14B."

Mr. Valley: Is he suggesting that the suggestion you made, that rather than having 3(a)(b) say it is on 14 3(a)—

Mr. Maharaj: I am told that it would not make a difference.

Mr. Valley: It confuses me.

Mr. Maharaj: I have been told by the draft's people that that is how it is done and when they review it and it is drafted, that is how it is done.

Mr. Sinanan: Please go back to the amendment where it says "shall not be done or carried out in such a manner so as not to contravene...". In other words, the "not" should be deleted from where it is now and inserted between the words "shall" and "be".

Mr. Maharaj: I am told that the action has to be done so as not to contravene the Act.

Mr. Sinanan: But it says "shall not be done".

Mr. Maharaj: The action has to be done so as not to contravene the Act. I have to be guided by my technical people. Mr. Speaker, can I crave your indulgence to 3(a) where it has:

"For the purposes of subsection (3) the members club shall pay to the Licensing Committee..." We can delete "to the Licensing Committee" because it is to the Court. We will put a fee of one thousand dollars."

Mr. Sinanan: Why not increase the amount to discourage—

Mr. Maharaj: We had thought of a higher figure than \$1,000, but I am prepared to consider—does the Member want to make it \$15,000?

Mr. Sinanan: No, you can go back to \$5,000 as in 3(b).

Mr. Maharaj: There are people who genuinely want to use it and you really do not want to penalize them as it could be used for good purposes as well in respect of clubs.

Mr. Valley: Mr. Chairman, we will support it but I want to point out, that the last point made, strengthens the case for excluding the business houses from members' clubs. What would take place is that a legitimate club such as the Portuguese Club, is now required to pay when having a carnival fete. It is now being penalized for a situation it did not cause. If we were to simply exclude those business houses from the members' club, then we would be doing that. I rest my case.

Mr. Maharaj: We will consider that.

Question put and agreed to.

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

3.30 p.m.

New Clause 3.

Mr. Maharaj: Mr. Chairman, I propose a new clause 3 which reads as follows:

“3. The Registration of Clubs Act is amended in section 22 by renumbering paragraph (g) as paragraph (h) and inserting a new paragraph (g) as follows:

“(g) generally for the more effective carrying out of this Act;”.

New clause 3 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 3 added to the Bill.

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

House resumed.

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

THEATRES AND DANCE HALLS (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Theatres and Dance Halls Act be now read a second time.

Mr. Speaker, the purposes of this Bill have been explained to this honourable House with the proposed amendments and the philosophy behind them having been articulated. The Opposition has made comments in relation to these matters and the Government has considered these comments and has, to some extent, reflected some of their contributions in the amendments which have been made.

Mr. Speaker, I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mr. Maharaj: Mr. Chairman, I wish to propose that clause 2 be amended as follows:

(i) Add immediately after section 4A(1), the following new subsection:

“(1)(a) Where a complaint has been made against a licensee under subsection (1), the Licensing Authority shall summon the licensee to appear before it on the date set for the hearing of the complaint to respond to the allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law.”;

(ii) Delete subsection 4A(3) and substitute as follows:

“(3) This section applies to any person who has been discriminated against in any manner, including a refusal of admission or service or refusal of access to facilities on any licensed premises, on the ground of that person’s race, colour, religion or sex.”

(iii) Delete subsection 4A(4) and substitute as follows:

“(4) The Minister may, by Order, subject to affirmative resolution of Parliament, amend subsection (3) to increase the grounds on which a person may claim to have been discriminated against.”

Question put and agreed to.

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

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

House resumed.

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

COMMUNITY SERVICE ORDERS BILL

Order for second reading read.

The Minister of Social Development (Hon. Manohar Ramsaran): Mr. Speaker, I beg to move,

That the Bill to make provision for the making of community service order in respect of convicted persons; to make provisions for the making of combination orders; and for matters incidental thereto, be now read a second time.

Mr. Speaker, hon. Members, the purpose of this Bill is to allow for the imposition of community service orders, or combination orders of community service and probation, against convicted offenders instead of custodial sentences where it is appropriate to do so. Over the last few weeks and months, much attention has been focussed on alternatives to custody in various jurisdictions, both regionally and the wider independent arena. The contributions of Mr. Justice Garwe of Zimbabwe have been particularly useful. I have benefited as a result of the attention and considerable debate in the other place.

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Members will note that Government has adopted and incorporated certain amendments which accord with the underlying philosophy of the Bill. There is no escaping the fact, hon. Members, that crime is a major problem in this country, particularly among our youth. With the apparent disregard for morals and family values, it is not surprising that crime remains one of our social ills. It is, therefore, encouraging when groups, like the Secondary Schools Principals Association, take innovative initiatives such as formulating and publishing a code of conduct for students to try to nip delinquency in the bud.

