

Leave of Absence

Monday, September 21, 1998

HOUSE OF REPRESENTATIVES

Monday, September 21, 1998

The House met at 10.30 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that continued leave of absence from today's sitting has been granted to the Member for Port of Spain North/St. Ann's West and the Member for Arouca South.

**PETITION
(DEFERRAL)**

Mr. Speaker: Hon. Members, this item will be deferred until later in the proceedings.

CONSTITUTION (AMDT.) BILL

Order for second reading read.

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

That a bill entitled An Act to amend the Constitution of Trinidad and Tobago be now read a second time.

Mr. Speaker, this is a most important piece of legislation, in which the legislative arm of the State of Trinidad and Tobago is being requested to take steps to ensure that the implementation of the death penalty, which is a punishment authorized by law, is not frustrated from being carried out.

Mr. Speaker, the implementation of the death penalty has been in the forefront of this administration's policy in respect of the criminal justice system and its reforms.

Mr. Speaker, this Bill has become necessary because—although the Privy Council has ruled that a Government which wishes to carry out the death sentence must do so within five years of the date of conviction, and although both the last administration and this administration have accepted and implemented that decision—condemned prisoners have found new ways in which to frustrate the implementation of the death penalty.

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Mr. Speaker, it is now the law of Trinidad and Tobago—and it has been the law since 1993—that any government which is subject to the jurisdiction of final appeals to the Judicial Committee of the Privy Council must, if it wishes to carry out the death penalty, do so swiftly. The Privy Council has given a time-frame: maximum period of five years, for all the appeal processes and applications by condemned persons to be determined in order for the death penalty to be carried out.

Mr. Speaker, the Privy Council has ruled that any death sentence which is to be carried out more than five years from the date of the conviction, would be unlawful and unconstitutional; would amount to inhumane and degrading punishment, cruel and unusual treatment, and would be contrary to the provisions of the Constitution.

Mr. Speaker, with that principle in mind, when this administration took office, we found that little or nothing was done by the last administration to get the appeal procedures within the five-year time limit. As a matter of fact, Mr. Speaker, because of the inaction of the last administration, because of its incompetence and mal-administration, the last administration was not able to bring the cases that were heard and determined within the five-five period.

Mr. Speaker, the records will show that two executions were well known under the last administration. One is Glen Ashby's, in which the last administration, whilst the applications were pending in the Courts, and whilst the application of the condemned prisoner was pending before the United Nations human rights body—which the Opposition now says it respects and it would like these matters to continue before—carried out the execution. The United Nations Committee and the International Human Rights bodies branded that execution as “extra judicial”.

The other matter, which the last administration is well known for, is the matter of “Guerra and Baptiste”. That case will show—even if the matter is within the five-year period, the Privy Council has ruled that if there is inordinate delay in a given period of time, whether it is in the appeal process or before the Human Rights body—the Privy Council can still rule that to carry out the death sentence was unconstitutional. Mr. Speaker, in the matter of Guerra and Baptiste, the execution was attempted to be carried out within five years, but there was a delay of almost four years in the Court of Appeal process, and the Privy Council ruled that, although it is within five years, the rule was not flexible and therefore the death penalty could not be carried out.

Mr. Speaker, this administration took administrative measures to ensure that the cases were expedited and to facilitate the expedition of the cases. And this Bill is really about preventing condemned prisoners who are going to be executed within the five-year period from using the court procedures to frustrate the carrying out of the death sentence.

Mr. Speaker, the main objective of this Bill is to prevent persons who are convicted of murder and sentenced to death from using repeated and unjustified collateral attacks against their convictions and sentences; designed to delay the execution for so long a period of time that it would be unlawful to carry out the death sentence.

Mr. Speaker, the Bill would prevent condemned prisoners from using grounds such as:

“the nature and conditions of their confinement in prison”;

“the need for their applications to be determined before two human rights bodies: The United Nation’s Committee on Human Rights and the Inter-American Commission on Human Rights”; and

“the fact that there was delay before their trial and conviction”.

10.40 a.m.

Mr. Speaker, the Bill would prevent condemned prisoners on death row from using the individual application procedures before the United Nations Human Rights Committee and the Inter-American Commission on Human Rights to promote delays so that their cases can exceed the time-frame laid down by the Judicial Committee of the Privy Council for the determination of their applications.

The current decisions of the Judicial Committee of the Privy Council make it unconstitutional and unlawful for a government, which is subject to its jurisdiction, to carry out the death sentence upon a convicted person after more than five years of the date on which he was convicted of murder. However, the Privy Council went on to give certain targets which governments should aim to meet and which, if they are met, can raise no questions of the execution being unlawful or unconstitutional.

Mr. Speaker, the Judicial Committee of the Privy Council decided that the Court of Appeal must aim to complete the appeal process within one year and the Privy Council to aim to complete it within a further year. It also decided that it should be possible for the two human rights bodies, that is the Inter-American

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Commission on Human Rights and the United Nations Committee on Human Rights, to dispose of the application before them, at most, within 18 months.

So, the Privy Council was saying that although the rule is five years that is not an inflexible rule, but that if a government—such as Trinidad and Tobago in which there are two bodies—can carry out the execution within three and a half years—in other words if an appeal in this process can be completed within three and a half years—there can be no basis for the courts holding that the death sentence was unconstitutional.

Mr. Speaker, the Judicial Committee of the Privy Council made it clear in its judgment that states wishing to retain the death penalty must accept the responsibility of ensuring that execution followed as swiftly as practicable after sentence was passed, allowing a reasonable time for appeal and consideration of mercy.

Mr. Speaker, the Privy Council decided that in any case in which the death sentence was to be carried out more than five years after the sentence of death was passed upon the prisoner, there would be strong grounds for believing that the delay was such as to constitute unconstitutional action, inhumane or degrading punishment.

The Privy Council, in its decision, found that the aim of the timetable was not rigid and it stated that it considered that the targets were realistic and, if achieved, could not be considered to involve inhumane, degrading or unconstitutional punishment or treatment. That is important, because the Privy Council was saying that although the time limit was five years, if you are doing it within three and a half years the death sentence ought not to be held to be unconstitutional.

Mr. Speaker, with that in mind, the Government of Trinidad and Tobago, when it took office, decided to introduce a number of measures. Those measures were mentioned in the *Status Report on the Implementation of the Death Penalty* which was laid in Parliament, and included the setting up of a case management unit to monitor these cases; providing resources to the judiciary and this Government decided to do that in order to ensure that the death sentence was carried out within the five years but aiming, as the Privy Council said, to be carried out within three and a half years. Based on what steps we took, the recent events in which death warrants have been read to seven prisoners, showed that those matters are all within the period of three and a half years.

Mr. Speaker, in order to keep the matters within the three and a half years—I would like to re-emphasize the matter of *Guerra and Baptiste* because they

showed that if there is inordinate delay within the five years, and if, for example, the judgment or reasons of the court is not given for an unreasonable length of time the Privy Council has ruled that it can make a finding that it was unconstitutional.

In order for the Government to implement and uphold the decision of the Privy Council in trying to keep the appeal processes and the application procedures within three and a half years, it was necessary for the Government to take steps—not only in relation to facilitating the judicial arm of the state, which is the judiciary—to have these matters determined within one year in the Court of Appeal and one year before the Judicial Committee of the Privy Council, but also take steps to ensure the applications before these two human rights bodies were completed within 18 months.

Mr. Speaker, the facts of the cases show that in the matters which go before these human rights bodies the average time for to complete a matter is four years. As a matter of fact, the statistics would show that as long as these bodies have these applications, the death penalty in Trinidad and Tobago cannot be carried out within five years. I would like to quote some of the statistics that relate to some of the applications which I have been talking about in relation to the matters before the human rights bodies.

An example of the delay experienced before the human rights bodies is the case of Lal Seerattan who completed the appellate process before the courts in two years and two months. He petitioned the United Nations Human Rights Committee on December 17, 1990 and the committee determined his case on October 26, 1995, almost five years later. There are some other cases which I would give as to the time taken by the United Nations Human Rights Committee to determine applications from condemned prisoners.

10.50 a.m.

Daniel Pinto	-	three years and one month;
Balkisoon Soogrim	-	four years and one month;
Clyde Neptune	-	three years and 10 months;
Harold Ellerlie	-	five years and four months;
Robinson Lavend	-	four years.

Mr. Speaker, one sees that any government which is interested in dealing with the *Pratt and Morgan* case and in carrying out the death sentence has to take steps to deal with the applications before the human rights body.

This Government looked at the applications which were before these bodies over a period of time. One would see that in these applications what happened was that after the condemned prisoner finishes his application before the Privy Council he and his lawyers send the same facts to the human rights bodies. The procedures before the human rights bodies are very bureaucratic and it promotes delay. For example, he can file one petition and the Government has to answer to that petition. He is entitled to file a supplemental petition and the Government has to answer to that petition. There are cases where they file five and six petitions and supplemental petitions and the procedure before the human rights bodies is that there is no time-frame for these matters to be completed. The human rights body, for example the Inter-American Commission on Human Rights, can then decide that it wants to have an on-site hearing. That would mean that the Commission can visit the country and have an on-site hearing. The Commission can also decide it wants to refer the matter to the Inter-American Court on Human Rights. These are all provided for in the Inter-American Convention on Human Rights.

Mr. Speaker, when the Government of Trinidad and Tobago decided to implement the death penalty, it decided that there must be a time-frame as ruled by the Privy Council. The Privy Council ruled that these bodies must complete the applications within 18 months and we regard that as the law of Trinidad and Tobago.

In October of 1997 the Government decided that each human rights body would have approximately eight months to complete the process and one extra month for the administrative work. That decision was communicated to both human rights bodies in accordance with the decision of the Judicial Committee of the Privy Council. Here it is that the Privy Council was saying that the Court of Appeal and the Privy Council itself must work according to a time-frame and the Privy Council said the Court of Appeal must work to finish it within a year. It is also saying the Privy Council must work to finish it within one year and it was saying that these two human rights bodies must work to finish it within 18 months.