Mr. Speaker, this Government of national unity will also continue to vigorously address the escalation of crime in our beloved country. Imprisonment as a sentencing option is available for almost all offences in this country, from the least serious to the most grave. However, Mr. Speaker, imprisonment along with other modes of sentencing, either in combination or in the alternative, have proved to be insufficient deterrents in the battle to curtail the high degree of recidivism or the process of offenders graduating from less serious to more serious crimes. Why not, you may ask.

As Dr. Derrick Chadee, a social psychologist in the department of Behavioural Sciences at the University of the West Indies, St. Augustine, has stated:

“Sentencing is a behavioural, engineering process.”

It is designed to modify the offender’s behaviour and perhaps we are simply enforcing punitive measures to fit the nature of the crime rather than attempting to modify behaviour.

Mr. Speaker, enlarging the prison population daily, stretching the limits of an already overloaded penal system, is obviously not working well enough; neither is jailing our nation's youth who may already be deprived and depraved. We should, therefore, be dealing with offenders, not as if they exist in a vacuum, but in full recognition of the psychological and sociological pressures facing all families today.

What then are the purposes of sentences? Mr. Speaker, these have been noted to be:

1. Punishment for the particular offence.
2. Deterrence as regards a particular offender.
3. Deterrence as regards the rest of society.
4. Prevention in separating the offender from society.
5. Rehabilitation of the offender.

3.40 p.m.

Sentencing policy in this country does not take into account the need for some form of reparation for the victims of crime and the society in general. The focus centres on criminals and the crime while virtually ignoring the victims. This does not make for a just and fair society. There may be greater successes with crime prevention and control in the long term, if our sentencing policies were also to incorporate that element of reparation towards the victims and society.

Frequent face to face contact with the victim or other vulnerable members of our society could lead to the rehabilitation of the offender. The Community Service Orders Bill seeks in some measure to address this issue by introducing into our criminal justice system the powers to impose community service orders in those situations where the penalty imposed would be imprisonment of 12 months or less.

The prison population can be considerably reduced, thus relieving in some measure our overcrowded prisons. Further, first offenders would be spared the insidious incidence of the more hardened criminals within the criminal justice system.

As a consequence, we will also be tackling the whole issue of recidivism. Once a first offender has completed his community service, he is given the opportunity to have his conviction nullified thus providing him with a clean slate and a fresh start. It is particularly important to target our 16 and 17-year olds, who are not regarded as children and who do not generally benefit from the protection in place for younger persons.

This country ratified the United Nations Convention on the Rights of the Child in November 1991. Article 40 of that Convention states that whenever appropriate and desirable, children in conflict with the law should be dealt with without resorting to judicial proceedings but instead should be dealt with by measures alternate to institutionalization. Although the community service order would only be invoked as a result of judicial proceedings, the idea and aim behind it is to avoid the cycle of institution life of any crime.

Community service orders allow for some degree of reparation to society. So offenders over the age of 16 years, convicted of an offence may have their sentences of imprisonment suspended for up to two years while they perform between 40—240 hours of unpaid work in the service of his or her own community, wherever possible. Such work, for example, could include cleaning and maintaining local recreational facilities or providing manual labour for a home for the elderly.

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Mr. Speaker, hon. Members may be concerned that we are providing a soft option for criminals and that criminals would be roaming our communities free. Firstly, community service would not be applicable to certain types of offences. Those offences are listed in the schedule. These include: murder, manslaughter, possession of arms and ammunition, shooting, robbery, any sexual offence, drug trafficking and kidnapping. In other words, violent crimes cannot attract community service.

I quote from a latest drug trafficking case:

“The society must be made aware of the fact that the courts are going to visit prisoners found guilty of drug trafficking with custodial sentences. All those who are involved in this type of offence and anyone found guilty can expect nothing less than a custodial sentence.”

The public at large therefore, has entrusted us with the duty to make society safe for our citizens and it is a duty that this Government is taking very seriously indeed.

Mr. Speaker, the Probation Department of Ministry of Social Development would be responsible for the supervision of those offenders who have agreed to perform community service. The Probation Department already has a limited experience in community service.

In 1994, three students of a Government Secondary School in Tobago appeared before a Scarborough court on serious offences. The court's decision was a probation order in conjunction with a short programme of community service within the confines of their own school as well as other secondary schools in Tobago. The youths had to interface with other students and share their experiences. The responses of the youths on the programme as well as those who benefited from it were favourable indeed.

Mr. Speaker, I also read recently where a former Trinidad and Tobago magistrate experimented with the idea and reported that it was quite successful. Hon. Members we need to pick up this programme formally. I am also aware that a magistrate in Barbados having recognized the dire need for alternatives to custody, despite the lack of legislative authority, has regularly imposed sentences of community services on offenders whom he felt would benefit from it. In one instance, where three such offenders had to work at a local business place as part of their community service, two of them were subsequently employed on a permanent basis by that very business firm.

Mr. Speaker, I am told that the business community in Barbados has responded enthusiastically to the community service orders. I hope, therefore, hon. Members, that the response from the business community in Trinidad and Tobago would be equally as enthusiastic. Barbados, I am informed, is actively working on introducing their own community service orders legislation.

Details of this Bill are such that no community service order would be made unless and until:

- (a) a probation officer's report about the offender and his circumstances has been received by the court.
- (b) the offender consents to the making of the order, following an explanation to him in ordinary clear language of the purpose, effect, requirement of, and consequences of failure to comply with the order; and
- (c) the court is satisfied that the particular offender is a suitable person to perform work under the order and that suitable arrangements can be made for him to do so.

So in judging the general demeanour of the offender as he appears before the court such as signs of remorse, attitude and so forth, there is still that discretion by the court not to suspend a sentence but, instead, send the offender directly to prison.

In the case where the offence may be considered relatively minor and therefore, suitable, on the face of it, for community service as an alternative to custody, the offender himself may be so lacking in remorse or out of touch with the criminality of his behaviour that a term of imprisonment may bring about the desired sobering effect.

Each offender placed on a community service order would be directly under the supervision of a probation officer assigned to the magisterial district in which the offender resides. The Chief Probation Officer may appoint persons to assist these Probation Officers in the discharge of their duties under the Bill.

3.50 p.m.

The probation committees would be set up in the various counties and membership drawn from among district probation officers, the magistracy, community leaders and the business community. Each committee would be responsible for the compilation of lists of the types of work available in each district; ensuring that there is day-to-day supervision of offenders while performing their stipulated work and keeping a record of such offenders' performance of the work.

Likewise, probation volunteers would also be drawn from among community leaders, religious leaders, or even retired public servants of good standing in each district. To be assured of their safety as far as possible, these volunteers would assist only in the supervision of offenders in low-risk cases. The volunteers would be responsible for keeping records of the performance of each offender supervised by them, reporting directly to the assigned probation officers.

The use of probation volunteers provide an assurance that at no time would an offender performing work as stipulated in his or her community service order be without the actual physical presence of a supervisor, be it a probation officer or a probation volunteer. Work to be performed under the community service order should, as far as possible, be completed within a 12-month period from the date of the order. The order would remain in force, however, pass that time if the specified number of hours contained in that order have not been performed.

For those offenders who feel community service would be an easy option, that they could slide out of it as time goes by, make no mistake, Mr. Speaker, that any breach of the requirements of that order would result in the offender being issued with a summons or be arrested on a warrant to appear again before the court.

The court then has a range of options, which are:

- (a) to continue the order and impose a fine;
- (b) to continue the order and impose an additional order;
- (c) revoke the order and enforce the term of imprisonment previously suspended.

In situations where, for whatever reason the community service does not appear to be working out, the Bill also makes provision for the order to be varied or revoked on the application of the probation officer or the offender. This would include the circumstance of the offender being convicted of another offence for which a custodial sentence was imposed. The Bill makes provisions for the imposition of combination orders which bring together the elements of a probation order and a community service order.

The probationary element would require the offender to be supervised by a probation officer for between one to three years while the community service would be a requirement to perform unpaid work between 40 to 100 hours. Before making such an order, the court has to be satisfied that there is a need to either secure the rehabilitation of the offender; protect the public from him, or prevent him from committing further offences.

The reason for the exclusion of juveniles from this piece of legislation is that children under the age of 16 are not imprisoned as a matter of course and community service orders, as proposed, are meant to be an alternative to custody. Punishment for juveniles already include fines, detention in industrial schools, committal to an orphanage, committal to care of a fit person, probation, and for the most serious cases, detention in a designated place. Juveniles do not mix with the hardened criminals and the provision is usually made for counselling and rehabilitation in one form or the other, when they are detained or committed to an institution.

This Government of national unity would, however, be considering including community service as another form of punishment for juveniles as we move on. You see, a small step is a start of any dream. The Community Service Orders Bill, 1997, is an innovative piece of legislation that seeks, not only to keep the less serious offenders out of the prison system, thereby forestalling the slide into repeat and more serious offending, but to indicate to the populace at large that they are equally as important as the offender, and wherever possible, that offender shall make amends.