The Government did not only communicate the matter to these bodies, the Government of Trinidad and Tobago decided to send the Attorney General and the Minister of Foreign Affairs to these two international bodies to indicate to them that it was necessary for some procedures to be put in place so that they would be able to comply with the laws of Trinidad and Tobago. The meetings took place with the United Nations Human Rights Committee, the Inter-American Commission on Human Rights, the Secretary General of the OAS and also with the

Office of the Secretary General of the United Nations. There was also a hearing before the Inter-American Commission on Human Rights in which the Inter-American Commission on Human Rights was challenging the right of the Government of Trinidad and Tobago to take steps for the applications to be determined within 18 months and the Inter-American Commission on Human Rights summoned the Government of Trinidad and Tobago to have a hearing. This Government was represented at that hearing and put forward the proposals with respect to *Pratt and Morgan* and what was happening in Trinidad and Tobago.

Both commissions said they do not consider that they have any obligation to create any machinery so that the domestic laws of Trinidad and Tobago can be complied with. They said that both Commissions were under no obligation to comply with the Privy Council decision or the time-frames set by the Government of Trinidad and Tobago to ensure that its laws were complied with. The Commission said that if the time-frames were exceeded due to the time taken by the Commission to hear and determine cases, that was a matter for the state and the state must commute the death sentence. They said they were not prepared to give any undertaking whatsoever for the time-frames set by the Judicial Committee of the Privy Council in *Pratt and Morgan* to be complied with. It was not prepared to give any undertaking whatsoever that the laws of Trinidad and Tobago would be complied with by having the matters determined within that time-frame.

Mr. Speaker, notwithstanding the decision of the Government of Trinidad and Tobago after those meetings, in which the Government decided that it was going to withdraw from both bodies, I would like to make this point very clear: the Government decided to withdraw from the United Nations Committee on Human Rights applications but only in respect of capital cases. Let me explain that, Mr. Speaker. The right—if it is a right—of an individual in Trinidad and Tobago to apply to the United Nations Committee on Human Rights in respect of a right enshrined in the international covenant on civil and political rights is grounded because Trinidad and Tobago, long before the decision in *Pratt and Morgan*, became party to what is called the optional protocol through the international covenant on civil and political rights. By becoming a party to that protocol it gave an entitlement for an individual in Trinidad and Tobago to apply to the United Nations Committee on Human Rights if any of his or her fundamental rights were infringed after domestic proceedings were exhausted.

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When the Government of Trinidad and Tobago decided to withdraw from the optional protocol, it decided to withdraw but re-accede to the protocol with reservations on capital punishment. As a matter of fact it is the first time in the history of the United Nations that a country was able to withdraw and re-accede. The United Nations gave permission to the Government of Trinidad and Tobago to withdraw and re-accede.

What does that mean, Mr. Speaker? It means that in respect of any breach of fundamental rights in Trinidad and Tobago a person can still apply to the United Nations Human Rights Committee with the exception that they cannot apply if it relates to a death penalty matter. Therefore, Trinidad and Tobago and its citizens are in a better position than the United Kingdom and its citizens in that they can apply, unless it is a death penalty matter, to the United Nations Committee on Human Rights.

Mr. Speaker, I want to re-emphasize that the United Kingdom is not a party to the optional protocol; a citizen or individual in Britain cannot apply to the United Nations Committee on Human Rights. A citizen in the United States of America cannot apply because the United States is not a party to the optional protocol. Individuals in the Bahamas, Dominica, Belize, Grenada, St. Kitts and Nevis, St. Lucia and several other countries cannot apply because those countries have not acceded to the optional protocol.

Mr. Speaker, I want to re-emphasize that Trinidad and Tobago became a party to that protocol before the decision in *Pratt and Morgan* because before that it was the law of Trinidad and Tobago that delays before the Court of Appeal and before the human rights bodies could not operate as a bar to carrying out the death penalty. As a matter of fact, there has been a battle for years in Trinidad and Tobago. One remembers the case of DeFreitas Abdul Malick in which he was trying to say that delay can prevent the death penalty. One remembers the cases of Stanley Abbot and Kitson Branche. All those cases were attempts to show that delays can prevent the death penalty from being carried out, and the law, as decided by the Privy Council and the Courts, was that those delays could not prevent the death penalty.

One has to ask: if it was the law at that time that delays before these bodies could prevent the carrying out of the death sentence, would Trinidad and Tobago have joined that protocol? I venture to say no because any government which was going to join that protocol would have been saying that they were, in effect, joining it knowing that the death penalty would be virtually abolished in Trinidad and Tobago.

Let us deal with the Inter-American Commission on Human Rights. With respect to the Inter-American Commission on Human Rights, the convention does not provide a machinery whereby a state could withdraw and re-accede. Therefore, the Government of Trinidad and Tobago had to decide whether it was staying or whether it was withdrawing because it did not provide for a state to withdraw and re-accede. The United Nations document provided for that. Therefore, the Government of Trinidad and Tobago withdrew but the fact that the Government withdrew does not mean that its international commitments as part of the OAS is not there. What it means is that no individual in Trinidad and Tobago can petition the Inter-American Commission on Human Rights in a death penalty matter. The Government of Trinidad and Tobago under the OAS Charter, like the United States of America, is obliged to make periodic reports and the OAS, through its institution, can still investigate any country which is violating human and fundamental rights.

Mr. Speaker, may I say that several countries are not part of the Inter-American Commission on Human Rights. The United States of America is not part of the Inter-American Commission on Human Rights, they have not signed the American Convention on Human Rights. Therefore, Trinidad and Tobago is now like America in which citizens cannot have individual applications but the OAS and its institutions can still investigate America or Trinidad and Tobago if there are flagrant breaches of human rights.

It cannot really be said that the Government of Trinidad and Tobago, by withdrawing from these bodies, are in any way putting in jeopardy the rights and freedoms of the individual. As a matter of fact, the position is this: applications from citizens of Trinidad and Tobago will continue before the United Nations Human Rights Committee in matters other than the death penalty. These rights protected by the United Nations Human Rights Committee are the same as those protected by the Inter-American Commission on Human Rights. The Republic of Trinidad and Tobago is still subject to the jurisdiction of the United Nations Human Rights Committee under the International Covenant on Civil and Political Rights and has an obligation to make periodic reports.

Mr. Speaker, after May 26, 1999 the Inter-American Commission on Human Rights will have no jurisdiction to hear any application from an individual in Trinidad and Tobago relating to the American Convention on Human Rights but the Republic of Trinidad and Tobago is still subject to the jurisdiction of the OAS and its institutions under the American declaration on the rights of man which

gives it some jurisdiction to investigate violations of human rights in Trinidad and Tobago as it does in the United States.

11.05 a.m.

Any contention that by withdrawing from these bodies—or by not giving these prisoners the right to apply to these bodies is taking away safeguards—merely has to be stated to be rejected. It is not only ridiculous; it is really an attempt to mislead and to state the untruth. Mr. Speaker, what safeguards does a person charged for murder in Trinidad and Tobago have? When a person is charged for murder, he has to appear before a magistrate who conducts a judicial inquiry. He is entitled to be represented. He is entitled to have a lawyer, and his lawyer is entitled to cross-examine the state witnesses. He is entitled to give evidence and to call witnesses. The magistrate determines whether a case has been made out for it to be determined before a judge and a jury. When the matter goes before the judge and jury, the judge presides over the trial. The jury consists of 12 men and women, and the person has the same rights to call witnesses, cross-examine, address the jury, show that he is innocent, show that the police manufactured the case; whatever it is.

Mr. Speaker, the man or woman cannot be convicted unless all 12 members of the jury agree that he is guilty. It must be a unanimous verdict, and the judge will tell the jury that they cannot find the person guilty unless they are satisfied beyond a reasonable doubt. If they have any doubt whatsoever, as a matter of law, they must resolve that doubt in favour of the accused. That is a direction in law, and the 12 members of the jury must agree. If one disagrees, the verdict of guilty cannot be recorded. There have been cases where there must be a re-trial and re-trial and re-trial until the state normally, after three or four retrials, determines what action is to be taken.

Assuming the man is convicted before the judge and jury, that is not the end of the matter. He is entitled to an appeal before the Court of Appeal of Trinidad and Tobago, and in the Court of Appeal of Trinidad and Tobago he has lawyers, he can get time, he can file grounds of appeal, he can argue, he can call additional evidence, and three judges must decide that his conviction is a miscarriage of justice. It is reviewed by three judges so that if he was wrongly convicted, if there was pressure or oppression, three judges review it.

Mr. Speaker, that is not the end of the matter. After that, he goes to the Privy Council, and three—and sometimes five—judges would review the case to

determine whether there is a miscarriage of justice. So, there are at least three judges in the Privy Council, three judges in the Court of Appeal—six judges—and 12 members of the jury. That is, in effect, 18 judges, if I could use that expression, and then there is a magistrate to determine that *prima facie* case. So, one sees the safeguards that exist.

In addition to that, if the accused person believes that any of his fundamental rights are infringed, he can raise it in the Court of Appeal or he can raise it on a Constitutional Motion. What this Bill is going to do if it is passed—and for it to be passed, it must be supported by the Opposition—it would mean that if the state attempts to carry out the execution on a person within a five-year period, that is to say, after the person has had his case done by a magistrate, by the High Court, by the Court of Appeal and by the Privy Council, after the case has gone through all that process and five years have not passed, the person against whom the death sentence has been passed cannot raise any issue as to the matters we have mentioned in the Bill, or any ground relating to carrying out the death sentence.

In other words, we are saying that there is sufficient opportunity during that period of time to have one's death sentence vacated if it is not a proper death sentence. As a matter of fact, we have a situation now where the Privy Council has ruled that even after a petition of a condemned prisoner is completed and the Privy Council has ruled that it is dismissed, if new facts come which show that the person got an unfair trial or the person should not be executed, one can petition to the Privy Council. So, it is not a case where people do not have avenues for rights. As a matter of fact, under the rules of the court of appeal, people can also, in relation to matters which, in effect, amount to grave injustice make applications to the Court of Appeal. I am saying this to stress the point that it is totally untrue for anyone to give the impression that rights are being taken away in this Bill. Yes, it is true that rights are being restricted, and I would go to show that the last administration, as a matter of policy, decided that if a Government wanted to implement the death penalty, it had to restrict the rights of condemned prisoners to prevent an abuse of the system. I will come to that shortly.