I am sure this Bill would find favour with the prison service, for at their passing out ceremony about a week ago, considerable support was given to the concept of community service. Dr. Cheddi has gone even further in his suggestions for alternatives to custody by advocating week-end custody, parole and suspended sentences.

For now, I am really proud to be presenting this Bill to this honourable House and I feel confident that this particular piece of legislation would have a smooth passage.

I beg to move.

Question proposed.

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, I am pleased to participate in this debate to "make provision for the making of community service order in respect of convicted persons; to make provisions for the making of combination orders; and for matters incidental thereto".

When the hon. Member for Chaguanas presented this Bill to this House, he made two comments that I want to deal with immediately. Firstly, he made the comment about poverty and crime and also about this being an innovative piece of legislation that his Government is pleased to bring to this Parliament.

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Before dealing with the details of the Bill, it would be remiss of me if I do not remind this honourable House that it is the hon. Member for Chaguanas' Government that went to the population in the run-up to the 1995 general elections on the twin issue, the issue of poverty and the issue of crime. They indicated to the national population that if they formed the government that they would be able to deal with the issue of crime and poverty in this country. I recall distinctly that every day to the run-up to the elections they were talking about the number of crimes that went unsolved, the number of murders and so forth, the extent of poverty in this country, and how they would treat with these two issues. Because we are debating a Bill today that deals with the whole issue of alternative sentencing—

Mr. Ramsaran: Mr. Speaker, just on a point of clarification. I did not mention poverty in my report at all.

Mr. M. Joseph: Well I must be hearing things, Mr. Speaker. But I would link the whole question of crime with poverty, if he did not make any comment on that.

There are those of us who believe that the trend we are seeing in violent crimes in this country is basically driven by three factors. Firstly, there is the drug epidemic that started in the 1980s which has led to a high degree of violence and crime. Secondly, there are those who believe that we are seeing the results of the breakdown of the family and we are starting to pay the price for that with a surge in juvenile crime. Thirdly, we are seeing, what is referred to as the saturation of the criminal justice system.

4.00 p.m.

In developed societies these factors manifest themselves in terms of what they refer to as the revolving door justice, as prisoners are serving less and less of their sentences and are being prematurely released. In our environment we are seeing it in terms of repeated offenders, who are on bail, continuing to commit crimes which create some concern in the society.

In the public discourse about how to deal with this violence we generally see two competing views: the traditional law enforcement approach which says that crime is caused by criminals and the way we deal with crime is to use aggressive enforcement policies to deter or incapacitate criminals through incarceration. On the other hand we see much said about what is called the social rehabilitation response to crime, something to which the Minister referred in piloting this Bill. That approach tends to see crime as caused by societal ills and seeks to deal with

crime by remedying those ills through social programmes. Proponents to this approach say that one cannot really deal with crime by suppression, it has to be attacked at its root causes.

Mr. Speaker, I think we need both approaches, properly understood, acting together. We do have to take aggressive steps to deal with the criminals of today, but we also need programmes to prevent the youth of today from becoming chronic offenders of tomorrow, as best as we can.

When the hon. Minister piloted this piece of legislation, he also alluded to the need to prevent some of our first-time offenders from being placed in an environment with hardened criminals. I beg to submit that even this approach, as laudable as it is, in my opinion, is still an *ex post action*. What we need to be dealing with—since the hon. Minister espoused the whole question of this social rehabilitation response to crime—is crime as being the result of societal ills. As a result, I beg to put to this honourable House that the approach ought to be the implementation of social programmes to prevent criminals in the first place, as opposed to putting programmes in place to deal with people after they have committed criminal offences. *[Desk thumping]*

Mr. Speaker, I started off by saying that this Government came into office on two planks: the plank of reducing poverty and that of reducing crime. I am suggesting that the approach ought to be one of social programmes. I expected that the Minister would have talked about programmes which the Government is putting in place to eradicate or reduce the extent of poverty in the society because—and I would bring that link just now—of the relationship between poverty and crime. He also talked about the question of the social ills in the society and the need for us to deal with some of those social ills.

So while the Minister said that his Government ought to be applauded for the kind of progressive legislation that is being brought into being and so forth—and I would talk about that—that is only one part of a whole package of legislation with respect to other issues that need to form part of it. I am suggesting that the emphasis ought to be on instituting programmes to reduce the number of people committing crimes in the first place. *[Desk thumping]* Let me take it a bit further.

Mr. Speaker, when we demitted office in 1995—*[Interruption]* I was not a Member of the government at the time. When we, the People's National Movement demitted office in 1995, it was an established fact that we left the country in a healthy economic situation. *[Desk thumping]* I make the point, the

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hon. Member for Couva North is on record—after it took him some 12 months—as admitting that the PNM administration, during 1991—1994 did put the economy on a growth path. [*Desk thumping*] So that one would have expected that a Government inheriting such a healthy economy would have focussed its efforts and energies on dealing with the social issues.

Mr. Speaker, if we had continued in office, rest assured the focus would have shifted to social programmes being put in place to deal with the society having gone through the burden of structural adjustment; having tightened its belt for that period of time and now it was time for them to at least look for a certain amount of alleviation in the social unrest, but that did not happen.

I think we need to understand that. What is saving us now, if I may humbly suggest, is the energy resources. The energy resources is saving us now, temporarily, but we know that can only give us so many jobs. It is development in other aspects of the economy that is important. If the Government of the day continues to behave in the way it is behaving, so that confidence in this country starts to wane, we are going to see the consequences of that down the road. Again, it is going to manifest itself in terms of continuing social unrest, crime and the need to deal with—as the Member for Chaguanas said—the fact that the prison population is increasing, and it has to be increasing. So, I think it is important that these issues be placed on the table before I start to deal specifically with the piece of legislation.

Mr. Speaker, this piece of legislation can be found, as the Minister said, in other jurisdictions. Basically it comes out of a thinking that I could sum up, if I may, by saying that criminal justice planners must be prepared to address the issue of prison crowding within the context of the entire criminal justice process. The availability of creative intermediate sanctions, particularly for lesser offences, and as a means of gradual reintegration from the system would play a significant role in relieving prison crowding. Immediate sanctions include, but are not limited to: restitution, community service, house arrest, intensive supervision, deferred or suspended sentences, fines, alcohol or drug treatment, work requirement, reconciliation programmes and education and vocational training as part and parcel of the whole approach as an alternative to incarceration.

I looked at a particular jurisdiction where this piece of legislation has been introduced for some time, specifically, North Carolina, where community service programmes began in the early 1970s, funded by a grant. It is part of what is referred to there as the Division of Victim and Justice Services which include,

among other things, driving while impaired, community service, deferred prosecution, court order community service, intensive probation, regular supervised probation and community service probation.

4.10 p.m.

These programmes are administered by the Division of Victim and Justice Services. Field staff members are responsible for interviewing, placing, monitoring and reporting successful or unsuccessful completion of community service work for each offender assigned to the programme.

It goes on to give us some specifics about community service. It is work performed by an offender for a non-profit or governmental agency and without monetary compensation. It is a constructive valuable sanction available for use by a sentencing judge, district attorney, probation officer and the parole commission that allows the individual to repay his or her community by providing much needed services. The Community Service Programme makes it possible for justice to be served by enabling convicted offenders to work in the community to pay their debt, rather than be imprisoned.

It went on to indicate some of the benefits to be derived from such a programme. Everyone benefits from community service programmes. It allows the offender to continue to be an employed tax paying citizen free from incarceration. I am making these points because when I come back to the specifics, I wish to enquire whether or not the same would apply, or if it would be different. It frees up prison space to be used to house people convicted of more serious crimes. In piloting this piece of legislation the hon. Member indicated that.

It gives the offender some sense of belonging in his/her community by having paid back the community for his/her crime; it benefits the community by getting work done which may otherwise never have been accomplished; it is more cost effective than prison. In this particular case, it costs \$6 per day to monitor an offender sentenced to perform community service, as compared with \$60 per day for a person sent to prison.

I note that with respect to the cost, there was an article in the *TNT Mirror* dated March 14, 1997. An expert on penal reform international, Ms. Vivien Stern dealt with many of the problems involved in prison incarceration. Under the heading, "Community Service saves prison \$\$", the article mentioned that it costs \$60,000 annually to maintain a prisoner in Trinidad and Tobago. I do not know if this is true and to what year this figure applies. Certainly, if the Government can

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reduce the amount of money spent on prisoners by introducing this particular measure, that would be welcomed. It would be interesting to see what it would cost to implement this particular programme relative to incarceration.

I ask this because the Minister indicated that the programme would be administered by the Chief Probation Officer who may appoint persons to assist probation officers in the discharge of their duties under this particular Bill. Provision has been made for the establishment of probation committees, in clause 8. I want to know how this would be implemented. Mention was made about voluntary persons such as retirees who would assist in its implementation. I am curious to find out what the implementation of this piece of legislation is likely to cost, so that we can do some kind of cost comparison and find out what kind of saving is likely to be realized as far as that is concerned.

I have indicated that the community service is one part of a whole series of other activities which is used as an alternative. There are other measures such as work release. This programme is designed specifically to fit the needs of people who are employed or in school.