Mr. Speaker, I would not want for Members to forget that quite apart from all of that, the Constitution provides for a mercy committee which consists of people who are part of the Government, but also people who are not part; the majority of people being those who are not part of the Government. The Mercy Committee can review any of these cases and determine whether there was a miscarriage of justice or whether mercy should be given, and a recommendation is made to the Minister of National Security.

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May I say just to get this out of the way, when this administration took office, it decided that it would also respond to part of the public opinion which was clamouring for legislation to make it possible to carry out the death penalty even after five years. What happened was that in early 1996, this Government introduced a Bill for the public to comment as to whether we should alter the Constitution to provide for the death sentence to be carried out after five years, because there was a body of opinion that was asking for the Government to consider that, and the Government, responsive to public opinion, decided it would get the comments of the public.

The Government introduced a Bill for public comment known as “An Act to amend the Constitution of Trinidad and Tobago, 1996”. Mr. Speaker, we had national consultations in Tobago, Port of Spain, San Fernando, and other parts of the country which were unanimous that we should withdraw the Bill and go the route of implementing Pratt and Morgan because capital punishment must be implemented very quickly.

Since I have referred to this Bill, the Constitutional (Amdt.) Bill, 1996, an official record, I lay it on the table. The People's National Movement opposed that Bill, and I would read parts of what the People's National Movement said. Two members of the PNM, the former Attorney General, Mr. Keith Sobion, and Sen. Beckles. They claimed:

“The Opposition agrees that the criminal justice system would need reform and it would support any proposal that would improve the system. However, the Opposition disagrees with the approach made by the Attorney General commenting on the method in which Government considers the Pratt and Morgan proposal. This proposal outlines that the criminal can have his death sentence commuted to life if the appeals last more than five years.

The Opposition believes that the approach to abolish this delay in the judicial system can have a pressuring effect on the structure. The Government's proposal would nullify the Pratt and Morgan decision, and would be sending a negative message to the public about the credibility of the judicial system.”

That is what the PNM said about a law which would say more than five years and which would say, let us see. Mr. Speaker, it was published. The comments are there. The people in Tobago, Port of Spain, Laventille, Diego Martin, Debe, Siparia, Pt. Fortin, San Fernando West, and San Fernando East said they did not want such a Bill.

Before I go to the Bill itself, I would like to deal with what the last Government did, and what approach they used in this matter. On July 18, 1994, *[Interruption]*

Mr. Speaker: Could I please ask the Member for La Brea not to disturb the Member during the course of a contribution? If there is something you want to say to a Member, you could go behind the Chair and say it. It is having the effect of disturbing the reporter.

Mr. Maharaj: On July 18, 1994, the then Prime Minister of the nation, the Member for San Fernando East, addressed the nation, and in his address to the nation on the death penalty, he said:

“The Prime Minister was establishing a team with the following terms of reference:

- (a) to advise on legislative actions that are required to ensure that the death penalty is expeditiously carried out.”

Not carried out after five years, 10 years, or 20 years. That the death sentence is expeditiously carried out.

11.20 a.m.

Mr. Speaker, on July 28, 1994 the then Cabinet of Trinidad and Tobago—I am referring to the Minutes of the then Cabinet—agreed to approve the following measures designed to speed up the judicial process and to remove loopholes which frustrated the carrying out of sentences imposed by the courts of Trinidad and Tobago.

- "(a) that legislation be drafted to provide for the Court of Appeal of Trinidad and Tobago to be the final Court of Appeal in respect of Constitutional Motions on criminal matters;
- (b) that an approach be made to the United Nations Human Rights Commission and the InterAmerican Commission on Human Rights to secure agreement on concurrent hearings (as against the present policy of consecutive hearings) as well as a time limit of no more than one (1) year for the communication of their findings;
- (c) that legislation be drafted to provide for time which may lapse after pardon is denied by the Mercy Committee not to be counted in determining the number of years that the convicted person has been held in prison;"

It goes on to talk about an approach to Caricom for the Caribbean Supreme Court.

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It is important, therefore, to note—and we will come to the Bill that the Cabinet approved pursuant to this note—that the then administration decided it was necessary to restrict the rights of persons who were condemned to die and who at that time had their appeals heard in the normal processes.

The Prime Minister at that time was the Member for San Fernando East, the Leader of the Opposition, and his administration was going the route agreeing also to even abolish the Privy Council as a final court of appeal even without the Caribbean Supreme Court. [*Interruption*]

Hon. Member: Liar!

Hon. R. L. Maharaj: They also agreed that applications before the human rights bodies had to be concurrent hearings and there must be a time-frame. That administration did not have any discussions and took no steps to implement this decision.

Since I have referred to this official document I will lay it on the Table of the House. What did the PNM Government do in the light of that decision? Bear in mind that the decision of Cabinet was to draft a Bill in dealing with death penalty matters and criminal matters. The then administration decided that it would use the opportunity not only to restrict the rights of condemned prisoners, but to restrict the rights of all the people of Trinidad and Tobago. It introduced a Bill by Cabinet decision March 13, 1995 to be read in the Senate on March 14, 1995. The Prime Minister then was the Member for San Fernando East, the Leader of the Opposition. The Bill was not only to restrict the rights of condemned prisoners but of all the people of Trinidad and Tobago.

The Bill introduced was the Constitutional (Amdt.) Bill 1995. What did it purport to do? It was going to abolish the right of persons in Trinidad and Tobago to file constitutional motions. In other words, if somebody's house was being broken down, you could not go as a right to file it. If the media's rights were being violated it could not go as a right and appeal to the Court of Appeal, it had to get leave to do so. It is in the Bill in black and white. Since I referred to it I am going to lay it on the Table of the House.

What happened after the Bill was introduced? There was total condemnation of it by the Law Association, the labour movement, the Chamber of Commerce and everybody. What happened after that? It was introduced in the Senate and the Independent and other Senators said that they were not going to support it. There was total condemnation because the people of the country felt that the

Government was using an issue of the condemned murderers to take away the rights of all the people of Trinidad and Tobago.

Mr. Speaker, I would also put in the *Hansard*, before I go to the other Cabinet decision, a statement made by the then Prime Minister of Trinidad and Tobago Mr. Patrick Manning, and reported in the *Guardian* newspaper on July 20, 1994. We will probably hear a different tune today. He said:

"I have asked the Crime Committee to ensure that the will of the court be carried out and the courts are not frustrated, and that the will of the people be also carried out."

Having refreshed his memory on those matters, I would refresh his memory on this also, and his colleagues sitting next to him were part and parcel of this decision. On May 18, 1995 there was a Cabinet decision, and on May 15, 1995 there was a recommendation of the Finance and General Purposes Committee of the Cabinet under the Prime Minister at that time, the Member for San Fernando East, Leader of the Opposition, Mr. Patrick Manning. [*Interruption*] The Augustus and Mervyn gone out now, Rowley and Valley take that out. [*Laughter*]

The then Attorney General, the distinguished principal of the law school in Jamaica presented two Bills to Cabinet which he wanted the Finance and General Purposes Committee to consider. The Bills were referred to as the Constitution Amendment (No. 3) Bill attached to the note as Appendix A and Appendix B. I shall be laying it on the Table in a short while.

Mr. Speaker, what were those Bills? The first Bill which I will call Bill "A" fixed a time-frame of five years for the death sentence to be carried out. Clause 6 of this Bill states that after five years the death sentence would be commuted to life imprisonment. That is the Cabinet of Mr. Patrick Manning agreeing that there must be a time-frame; not 10, 15, 20 or 25 years for applications to be done before human rights bodies, but five years. Death sentence to be commuted to life imprisonment.

The clause above clause 6, restricted the rights of condemned prisoners. It said that the High Court would not exercise jurisdiction in any of these matters if adequate redress was provided elsewhere. In other words, if a man had enough time to put his case before the Court of Appeal or the Privy Council, the court would have no jurisdiction. In this Bill it agrees that the rights of condemned prisoners to access the High Court would be restricted, some of the rights would be taken away in order to implement the death penalty and there would be a time-frame of five years.

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They are talking about restricting rights these days. The Bill went on to say that section 109 of the Constitution would be amended. How would it be amended? In clause 9 of the Bill, section 109 of the Constitution was to be amended so that the Privy Council will no longer have jurisdiction to hear criminal appeals as a right from Trinidad and Tobago. In clause 9(b) the Privy council would no longer have jurisdiction to hear constitutional motions relating to the death penalty as of right.

In 1995, 1996 and 1997 there was no Caribbean Court of Justice and no Caribbean Appeal Court, but here the Cabinet agreed that the Bill be agreed to and be introduced in Parliament as quickly as possible. What happened then? Up to today the PNM nor the Leader of the Opposition has explained why no action was taken on a Cabinet decision. But here we have a policy of a five-year time-frame, a policy of restriction of Court but now a policy, "I want to go to human rights body".

When Ashby was executed his application was before a human rights body and there was no respect by the then Government for the human rights body. As a matter of fact, the international community said that it was an extra judicial hanging, now he is saying he wants to go to a human rights body. I know for whom he wants to go to the human rights body! *[Interruption]*

Mr. Speaker: Order please!

Hon. R. L. Maharaj: The other Bill which the Cabinet, under the Leader of the Opposition as Prime Minister, considered, was that there would be no appeal from a decision of the Court of Appeal in any of the matters in subsection (5), that is to say, abolishing appeals to the Privy Council. But the Cabinet did not agree to that. I would also lay this on the Table of the House.

I refer to a submission on behalf of Glenn Ashby before the United Nations Committee in which the facts state clearly that the then Government had no respect for human and fundamental rights and executed the man while he was before the human rights body. As a matter of fact, I also have the comments of the United Nations Committee on Human Rights which condemns the then Government of Trinidad and Tobago. These matters are still being considered by the human rights body, and the conduct of the then Government of Trinidad and Tobago is still being considered by the human rights committee as to what punishment should be recommended, not only to the Government but to the then members of Government, for their action in this extra judicial murder.

This might be a case which we may have to refer to the International Court of Justice when it is set up, because under that court people who commit crimes against humanity, war crimes and acts of genocide and completely abuse power by executing people without following rights, would in effect be tried. I would lay on the Table the submission on behalf of Glenn Ashby before the United Nations Committee and the comments of this committee in that matter.

What the Opposition wants us to do is alter the established laws recognized by Trinidad and Tobago and the international community. There is no way that this country's laws can be amended for any international treaty to have precedence over domestic law. I would refer to what is stated in a leading case of *Rayner and International Tin Council* reported in 1990 of the Weekly Law Reports on page 476.

11.35 a.m.

“The Government may negotiate, conclude, construe, observe, breach, repudiate or terminate a treaty. Parliament may alter the laws of the United Kingdom. The courts must enforce those laws; judges have no power to grant specific performance of a treaty or to award damages against a sovereign state for breach of a treaty or to invent laws or misconstrue legislation in order to enforce a treaty.”

Any submission or any call for Trinidad and Tobago to make those treaties part of the laws of Trinidad and Tobago shows that there is not a recognition of what the laws are.

Mr. Speaker, let us go to the Bill. This Bill has been the subject of consultation. There have been comments received from the public and the ministry has consulted with the Law Commission which comprises of practising lawyers and representatives of the law associations, the Southern Assembly and the Criminal Bar Association. Based on all those consultations, this Bill was introduced and there would, in effect, be certain amendments to the Bill. The amendments would be circulated but may I say—

Mr. Bereaux: You start to amend it.

Hon. R. L. Maharaj: The amendments are not fundamental. In clause 5A of the Bill, it is a tidying operation in that it is making it clear that:

“(1) Subject to sections 86A and 109, and sections 42 to 65 of the Supreme Court of Judicature Act and notwithstanding any law to the contrary, where a person has been convicted and sentenced for a capital offence there

shall be no stay of execution, commutation, alteration or remission of the sentence by the Court on any ground including the following grounds:"

the place where the sentence is to be carried out;

- (b) the time between the serving and the reading of the warrant of execution to the condemned person and the proposed time of execution where such time is not less than four days;
- (c) the conditions of confinement of the condemned person;
- (d) the manner of carrying out the sentence prescribed by law;
- (e) the time spent by the condemned person in prison from the time of his arrest and charge to the date of conviction and sentence;
- (f) the provisions of any Treaty, Convention, Agreement, Protocol, Letter of Understanding or Arrangement between States, however designated, to which Trinidad and Tobago is a party, applicable Customary International Law or substantive rule or procedure under International Law or any other undertaking of a related nature;
- (g) there are proceedings in which the person is a party pending before any court."

The amendment to the original clause makes it quite clear that after the person has exhausted his rights of appeal before the Court of Appeal and the Judicial Committee of the Privy Council; that the time for the reading of the warrant would not be less than four days; that the manner of carrying out the death sentence would be one prescribed by law, that is, death by hanging; it elaborates in relation to the treaties to make it quite clear that no international treaty can prevent the implementation of the death penalty; and it also makes it quite clear that even if the person files proceedings in any other court, it would not be able to prevent the death sentence from being carried out.

Mr. Speaker, in respect of clause 2, it says:

"Nothing contained in subsection (1)(f)..."

This is the one dealing with respect to the International Treaties.

"whether by implication or otherwise, shall be construed as recognition that the Treaty, Convention, Protocol, Letter of Understanding or Arrangement between States, however designated, to which Trinidad and Tobago is a party, applicable Customary International Law or substantive rule or procedure under

International Law have the force of law or give rise to any rights in law or any legitimate expectation, in Trinidad and Tobago.”

It is tightening up; closing the loopholes.

Mr. Speaker, in respect of subclause 3 of clause 5A it remains the same except that it specified:

“Notwithstanding any existing law to the contrary, it is hereby declared that—

- (a) a delay of less than five years in the execution of a sentence of death imposed upon a person in respect of a criminal offence of which he has been convicted; or
- (b) any treatment alleged by a person in respect of the grounds referred to in subsection (1)(a) to (g),

shall not constitute a contravention of sections 4 and 5.”

This means that as long as it is less than five years and the execution is carried out within that period of time, it cannot be held to be a contravention of the Constitution.

Mr. Speaker, subclause (3) says:

“Nothing in this section shall limit the power of Parliament to prescribe any other manner and any place in which the sentence of death may be carried out than it has heretofore been executed.”

This makes it clear that nothing here is taking away the power of Parliament to prescribe any other manner because Parliament, at some time, may decide not only to have death by hanging, but by lethal injection or some other form or any other place. It means that Parliament will have to decide any other place than the prescribed place.

Mr. Speaker, a new amendment is proposed to make 5A clear which reads:

“(5) In this section, 14 and 86A ‘capital offence’ means an offence which, before or on the commencement of the Constitution (Amendment) (No. 2) Act, 1998 is punishable by death.”

This means that it is only offences which are capital offences now are applicable under this bill, that is, murder and treason. So if at some other time there are going to be other offences, we would have to come back to Parliament in order to get a specified majority in relation to that offence.

Mr. Speaker, clause 4 says:

“(5A) Where a person has been convicted and sentenced for a capital offence—

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- (a) the time for appealing against the conviction of death has expired; or
- (b) a petition or application to the Privy Council by the person has been refused, abandoned, withdrawn or dismissed,

and the death warrant in respect to such contradiction has been signed and sealed by the President, the High Court shall have no jurisdiction to hear an application under this section against the execution of the death warrant, where the sentence of death is to be carried out no more than five years after the date of the conviction for which the sentence of death was imposed.

(5B) Nothing in section 5A subsection (5A) shall affect the exercise of any power of the President under section 87...”

Which is the power to grant mercy.

Mr. Speaker, here—even a policy of the last administration—execution must be within five years. After five years, execution cannot be done because we have put that also in the Bill.

“(5C) This section, section 5A and section 86A apply to all persons charged with a capital offence upon whom a sentence of death has been imposed by a Court, whether before, on or after the commencement of the Constitution (Amendment) (No. 2) Act, 1998.”

This clause ensures that all persons against whom the death warrant has been read would not escape; they would be executed. They would fall under the provisions of this Act. Then 86A says:

- “(1) Subject to subsection (3) where a person has been sentenced to death by any court for a capital offence, that sentence shall not be carried out on the person after the expiration of five years from the date of the conviction for the offence.
- (2) Upon the expiration of five years immediately following the passing of a sentence of death on a person without such sentence being carried out, the sentence shall be deemed thereafter for all purposes to be a sentence of imprisonment of life.
- (3) For the purposes of this section and subject to section 109 of the Constitution and sections 42 to 65 of the Supreme Court of Judicature Act...”

Which deals with the rights of appeal of the man.

“...time spent by a person after the conviction and sentence for a capital offence by the High Court—

- (a) in referring any question concerning that sentence, including the carrying out of the sentence, or the related conviction to the Court or any other body; or
- (b) in any proceedings, in any Court, in which he is a party, shall not be taken into account in calculating five years from the date of the conviction.”

Mr. Speaker, this means that apart from the appeal process that the man has to challenge his conviction in the Court of Appeal and in the Privy Council, if he takes any other proceeding and there is any delay, that delay would not be part of the five years. So in other words, it is five years for the hearing and determination of his appeal against conviction in the Court of Appeal and in the Judicial Committee of the Privy Council and in the matter before the Mercy Committee.

I continue:

“(4) In this section ‘imprisonment for life’ in relation to a person so sentenced by a Court means ‘imprisonment for the remainder of the natural life of that person’.”

Mr. Speaker, in summary, therefore, what this Bill does, it recognizes that the governments since 1993 had to recognize the Privy Council’s decision; it had to recognize that there is a time-frame; it implemented the Privy Council’s decision in that it commuted death sentences in excess of five years; it recognizes that in delay up to five years, the death sentence should be able to be carried out. It recognizes that condemned prisoners are not now using this delay which, if they use, there is no problem, but they are now using other grounds. This Bill is for the future to prevent any time a death warrant is read within five years, there are prison conditions and matters like that being used to stay the execution.

Mr. Speaker, that is what this Bill is about. It is a Bill which, as I said, needs a specified majority. In the Preamble of the Bill there is an amendment because the Bill has to be supported by a vote of not less than three-fourths of the Members of the House and two-thirds of the Members of the Senate. It needs a three-fourths majority because it does not only alter the section which deals with respect to the matter which I have mentioned and which originally needed a two-thirds majority, it alters in an indirect way, the jurisdiction of the Court and the Privy Council in respect of these matters. Therefore, it needs a three quarters majority.

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Mr. Speaker, it is in that setting we are saying that the Bill needs the support of the Opposition. This is a Bill which we, the Government, are presenting because we believe that the people are given the power under the Constitution to alter the Constitution, to pass laws for the peace, order and good government of Trinidad and Tobago. The question which we have to ask: is this law for the peace, order and good government of Trinidad and Tobago? Is this law necessary in order to prevent the death penalty from being frustrated? Is this law for the benefit of the public? Is this a law which the people would like the Members of Parliament, whom they elected, to vote for?

Mr. Speaker, I have great pleasure in moving this Bill, and I beg to move.

Question proposed.

11.50 a.m.

Mr. Patrick Manning (*San Fernando East*): Mr. Speaker, I would like this Parliament and the national community to listen very carefully to what I am about to say. A few minutes ago the Attorney General, for 75 minutes, advanced a case to this honourable House. We have found that, as is his wont, that case has been riddled with untruths and half-truths. It was the hon. Attorney General, in his presentation, who said that the United States of America did not sign the Treaty on the American Convention on Human Rights.

I have with me here a document called *Basic Documents Pertaining To Human Rights in the Inter-American System*. On page 55 of that document, the United States signed the American Convention on Human Rights on June 1, 1977 at the OAS General Secretariat. [*Thunderous desk thumping*] That is the first thing. I would go on to say that it was signed by the then President of the United States, His Excellency, Mr. Jimmy Carter.

Mr. Speaker: I must appeal to the Members on the Opposition Benches particularly, that when the Member for San Fernando East is speaking, you allow him to be heard by all of us. It is absolutely unnecessary to carry on in the way in which you carry on. He does not need that support. Please continue.

Mr. P. Manning: Mr. Speaker, thank you very much, but you know I would take all the support I could get.

Mr. Speaker: That may be so, but we do have to conform with certain rules. I suggest that you discourage them from doing that.

Mr. P. Manning: We are guided by you, Mr. Speaker. Thank you very much.

Mr. Speaker, the reality is this, that President Jimmy Carter, putting such a high priority on membership of this treaty, went to the OAS Headquarters on June 1, 1977 and signed the Convention. But he indicated that the process of ratification that is associated with the conduct of affairs in the United States Senate required a two-thirds majority of Senators to agree to this, which he was not able to guarantee; but it has implications.