In this jurisdiction which I am talking about, in order for offenders to participate in community service they have to pay \$60 cash or money order. No personal cheques would be accepted. I want to find out whether or not participation in this programme would be along similar lines and if offenders would have to pay to participate. I note that mention is made of specific types of activities which would be exempted and which people must not commit in order for them to participate in the programme. I would like to get some more information.

While I recognize the Schedule and the Minister indicated which crimes would not be considered for community service, there was an interesting article in the *Independent* by the Deputy Director of Public Prosecutions, Mr. Dolsingh. It states:

“Dangerous overcrowding at the country’s jails, suspended sentencing ought to be introduced in Trinidad and Tobago.

A suspended sentence is an imprisonment term which would not be enforced as long as the offender does not commit another crime.

Dolsingh believes that in practice it will have more effect than a community service order. Dolsingh speaking on the present sentencing system at a public lecture hosted by the University of the West Indies on Wednesday night, told

the small audience that suspended sentence is effective because it is an alternative to immediate custody, and for the person convicted, it is a bond over his head that would help ensure good behaviour.

The Community Service Orders Bill was recently passed in the Upper House.”

This is the interesting part.

“Dolsingh points out that this system has worked well in countries like England and Sweden, but he is not sure as his political boss, the Attorney General who piloted the Bill... Can you imagine a hardened criminal painting some old woman’s house here for 20 hours? After five minutes he would put down his brush. You think anyone can make him do that job? A hardened criminal would not pay attention to no probation officer.

Dolsingh says it is unlikely that anything but jail would work for hardened criminals.”

I am asking for clarification. I said before I read it, that in piloting the Bill, the Minister indicated precisely which crimes would not qualify. I am asking that he indicates to me which crimes he is talking about in light of the concerns being raised.

4.20 p.m.

This brings me to the next point: I would like the hon. Minister to indicate to us whether or not only first-time offenders will qualify for participation in this programme, or whether repeated offenders, albeit for minor crimes, will be allowed to participate in the programme.

The hon. Minister, in piloting the Bill, alluded to the other types of programmes that are available and said that this represented the first step. It seems to me that it is a combination of things. In the other jurisdictions that I have looked at, especially North Carolina, they were all introduced *in tandem*. I wonder whether or not we are likely to see the supportive legislation introduced.

Mr. Speaker, there is another question. Who determines the type of projects, the locations and the benefits for those projects?

Mr. Sudama: Do you have any ideas?

Mr. M. Joseph: Yes. I have some ideas. I will share those ideas at a subsequent time.

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The Member for Oropouche asked whether or not I had any ideas. I was reading recently about what is called a four-front war on crime. It is suggested that there are four fronts on which we can fight crime. We can fight crime on what is referred to as the head, the hands, the heart and the will.

With respect to the head, we are talking about the need to provide educational opportunities in the various communities. We recognize that without good education our citizens do not have the resources needed to advance out of poverty and out of a life of crime. So, as a community, we serve our own interest when we provide increased educational opportunities for all our citizens, regardless of their economic background, so that with a good head our people can find work that benefits their communities rather than rob them.

Hands here deal with occupational opportunities because even with a good education, if there is no hope for a good income and a secure future, there is no incentive for our citizens to be law-abiding, hard-working people. In order to fight crime, we need to create a positive alternative. As with education, we will serve our own interest by providing increased occupational opportunities to all Trinidadians and Tobagonians so that with able hands we will put our fellow-citizens to work for the betterment of our communities, rather than its demise.

With respect to hands, and in response to the Member for Oropouche's question that I make some suggestions, here is where we need to ensure that there are economic opportunities. This is the reason the PNM administration, during the period 1991—1994 tried to make sure that we put the economy back on a growth path—I know those on that side do not like to hear that—so that we could have made use of the productive means of our citizens.

With respect to heart, we say we cannot live in a community and complain about its ills if we do not offer our own services to help solve its problems. Together we make up our neighbourhoods and together we can help make them safe. We need to put our hearts into resolving the problems that hurt us all and we are seeing some of this taking place in terms of community neighbourhood watch groups and other kinds of community activities, which our citizens are coming together to put in place to make sure that our communities are safe, free from crime and so that people will feel safe.

With respect to will—we are talking here about political will—since there is a limit with respect to the amount of resources that are available and the extent to which they can be allocated, it is absolutely important that the Government recognizes how they are to be allocated.

On that point, I must express my own concern that if the economic pie does not increase, then our ability to dispense that pie becomes more difficult. As a result, because of the nature of our society, greater demands will be made in terms of how that pie is shared up and, depending on the manner in which that is done, they can have all kinds of repercussions for the fabric of the society and for the well-being of the society as a whole. So, we have a genuine interest in making sure that economic progress is made in this country. Once that is done, it reduces the extent to which decisions have to be made with respect to how resources will be allocated. There will be problems in terms of that allocation because of the nature of our society. It is, therefore, in our best interest to make sure that the economic progress of this country continues.