Secondly, the hon. Attorney General, in his presentation, said that no US citizen could petition the Inter-American Commission on Human Rights. I draw the attention of this Parliament and the national community to the *Annual Report of the Inter-American Commission on Human Rights 1997*. At page 570, Report No. 57/96, Case 11.139, William Andrews United States, December 6, 1996. It reads:

“I. ALLEGATIONS IN PETITION DATED JULY 28, 1992

1. On July 27, 1992, the Commission received a fax communication informing it of the pending execution of Mr. William Andrews by the State of Utah on July 29, 1992, for three counts of Murder, and briefly outlined the petitioners’ allegations.”

Mr. Speaker, they went to the Inter-American Commission on Human Rights, which the hon. Attorney General is representing to this Parliament that they have no access too.

Mr. Hinds: Liar!

Mr. Speaker: No. I think that the Member for Laventille East/Morvant owes an apology to the House. That outburst is unnecessary. It is not the first time for the morning that you have made that type of outburst and it must not continue. That is absolutely unnecessary.

Mr. Hinds: Mr. Speaker, it was how I felt, but I unreservedly withdraw it.

Mr. Speaker: I have asked for an apology from the Member.

Mr. Hinds: I apologize to this honourable House and I unreservedly withdraw it.

Mr. Speaker: Thank you.

Mr. P. Manning: Inconsistency No. 2, and in the context of recent developments, I am asking for an apology from the hon. Attorney General to this Parliament and to the national community. [*Desk thumping*]

Mr. Maharaj: Mr. Speaker, may I clarify?

Mr. P. Manning: Mr. Speaker, I have not given way.

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The hon. Attorney General has represented to this Parliament this morning that rights are not being taken away, rights are being restricted. The question I ask is this: if a person had access—and it is not a condemned prisoner, a citizen of Trinidad and Tobago. If a citizen of Trinidad and Tobago—as all citizens now do—has access to an Inter-American Commission on Human Rights and you are now introducing legislation that takes that away: is it that rights are not being taken away and rights are just being restricted? That is inconsistency No. 3.

Inconsistency No. 4 is this: that the Attorney General sought to represent to this Parliament that a previous PNM administration agreed to the abolition of access to the Privy Council without a Caribbean Court of Appeal being put in place. That is simply not true! And I speak as the person who headed the last administration in Trinidad and Tobago.

So that, what has been patently missing or absent from the presentation of the hon. Attorney General this morning is truth.

Mr. Speaker, it is consistent with the way they have behaved in the past, that they subscribe to no standards of morality. It is anything goes, whatever you do is what you could get away with, and morality has gone through the window and, most importantly, it has gone through the window on the altar of political expediency.

Mr. Speaker, I would like to direct the attention of the Members of this honourable House and the national community to a document. It is called *The Splendor Of Truth*. It is an Encyclical letter of Pope John Paul II. At page 122, paragraph 101, it reads as follows, Mr. Speaker, I ask you to bear with me:

“In the political sphere, it must be noted that truthfulness in the relations between those governing and those governed, openness in public administration, impartiality in the service of the body politic, respect for the rights of political adversaries, safeguarding the rights of the accused against summary trials and convictions, the just and honest use of public funds, the rejection of equivocal or illicit means in order to gain, preserve or increase power at any cost—all these are principles which are primarily rooted in, and in fact derive their singular urgency from, the transcendent value of the person and the objective moral demands of the functioning of States. When these principles are not observed, the very basis of political coexistence is weakened and the life of society itself is gradually jeopardized, threatened and doomed to decay. Today, when many countries have seen the fall of ideologies which bound politics to a totalitarian conception of the world—Marxism being the

foremost of these—there is no less grave a danger that the fundamental rights of the human person will be denied and that the religious yearnings which arise in the heart of every human being will be absorbed once again into politics. This is *the risk of an alliance between democracy and ethical relativism*, which would remove any sure moral reference point from political and social life, and on a deeper level make the acknowledgement of truth impossible. Indeed, ‘if there is no ultimate truth to guide and direct political activity, then ideas and convictions can easily be manipulated for reasons of power. As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism’.

Thus, in every sphere of personal, family, social and political life, morality—founded upon truth and open in truth to authentic freedom—renders a primordial, indispensable and immensely valuable service not only for the individual person and his growth in the good, but also for society and its genuine development.”

Mr. Speaker, I commend those words to the hon. Members opposite. You see, as I will show as we go on, they have been led and have followed the Attorney General and the Prime Minister on a frolic of their own, for narrow political purposes, which have no place—as Pope John Paul II says—in a society such as this.

At long last, the Government has decided to take the upright course of action, and that is to come to Parliament with legislation. Because after they have taken everybody on a world tour, at the end of the day, it is Parliament and Parliament only that has the authority to legislate in Trinidad and Tobago to correct the problem that the country now faces. *[Desk thumping]* Nobody else has that authority! So when he jumps on a plane and he goes to England, and he jumps on another plane and goes to Spain—he went to Rome, he went to France, he has taken us all around the world and now he has come back to the Parliament, at long last.

I have been saying it all the time, you know. How did the country find itself in this position? All that Government had to do is what we had done, consult with the Opposition and see whether we could not arrive at something that is acceptable. Because he spent a lot of time this morning putting into the record draft Bills that the PNM had put forward, decisions of the Cabinet and so forth, without putting these things in proper context.

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With your leave, I would put them in context. At that time, as is now, the Government had an opposition to face. Let me tell you who the Opposition in Trinidad and Tobago was in 1992 and, with your leave, I refer to the *Sunday Guardian* of November 8,

“Hanging sparks off mixed reactions”

“Human rights activist, and attorney-at-law Ramesh Lawrence Maharaj has condemned the resumption of hanging, describing it as a retrograde step to be adopted by the State. He accused Government of committing murder under the guise of law.”

That was his view.

Mr. Speaker, elsewhere in the article it goes on to say:

“Most countries of the world have abolished hanging and have found that it

This is the Attorney General speaking.

I have a funny feeling in my stomach. Let me repeat it for your benefit Mr. Speaker, for you may not have heard it well. There was a distraction on the other side.

“Most countries of the world have abolished hanging and have found that it does not reduce crime. (Hanging) must be an act of desperation by the Government of Trinidad and Tobago in its inability to deal with the problems of crime.”

I ask him now if his views have changed. And if so, what has caused this change of view? At the end of the article it says:

“He, like Panday and Maharaj...”

In other words, the article enjoins Mr. Panday to the views which were expressed by Mr. Ramesh Lawrence Maharaj. The Government which I had the pleasure to head between 1991—1995.

Mr. Maharaj: The shortest government.

Mr. P. Manning: Do not talk too soon. Before I return to this matter, let me give the hon. Prime Minister a piece of advice. One has to await the evening before determining how splendid the day has been. That is my advice to him. So do not talk too soon. [*Desk thumping*]

[Laughter]

Mr. P. Manning: Mr. Speaker, if I try to put more elegance to it you cannot hold that against me.

One would understand what we were up against. We were up against an Opposition which did not believe in hanging and therefore, one that was committed to putting every impediment in the way of the Government of Trinidad and Tobago, notwithstanding the oath they took to uphold the Constitution and the law. It is not only that. They also had this view that they in Opposition were not here to make the Government look good. Those were the two principles.

When the Attorney General could chronicle—and quite correctly—all the myriad attempts which we had made, what he did not say is that they were made on the basis of the report of the Hyatali Commission, the advice of a Crime Commission which was headed by Sir Ellis Clarke, and the negotiations taking place between the then government and the Opposition, and we were forced in the interest of trying to get a settlement, to do certain things with which we did not fully agree but we had placed a higher priority on the ability of the state to carry out the law in respect of the execution of persons who were found guilty of murder.

Every time we go to them they say we do not want this in the Bill, we want that, so we change it. When we go back, they say we do not want this, we want that and they were dancing us hither, thither and yon. We went to the Finance and General Purposes Committee of the Government, the Cabinet and to the Senate and at the end of the day the country was no better off because there was an Opposition at the time which was as irresponsible as it is in Government today.
[Desk thumping]

It is passing strange that after the Attorney General chronicled all those efforts this morning, he led the charge all around the country that the PNM is opposed to hanging. Could you believe that? After all those efforts which were chronicled by him he is the man, on behalf of his party, who is leading the charge that the PNM is opposed to hanging. Mr. Speaker, we are not surprised. For yet, another time, he is speaking out of two sides of a political fouled mouth.

Mr. Speaker, at long last they have come to Parliament, and what is the problem that this Parliament is being called upon to rectify? The problem is—and

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I would put it in the simplest terms and not get involved in all the obfuscation which characterizes the hon. Attorney General this morning.

The Privy Council, in the famous *Pratt and Morgan* case indicated that if more than five years elapse between conviction and execution, that time could be considered harsh and oppressive and, therefore, constitute sufficient grounds for the commutation of the death sentence. That is the problem, nothing else. However they may argue, that is the kernel of it. And I compliment the Government, but before doing that, let me tell you what the second aspect of the problem is. It is, even if we find a remedy now, we still have to deal with the problem of convicted prisoners who had been on Death Row for some time, we have to put some transitional arrangement in place to ensure that they do not escape purely on the basis of the effluxion of time. These are the two issues.

How has this Government decided to deal with issue number one? I would refer to the Bill. Let me go through the procedure first before actually giving you the remedy as they see it. After a person is convicted in a court of law and the person is sentenced to death, the clock starts to run. The person appeals to the Appeal Court and then goes to the Privy Council which confirms the death penalty. What normally would then happen is, the person would go to the two international bodies, the United Nations Committee on Human Rights and the Inter-American Commission on Human Rights, if those two bodies throw out the petition, then it goes to the Mercy Committee and then a death warrant is read and after that, what normally happens is that the convicted person files a constitutional motion and it goes back to the High Court, the Appeal Court and then the Privy Council. When the Privy Council finally discharges that motion, then the person can be executed.

That procedure is cumbersome, but I want to compliment the Government on finding a most ingenuous way of dealing with it. We had said “unlimited time”. If we say “unlimited time”, then the question does not arise. They say; no, not “unlimited time” but “any time after the Privy Council confirms the death penalty before any court or any international commission, that time does not count.”

Mr. Breaux: It is the same thing.

Mr. P. Manning: We say, “unlimited time”. They say. “do not count the time.” Six of one, half a dozen of the other, two pockets in the same dirty khaki pants, the effect is the same. But in doing it in the way for which I compliment them, they have immediately nullified the rest of their argument which is you

must now take away the rights of the citizen in relation to the United Nations Committee on Human Rights, in relation to the InterAmerican Commission on Human Rights; and in respect of a prisoner, and no access to the court system after a death warrant has been read. If those things do not count in terms of time, why does this Government insist on removing those rights, and in seeking to remove the rights of the convicted person, it also takes away your rights and mine.

The second problem is the transitional arrangements and they have said that when this Bill is passed and made law—

Mr. Speaker: The Member for Laventille East/Morvant knows that it is beneath the dignity of this House to hold up a placard as a sitting Member. That is not right. It cannot be done. You cannot hold up a placard while sitting on the Bench.

Mr. P. Manning: Mr. Speaker, they have said that when this Bill is enacted into law it would be made retroactive to the origin of the Constitution of 1976. But we have an uneasy feeling about that. It is retroactive. Fundamentally, lawyers and legislators disagree with the legislation because the danger in retroactive legislation is that somebody would do something today that is legitimate and two or six months down the road, Parliament can pass a law with retroactive effect to make what was legitimate six months ago, illegitimate today. Therefore, retroactive legislation is used only when absolutely necessary.

Mr. Speaker, it turns out that we agree that this is an occasion in which retroactivity is absolutely necessary, but what we are afraid of is making it too wide, in other words, going too far back so other things of which we are not aware may be captured in that retroactivity. We do not know what their objectives are and we are very suspicious of those objectives. We are saying that all the Government had to do was to restrict the retroactivity to include persons who were under the sentence of death when this law was proclaimed, and if that happens, then the problems which the state had faced in the execution of condemned prisoners have now been addressed by law.

Two things that should be excluded in counting the time are all actions after the final confirmation of the death penalty by the Privy Council, and the other clause is the retroactivity to take into account persons who were on Death Row at the time the legislation was proclaimed. Those two clauses, one sheet of paper would have solved this problem long ago, and they talk about procrastination. Over one year, the government which I headed tried to talk reason into their heads

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and they would not agree because they did not want the PNM to look good. That was the role of the Opposition in their view. They would not agree because they were abolitionists, so they frustrated our efforts for over one year when we were in Government. And now, important as they are trying to make it out to be in Trinidad and Tobago at this time, it took them three more years to come to Parliament.

12.20 p.m.

Parliament and only Parliament, Mr. Speaker, has the authority to address this matter. In the four-year period the hon. Attorney General must tell us how many persons were on death row as convicted prisoners who walked free over the last four years whose death sentences were commuted.

Mr. Speaker: Again, if the Member is on his legs and asks a question, rhetorical or otherwise, then it is intended to be directed to me, and it is not really open to the Attorney General to respond to it like that. The Member feels that he is being distracted by that, and he is entitled to object to the question.

Mr. P. Manning: Mr. Speaker, he knows that. That is an old trick. I am here almost before he was politically born.

So, you understand, Mr. Speaker, their obstructionist attitude and their lack of sincerity and commitment to their public utterances, has caused four years to elapse between our first efforts and now, Mr. Speaker, and in that four-year period a number of persons who were held guilty of murder have walked free—well, not walked free—whose death sentences were commuted, were given life imprisonment because of the attitude of those gentlemen when they were in Opposition and their continuing attitude now that they have formed the Government, temporarily, of Trinidad and Tobago.

Mr. Speaker, it would have been amusing, if it were not so serious. But, what they are trying to stop, is access to international bodies. I must remind you, Mr. Speaker, that it was the now Member for Couva South, who perfected the art of Human Rights abuses and so, who perfected the art of going to the Courts on human rights matters, and as they are now putting it, frustrating the laws of Trinidad and Tobago and the legitimate aspirations of the people in seeking to have condemned prisoners executed.

Mr. Speaker, I draw your attention to six celebrated cases—Andy Thomas, 1981. Do you know who the lawyer was? I would tell you—Ramesh Lawrence Maharaj, Human Rights. The same Attorney General who today, is saying that

these are abuses and that citizens of Trinidad and Tobago must not have access to those commissions.

Mr. Speaker, Kirkland Paul vs. the State, 1981. Do you know who the lawyer was? Ramesh Lawrence Maharaj Mr. Speaker. Fazal Mohammed and Jurisingh, 1992. Do you know who the lawyer was Mr. Speaker? Ramesh Lawrence Maharaj. Kitson Branche, 1983. Do you know who the lawyer was? Ramesh Lawrence Maharaj. Do you know what the argument was? You should see the arguments. No shampoo. *[Laughter]*. That is the man.

I am now reminded, Mr. Speaker, some of the grounds were: not enough meat in the food, no toothpaste. I do not like the taste of the toothpaste. I want Colgate, and not Crest; you understand. He has lost all.

Mr. Speaker, Stanley Abbott, 1977. Do you remember the Malick case? Who was the lawyer putting impediments in the way of the proper execution of the law? It was a fella called Ramesh Lawrence Maharaj, Mr. Speaker.

Kitson Branche, 1977—Ramesh Lawrence Maharaj; and now, he wants to tell us, Mr. Speaker, that people must not have access to the court. Our position is this, we have confidence in the court system; and it is for the court to decide what is frivolous and vexatious. *[Desk Thumping]*

That is not a matter for Parliament. And when an Attorney General in a system like Trinidad and Tobago, a modified Westminster System, begins to subvert the courts, Mr. Speaker, then you understand especially, as he markets himself—because he took “silk” on his own—as a top lawyer. He awarded silk to himself, he called it synthetic silk. *[Laughter]*

You see Mr. Speaker, then you begin to ask yourself what is the objective. Why is he doing that? Why is he doing it? Mr. Speaker, there is separation of powers, and I know you understand it well; and I say it for the benefit of Ministers on that side who do not understand the system well. There is a thing called “separation of powers,” Mr. Speaker—the legislature on the one hand, the Judiciary on the next, and the Executive on the other hand; and that none should interfere with the next. And, it is entirely improper for an Attorney General to come to this Parliament and put legislation that seems to encroach on the responsibilities of another arm of the state, the Judiciary, in circumstances where that could be viewed—as indeed it has been viewed by some—as the beginning of the slippery slope. Let the courts do their work. I have confidence in the court system here. We do not need to come to Parliament and go against that.

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Mr. Speaker, I also want to make another point, because they have been telling people up and down the country that the PNM is against the execution of condemned prisoners. I would like to remind the hon. Members opposite, through you, Mr. Speaker, that persons have been executed in Trinidad and Tobago only under the PNM administration; between 1987 and 1991 there was a NAR administration in place and nobody was executed in that period of time. Between 1991 and 1995, Mr. Speaker, there was a PNM administration in place and one person was executed in that time; and between 1995 and now under a UNC administration, nobody has been executed.

There was one celebrated day in which five persons were executed Mr. Speaker, under a PNM administration yet we are told that the PNM is against executions, that they are fighting for. That is what we are being told. Truth: I wish the pope could visit Trinidad and give them a lecture in the splendour of truth, very important.

Mr. Speaker, what has the Government strategy been? The Government's strategy has been to politicize this issue for narrow partisan and political gain. They have no more political football, they have sought to make a political football out of the execution of condemned persons and running all over the country and while they run all over the country time is passing and people are having their death sentences commuted to life imprisonment. I want to draw to the attention of the country that there are a number of people on Death Row at this time and I am watching to see how they are going to play it. We are going to know what they really intend to do. There are a number of persons on Death Row at this time, whose cases have been discharged before the United Nations Committee on Human Rights and whose cases have been discharged before the Inter American Commission on Human Rights and, as of now, Mr. Speaker, no warrant has been read.

Mr. Speaker: Order, order.

Mr. P. Manning: Mr. Speaker, they say that I wanted to file constitutional motions. They have brought a law which says that even if they file a constitutional motion, as they are entitled to do, that the time spent before the court does not count; and therefore, the five-year period is not adversely affected. You understand the point. That is what they are doing.

Mr. Speaker, I am beginning to wonder if there is not something involved in all of this of which we have not been made aware. I am beginning to wonder.

Mr. Speaker: Hon. Members, the sitting is suspended until 2.00 p.m.

12.30 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed.*

Mr. Patrick Manning (*San Fernando East*): Mr. Speaker, in my contribution this morning, I tried to point out to hon. Members and through this House, to the national community, that all that was required in this matter was for the Government to come to Parliament to bring a very simple Bill that does not count in the determination of the five-year period, all actions taken after confirmation of the death sentence by the Privy Council, as the Government has indeed done; and that clause involving the transitional arrangements, the retroactivity of this Bill, to take into account all persons who were on Death Row at the time this Bill was proclaimed and, therefore, enacted into law.

Mr. Speaker, it is political considerations and a determination by the Government and, particularly, the Attorney General, to carry us all around the world and to make a political football out of what essentially is a very serious matter, for narrow political gain. We are in this position today only because the country has a Government, an Attorney General and a Prime Minister who feel that anything goes as long as there is a political advantage to be had that justifies actions, the end justifies the means and that the question of principle does not at any time, step into the conduct of political affairs. [*Desk thumping*] For the record, that is entirely alien to PNM's philosophy and its vision for Trinidad and Tobago. It is our view that in the conduct of public affairs, there must be a dimension of morality. Politics cannot be seen as the pursuit of fame and power and fortune. There must be an element of selfless service and morality to conduct. [*Desk thumping*]

Mr. Speaker, how, therefore, do we find ourselves in a position where Trinidad and Tobago has withdrawn from the United Nations Commission on Human Rights and has reaccessed to it with a reservation with respect to the death penalty? How have we gotten to the place where we have now served notice for a complete withdrawal from the Inter-American Commission on Human Rights? How did we get to that place when only a simple amendment as we have pointed out, would have sufficed?