These days it seems that anyone who stands up to constructively criticize the Government is accused of all kinds of things—pseudo this and pseudo that—but it is because we have the best interest of the society at heart. That is the reason we are here. We are expected, as the Opposition, to make sure that the policies and the programmes of the current administration are such that they are in the best interests of the country and, when that is not the case, we have a duty to bring it to the attention of this honourable House and the national community. When we do that we ought not to be accused of all kinds of hidden agendas and so forth. That is our legitimate job. That is why we were put here and we will do it faithfully.

With this brief intervention, I hope that the Minister, in winding up, will respond to some of the questions and the concerns raised on the legislation brought before this honourable House.

I thank you.

ARRANGEMENT OF BUSINESS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, may I announce that, by agreement, we will defer further debate on this Bill. After tea, we will debate Bill No. 5, which will not be a very long bill, and that will be the end of today's debates.

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

4.30 p.m.: *Sitting suspended.*

5.03 p.m: *Sitting resumed*

**ELECTIONS AND BOUNDARIES COMMISSION
(LOCAL GOVERNMENT) (AMDT.) BILL**

Order for second reading read.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker I beg to move,

That a Bill to amend the Elections and Boundaries Commission Local Government Act, Chap. 25:50 be read a second time.

Mr. Speaker, this Bill which was recently debated and passed in the Senate seeks to amend section 4(2) of the Elections and Boundaries Commission Act, Chap. 25:50, to allow the Commission to submit reports in relation to the definition and review of boundaries of the electoral district of Tobago, in not less than two nor more than four years of the submission of the Commission's last report.

Based on the *Sixth Report of the Elections and Boundaries Commission, on the Boundaries of the Electoral Districts in the Electoral Area of Tobago*, the Commission at that time was ripe for a suitable amendment to be made to section 4(2)(b) of the Act to prescribe that reports in reference to Tobago should be submitted within not less than two, nor more than four years of the date of submission of the Commission's last report.

Mr. Speaker, I draw your attention to sections 4(1) and 4(2) of the Elections and Boundaries Commission (Local Government) Act respectively. Section 4(1) says:

"The Commission shall define and review the boundaries of the electoral districts into which an electoral area is, or is to be, divided and shall submit to the Minister reports thereon."

Section 4(2) states:

"Reports under subsection (1) shall be submitted by the Commission—

- (a) in the case of its first report after the commencement of this Act, not later than six months after the date of commencement; and
- (b) in the case of any subsequent report, not less than two nor more than three years from the date of the submission of its last report."

It should be noted that the last report, which is the *Sixth Report of the Elections and Boundaries Commission on the Boundaries of the Electoral Districts in the Electoral Area of Tobago* was submitted to the Minister of Local

Government on August 6, 1996, which is more than three years from the date of submission of the Commission's last report.

The Commission has indicated that its late submission of the 1996 report was due largely to the legal *caveat* and associated administrative inconvenience posed by section 4(2)(b) of the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, in respect of the Tobago House of Assembly elections.

Mr. Speaker, section 4(2)(b) of the Act prescribes that the Commission's report must be submitted not less than two nor more than three years of the date of submission of the Commission's last report. However, the provision of section 22 of the Tobago House of Assembly Act 1996 makes it obligatory for the election of Assemblymen thereto to take place every four, and not every three, years.

Section 22(1) of the Tobago House of Assembly Act says:

"The assembly shall continue for four years from the date of its first sitting after any primary election, and shall then stand dissolved, unless the Assembly, by resolution, dissolves itself at an earlier date."

It would appear that this mandatory four-year period for the holding of the Tobago House of Assembly election is somewhat at variance with the obligations of the Elections and Boundaries Commission (Local Government) Act section 4(2)(b) to report not less than two nor more than three years from the date of submission of the last report. Moreover, this Government of national unity is not only committed to upholding the law and the Constitution, but also ensuring that all public institutions, especially those that facilitate the democratic process and the exercise of fundamental rights and freedom are not unduly faltered by anachronistic legal provisions. In other words, elections must not only be free and fair, but the administration thereof must be undertaken efficiently and effectively.

In the context of the foregoing, it is therefore recommended that section 4(2) of the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, be amended to include a provision stating that reports with reference to Tobago should be submitted in not less than two nor more than four years from the date of submission of the Commission's last report.

Mr. Speaker, based on his contribution as documented in *Hansard*, the Member for Diego Martin Central is on record as making a call for this amendment to be made. In the circumstances, I hope that we will get the support of the other side in making this amendment.