Mr. Speaker, these two bodies, the Inter-American Commission on Human Rights and the United Nations Committee on Human Rights were set up to protect

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victims from state abuse. Let me repeat, to protect victims from state abuse. Therefore, it is not necessarily the criminals, it is not just persons who find themselves on the wrong side of the law, it is also honest and upright citizens whose only responsibility and desire is to go about their own business without interfering with the fundamental rights of others. It is the PNM's view that when one is dealing with abuses by a state, it is an unequal match and, therefore, there is an advantage. Some additional protection is necessary by way of international oversight by some body or bodies who are outside of the political arm of any particular state. It is most important.

Mr. Speaker, just for the record again, and so that this Parliament is fully seized of the kind of areas in respect of which these bodies give protection, I quote from the *American Declaration of the Rights and Duties of Man*. What are the rights to which reference is being made all the time and from which we are withdrawing, incidentally?

“The right to life, liberty and personal security;”

That is one right.

“right to equality before the law;

right to religious freedom and worship;

right to freedom of investigation, opinion, expression and dissemination;

right to freedom of people;

right to protection of honour, personal reputation and private and family life;”

We are withdrawing from that.

“right to a family and to protection thereof;”

We are withdrawing from that.

“right to protection for mothers and children;

rights to residence and movement;

right to inviolability of the home;

rights to the inviolability and transmission of correspondence;

right to the preservation of health and to well-being;

right to education;

right to the benefits of culture;

right to work and to fair remuneration;
right to leisure time and to the use thereof;
right to social security;
right to recognition of juridical personality and civil rights;
right to a fair trial;
right to nationality;
right to vote and participate in government;
right to assembly;
right of association;
right to property;
right of petition;
right of protection from arbitrary arrest;
right to due process of law;
right of asylum..."

Mr. Speaker, these are the fundamental rights that are enshrined in the *American Declaration of the Rights and Duties of Man*, the American Convention on Human Rights and they are mirrored in the Universal Declaration of Human Rights of the United Nations system. It is from these that the hon. Attorney General and his Government are seeking to extricate Trinidad and Tobago; the protection and international oversight that these two bodies would guarantee—the United Nations Committee on Human Rights and the Inter-American Commission on Human Rights—oversight in respect of the protection of these rights.

Dr. Khan: Just one question. I did not hear the Member read any rights to kill defenceless people without remorse. There were no rights there that you are allowed to kill defenceless people.

Mr. P. Manning: Mr. Speaker, I was merely referring to the two existing conventions which, as you know, have received universal acceptability in respect of the United Nations and have had the acceptability of the Inter-American system in respect of the Inter-American Convention on Human Rights, and what we are seeking to do is to give the citizens of Trinidad and Tobago protection from abuse

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by the state, of these fundamental rights that are enshrined in these two documents. That is what these two conventions are about.

Mr. Speaker, this Government has been going up and down the country giving people the impression that in respect of the American Convention on Human Rights, the United States is not a member; that Canada is not a member; that Cuba is not a member; Trinidad and Tobago is one of the few countries in respect of which there is membership and there is no big thing withdrawing from it.

Mr. Speaker, this morning I spent a few minutes demonstrating to this Parliament, that even though the Senate of the United States has not ratified the treaty—they have signed it. What they have done is that they have given their citizens access to the Inter-American Commission on Human Rights and have operated in a manner designed to ensure that they support the system and that, in fact, they are able to ensure that the other countries in the region can participate in a system that is independent of the jurisdiction of the national governance.

So let me refer once again to that celebrated case of *William Andrews vs the United States* dated July 28, 1992 in the state of Utah. The document, which is the *1997 Annual Report of the Inter-American Commission on Human Rights* goes into this case in some detail, but it is instructive that the Parliament take note of what is said on page 572 of paragraph 14. Two notes were addressed to the US Government. In other words, even though the government of the United States has not ratified the convention, they have been treating with the authorities as part of the Organisation of American States system as having given support to it.

Mr. Speaker, the United States' attitude to this particular convention is summed up on page 583 of this document which goes as follows. In fact, let me quote a little before that because the United States wanted to put its position on record. As the United States stated, for the record, in the OAS General Assembly following issuance of the court's advisory opinion:

“The United States accepts and promotes the importance of the American Declaration. It is a solemn moral and political statement of the OAS member states, against which each member state's respect for human rights is to be evaluated and monitored, including the policies and practices of the United States. The United States does not believe, however, that the American declaration has binding force as would an international treaty.”

It is because it has not been ratified by them, but they respect it. When the hearings were taking place on this matter, the state of Utah was represented and so was the Federal Government of the United States of America.

Mr. Speaker, I draw your attention to the position of Canada because Canada too is a federation in respect of where the states have the provinces. The provinces have their own constitution and there is a very delicate balance of power between the provinces on one hand and the Federal Government of Canada on the next. What is the Canadian attitude to it? They too, have not been able to ratify because of the domestic, political considerations. There was a press communiqué No. 1497 which goes as follows:

“At the invitation of the Federal Government of Canada, the Inter-American Commission on Human Rights will visit Canada from October 20 to October 22, 1997. The Canadian government invited them to go in for the purpose of observing and gathering information concerning Canada’s refugee determination process and the domestic remedies available to refugee claimants.”

Trinidadians and Tobagonians were involved in that in Canada.

“During his stay in Canada, the Commission revisit Ottawa, Toronto and Montreal.”

Elsewhere in this document is a report of that visit which did, in fact, take place. So even though Canada is not a party to the convention, they also recognize the importance of that international oversight outside the reach of the political jurisdiction of any particular state, support the system strongly and subject themselves to the international oversight that is guaranteed by this particular body.

Mr. Speaker, the countries, therefore, that have not signed it and do not—

Mr. Speaker: Hon. Members, the speaking time of the Member for San Fernando East has expired.

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

Question put and agreed to.

Mr. P. Manning: I am much obliged Mr. Speaker, and I thank hon. Members, through you, for their very kind generosity. The states that have signed in the Caribbean are Barbados, Dominica, Grenada, Jamaica, Surinam and Trinidad and Tobago. It is very important, therefore, that we note that it is only the English-

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speaking mini states of the Caribbean that have not subscribed to this convention. It is very interesting to see how it works.

There is a celebrated case in Grenada. In 1983, the United States Government invaded Grenada in the context of what they, at the time, argued was their determination to put a proper government in place. In that process, they bombed a hospital and they bombed and destroyed a number of other civilian installations and a number of people were disenfranchised as a result of this. When the Grenadian citizens were unable to obtain redress directly from the United States, they went to the Inter-American Commission on Human Rights. The Inter-American Commission raised the matter with the Government of the United States and before there was an actual hearing, what the United States Government did was this: it did not handle it directly but it handled it through a US agency called US Aid which went into Grenada and built back the hospital, repaired whatever damage was done and compensated citizens and so forth. So when the hearing came up before the Inter-American Commission, they took the position, "We have no case to answer. What is the difficulty that brings us before this particular court?" Then they said, "Look, all of this has already been repaired." The court said, "Well, you have already repaired." They said, "Not us, we have done nothing; it was an US agency." In other words, a convenient arrangement has been arrived at by the United States in respect of that Grenada situation, not exposing the US because it is not a party to the convention but at the same time supporting it and giving recognition to the rights of individuals, it being a contest between a sovereign state and individuals; being an uneven contest with individuals now needing the right of protection of international oversight that this particular body gives.

Mr. Speaker, the other aspect of this Bill that worries us is non-access to the courts after the death warrant is read. I heard today that the hon. Attorney General said they have the Mercy Committee but I do not know if citizens are aware that the Chairman of the Mercy Committee is a politician; he is the Minister of National Security. I saw the Minister of National Security recently saying on television that all 104 prisoners will be executed. That is being said by the Chairman of the Mercy Committee before it has had an opportunity to adjudicate on whatever—

Dr. Griffith: He did not say that. That is not true; he did not say it.

Mr. P. Manning: What is wrong with you? Mr. Speaker, "Dr. Rat"—Look,

Mr. Bereaux: He is an imp. They put him to interfere with you.

Mr. P. Manning: Mr. Speaker, in the same way, when the hon. Attorney General gets up and talks about the Glen Ashby case, I wonder if you realize what he is doing. Any action that has to be brought against the state of Trinidad and Tobago will be brought against the Attorney General, not Keith Sobion. All this Attorney General is doing is making all kinds of statements to prejudice the position of Trinidad and Tobago. [*Desk thumping*] Mr. Speaker, if any matter comes up before the court our position is already prejudiced because we have an Attorney General who is highly irresponsible and who believes that right or wrong, you could get away with, and wrong is what we would find out.

2.20 p.m.

We are in the age of anything goes in politics. Thank God that this country has a PNM Opposition at this time. [*Desk thumping*] We are prepared to stand up. [*Desk thumping*]

Mr. Speaker, on the fundamental rights issues let us make it clear—

Mr. Speaker: Order, please. Order, please.

Mr. P. Manning: Mr. Speaker, on the fundamental rights issues, let me alert this Parliament that the PNM cannot and will not compromise. [*Desk thumping*]

Mr. Speaker, our position today is different from our position in 1995. [*Interruption*] The Member did not hear that so I would repeat it. Our position today is different from the position we held in 1995 and I would tell you why. Since this Government has come into office we have seen some developments in governance which we never thought was possible in a society as this.

We have seen a Prime Minister pick up a telephone and call the Editor-in-Chief of a newspaper and say to him that the Government would have nothing officially to do with that newspaper and they will not be invited to press conferences held by the Government until the newspaper fires one of its editors. Do you understand? What does this document say? Freedom of the press? This is one of the rights and it is not the Prime Minister but the weight, authority and might of the state that is being brought to bear against the individual. [*Desk thumping*] That is what it is. No individual could stand up to that. We saw that 19 people went from the *Guardian*.

Mr. Speaker, as a former Prime Minister I am entitled to police protection for six months after demitting office. We had a public meeting in Arouca where I

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made certain statements about the Government and the next thing I heard was that the Government decided that the PNM was trying to overthrow the Government by force. They decided that! Democratic as we have been for 42 years, we would now want to overthrow them by force? We do not need to do that. The next thing I knew, Mr. Speaker—that was about four months into governance—was that the police protection given to me, a former Prime Minister, by virtue of the fact that I held the office of Prime Minister, was suddenly taken away. It was suddenly taken away with no warning. In other words, what the state was saying was that, “yuh trying to overthrow the Government by force? If that is so let meh see how you would deal with a government when you have no police protection”. Intimidation. *[Interruption]* What was the intention? Was the intention to intimidate the Leader of the Opposition because he had not left Parliament? He was still here. *[Interruption]* You cannot do it.