Question proposed.

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, I rise to participate in this debate on a Bill to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25: 50.

5.10 p.m.

Mr. Speaker, as the Member for Pointe-a-Pierre in piloting this Bill indicated, the purpose of this amendment is to make sure that there is a harmonizing of the holding of the Tobago House of Assembly's election and the time-frame in which these reports need to be provided and we do not have a problem with that. I want to take the opportunity, however, to raise some concerns with respect to the question of the various boundaries which now exist, again, if only for future consideration.

As it is now, Tobago is divided into 12 electoral districts for the purpose of the Tobago House of Assembly election. My understanding is that of those 12 districts there is only one real natural district; natural in the sense that it takes into consideration commonality of interest.

I was reading, with interest, a debate which took place in this honourable House on July 6, 1990, when the NAR administration presented the amendment to the Municipalities Act. I read, with interest, the contribution of the hon. Prime Minister when he vociferously debated the Bill. He talked about how ridiculous it was; one did not need an engineer with a Ph.D.; the lines were just drawn and cut up and did not take into consideration the commonality of interest. I am sure I would find support from Members on the other side. Unfortunately, I did not see the contribution for the Member for Tobago West in that debate. I remember the hon. Member for Couva North said: "As soon as I get up to talk about Tobago the Member for Tobago West jumped up, like if I cannot talk on Tobago." It was a very interesting debate. *[Laughter]* I was not even around, hon. Member for Couva North.

My understanding is that of the 12 electoral districts as they currently stand, the only one that could be considered to be a natural district is Canaan/Bon Accord. All the others are considered not to fall within the natural boundaries. As a result of this arbitrary cutting-up, for example, there is Buccoo/Lambeau, Scarborough/Signal Hill, Black Rock/Whim, Plymouth/Golden Lane and so forth. Plymouth/Golden Lane which is the natural community—and I stand corrected since I am not a Tobagonian but that does not say that I do not have an understanding and appreciation of what is happening there—should really be

Plymouth/Black Rock. In terms of Speyside L'Anse Fourmi, the more natural community and boundary would be Charlotteville/Speyside. Also in terms of Bacolet/Mount St. George, perhaps, John Dial/Mount St. George is more reflective of the natural community.

What I wish to suggest, Mr. Speaker, is that perhaps we need to seriously take a look at the natural communities to see whether or not it may be necessary for us to make amendments to ensure that those natural communities that exist are in the best interest of the people who live there. In some instances, what we attempt to do is trade-off to make sure that we have a certain number—roughly, about 3,000—and we cut and contrive to make sure that is what we achieve. If, however, the intention is really to focus on the natural communities and, as a result, have those natural communities function in a particular way, we may have to trade off some of those numbers.

Mr. Speaker, that is my brief intervention. As we support the amendment, I wish to thank the hon. Minister for taking the advice of the Members of the Opposition, especially the Member for Diego Martin Central.

Thank you, Mr. Speaker.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, I have noted the comments of the Member for St. Ann's East. All I wish to add to his comments is that the question of boundaries and their definitions is under the purview of the Elections and Boundaries Commission. [*Desk thumping*] The Elections and Boundaries Commission addresses the issue of boundaries and their definitions in a scientific manner as prescribed by law, which I am sure many of us here would not have the expertise to deal with. We, therefore, would leave the question of boundaries to the Elections and Boundaries Commission.

Mr. Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 3 ordered to stand part of the Bill.

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

House resumed.

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

5.20 p.m.**DHARMA PRAKASH SABHA (INC'N) BILL**

Question put and agreed to, That a Bill for the incorporation of the Dharma Prakash Sabha (Inc'n) Bill and matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the House chosen by the Speaker as follows: Mr. C. Sharma (Chairman); Mr. R. Ali; Dr. F. Khan; Mr. E. Hart; Mr. E. Williams.

QUARRY SUPERSTARS SPORTS AND CULTURAL CLUB (INC'N) BILL

Question put and agreed to, That a Bill for the incorporation of the Quarries Superstars Sports and Cultural Club and matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the House chosen by the Speaker as follows: Mr. C. Sharma (Chairman); Mr. R. Ali; Dr. F. Khan; Mr. M. Joseph; Mrs. E. James.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, may I inform hon. Members that we shall resume the debate on the Community Service Orders Bill and then proceed with Item No. 6; a Bill entitled, an Act to amend the Summary Courts Act, Chap. 4:20, which has already been passed in the Senate and Bill No. 11, An Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50, which has also been passed in the Senate.

Mr. Speaker, I beg to move that this House do now adjourn to Friday, June 13, 1997 at 1.30 p.m.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.23 p.m.