Mr. Speaker, since we left office in 1995 we have seen an attack on calypsonians in a way that we have never seen before in Trinidad and Tobago. *[Desk thumping]* An attack that was unprecedented. *[Desk thumping]* Why? Because the calypsonians were singing something in a calypso that the Government did not like. Let me put it on the record today.

Mr. Speaker, when I was Prime Minister I was giving out prizes one evening. *[Interruption]* No, I am just telling you what the facts are. I remember giving the Mighty Chalkdust a trophy and I congratulated him on winning. I said to him, because he sang something in a calypso, “I just wanted to tell you Chalkie that I did not spend \$2 million on a gym. The equipment in the gym cost \$33,000.” He acknowledged that he was very grateful and the next time he sang the calypso, instead of singing \$2 million, he sang \$1 million. *[Laughter and Desk thumping]* I took no steps to withdraw Trinidad and Tobago from any of the fundamental rights commissions as a consequence of that. However, somebody sings a line in a calypso—Sugar Aloes was the man, Mr. Speaker. Sugar Aloes was the one who sang a line in a calypso and the Government was saying to him that Champs in Concert is government-funded and as long as that is so he cannot sing what the Government does not want him to sing. *[Desk thumping]* That is an attack on the culture. In case they do not know the only reason we did not go to the Inter-American Human Rights Commission on that issue was because we did not have the financial resources to do it. The Government would have found itself before the commission.

Mr. Speaker, in the case of Panama, I quote, in part, from the *Annual Report of the Inter-American Human Rights Commission, 1997*:

“Panama

On August 18, 1997, the Commission started processing Case 11791 involving the presumed violation of the freedom of press caused by a threat from the Government of Panama to expel the Peruvian journalist, Gustavo Gorriti Ellenbogen, the Associate Director of the *La Prensa* newspaper of Panama. With this charge, the Commission requested the State of Panama to adopt urgently the precautionary measures that would suspend his imminent expulsion and enable him to continue exercising his profession as a journalist. For the purpose of dealing with the precautionary measures requested, representatives of the State of Panama and of the petitioner were called to attend a hearing that took place during the 97th regular session.”

I think it was of the OAS.

“With the involvement of the Commission during the hearing held on October 15, 1997, a friendly settlement of this dispute was reached. The representatives of Panama reported that on October 14, Mr. Gustavo Gorriti’s work permit had been renewed thereby enabling him to continue working as a journalist, and the immigration authorities had been ordered to suspend all deportation proceedings.”

Why do you think I have drawn that case to the attention of this House, Mr. Speaker? Why do you think I have drawn that case to the attention of the Parliament and the people of Trinidad and Tobago? I have only one regret; that Julian Rogers is not in the public gallery to hear it because in the Julian Rogers’

[Interruption] It was international oversight. There was a case to be answered by the Government of Trinidad and Tobago. If the Julian Rogers matter had been taken to the Inter-American Human Rights Commission the final outcome of that case could have been very different from how it turned out to be. *[Desk thumping]* That is what they are running from!

Mr. Maharaj: That is what we are trying to protect.

Mr. P. Manning: That is what they are running from, Mr. Speaker. That is what the PNM, in Trinidad and Tobago, is determined to preserve and protect. *[Desk thumping]* The Government has this distorted view of governance. They feel that as they are in power they can do what they want. They consider the laws of this country, and the Constitution, to be unnecessary impediments in the conduct of affairs as they want it. *[Interruption]* Yes, the Parliament. Look at the

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way they are conducting parliamentary business. It happened in this House on Friday last. Mr. Speaker, look at the way they are doing it. No respect for anybody or any system. It is a question of what they can do and what they want to do.

Mr. Speaker, they have brought a bill here to give power to declare any place in Trinidad and Tobago a prison. That is the kind of laws they want to pass. They can look at me and not like how I look, for whatever reason and declare where I live at No. 4A Vista Park apartments, a prison. So, I have to stay at home.

That is the implication of the legislation that they brought. Whether they like it or not, that is the implication of the legislation and that is what the PNM is not prepared to support and to protect the people of Trinidad and Tobago against.
[Desk thumping]

2.30 p.m.

If our position today is different from our position three years ago, it is only because of our experiences over the last three years with a Government, the likes of which there is no precedence in Trinidad and Tobago. *[Desk thumping]* We did not know it then but we know it now, ladies and gentlemen, that Trinidad and Tobago has to protect itself from the excesses of that Government. God alone knows what other government we will have in the future; we just do not know and, therefore, our responsibility is to pass laws and conduct the affairs of the state in such a way that the parameters within which we are expected to operate are based on solid principles clearly identified and articulated—and there is no doubt—so that the state can be properly regulated.

I can go on and on, Mr. Speaker. KPMG Peat Marwick did a forensic report in respect of National Flour Mills. The Government did not like the results of the report and they have now passed an edict that KPMG Peat Marwick must be removed as the auditors of all state enterprises. That is what they have done. Out goes Petrotrin. Incidentally, it is against the law.

Before we came to this Parliament we decided to hold consultations with a number of organizations. I would not report to the Parliament on the consultations with all of the organizations with which we spoke. But our consultation with the Inter Religious Organization is worthy of the time of this Parliament. The IRO said to us that because of its nature it can have no position on my matter. The individual bodies that comprise the IRO are free to take their own individual position. But I am authorized to tell you that the Hindu representative on the IRO outlined to me and to my delegation, when we met with them, that he was not prepared to live in any society in which the government was free to do some of the

things that are enshrined in this law. He went further to say that if the PNM voted in such a way to ensure that this law was passed without amendment and without ensuring the protection of international oversight accorded to the citizens of this country by way of membership of two treaties, he said he would hold me personally responsible for such a condition arriving in Trinidad and Tobago.

Mr. Speaker, the attitude of the Muslim representative was also significant and—he is a Haji—in condemning the Bill in its present form and in supporting the PNM's position in respect of the protection of fundamental human rights, he got so emotional that he was unable to complete his contribution. That is what this Government misses. They talk to themselves; they listen to themselves and they hear nobody else but themselves. Therefore, whatever goes through their heads is what themselves said to themselves. They believe themselves and themselves only. They are completely oblivious of what is happening on the outside and of what people say about them.

The representative of the Anglican Church also took a strong position in support of the protection of the fundamental rights of the citizens of Trinidad and Tobago. The Criminal Lawyers Association met with us on Friday and they also took a strong position. The Inter City Taxi Driver's Association representing all taxi drivers in the country also supported. The Federation of Women's Institutes support the position and, therefore, when we come to the Parliament today it is not just a question of the PNM standing up for principle which, in fact, we are doing. [*Desk thumping*] But we are representing the views of a wide cross-section of the people of Trinidad and Tobago.

Mr. Speaker, the Attorney General said this morning—because we said enact the treaties—he is not prepared to give any international court jurisdiction over any court in Trinidad and Tobago. We are saying that the status of any decision or the result of the deliberations of those two bodies must be enshrined in the law of Trinidad and Tobago. We are not saying that those two bodies are superior courts of record in this country. We are not saying that at all. In no country is it that way. We are saying that those bodies have only a persuasive responsibility and jurisdiction in determining what happens here. Therefore, one possible way in which the results of deliberations of that court could be taken into account in Trinidad and Tobago is this: after a condemned prisoner has his case thrown out by the courts or confirmed by those courts, whatever the case may be, those results should form part of the deliberations of the Mercy Committee. If it is done that way there would be no question of the Inter-American Court being superior to

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the Privy Council, Supreme Court or Appeal Court. The question does not arise. We are saying put that in the law.

But we have a Minister of National Security who, before he hears one case, can jump and say all of them must be hanged. That is how things appear to happen in Trinidad and Tobago these days.

In this very report there is one case in which—I think it was the same case involving the journalist in Panama. The report had this to say:

“During that same hearing representatives of the government reported that the executive power was endeavoring to modify certain legislation with the aim of adapting it to the provisions of the American Convention on Human Rights and would keep the Commission informed on the progress of the process of legislative reform.”

The Commission is pleased with the initiatives adopted by the Government of Panama which revealed efforts to find a solution within the frame-work of the protection of the human rights.”

Mr. Speaker, do you know what this country needs? This country needs human rights legislation. It needs fundamental rights legislation which we do not have. In the Constitution we have sections 4 and 5 and since these have not be translated into law, to interface with sections 4 and 5, we need a constitutional motion at every turn.

The PNM is making the pledge today that if they do not do it, as soon as we are returned to government—which will not be too long again—we commit ourselves to creating fundamental rights legislation in this country for the protection of citizens against excesses by the state. [*Desk thumping*]

Mr. Speaker, just before I go to the amendments that we have proposed, I am looking at this Bill and these fellows are just seeking to—page five, clause 3:

“Without prejudice to the generality of subsection (1) and notwithstanding any existing law to the contrary, where a person has been convicted for a criminal offence in respect of which a sentence of death has been imposed there shall be no stay of execution, alteration or remission of the sentence by the Court on any of the following grounds:

- (b) the time between the serving and the reading of the warrant of execution to the condemned person and the proposed time of execution;”

Mr. Speaker, I understand an amendment is before the Parliament but what manner of men would put something like this in a draft Bill for the consideration of the national community? What they are saying is they can go to a condemned prisoner today, read him a death warrant at three o'clock and, having read him the death warrant, they could execute him. *[Interruption]* That is what they are saying. One of the reasons we do not agree with that is that we are a society that believes in God and the least that one can do is to give a man a chance to make peace with his maker.

Mr. Speaker, there is a celebrated case going on in Miami at this time. The facts on that are that a certain gentleman—and I think the case is well known to the hon. Attorney General—went into a hotel room and killed another gentleman and as soon as that was done another gentleman, the son, walked in. The criminal said to him, “I just killed your father. You are in the wrong place at the wrong time, kneel down and make peace with your maker.” While he was making peace with his maker he was shot in the back of his head. Even the killer recognized the existence of God and recognized that a condemned man, whether he be condemned by the state or otherwise, ought to be given time to make peace with his maker. I want to commend that case for consideration of the hon. Attorney General of Trinidad and Tobago.

Mr. Speaker, we have come to this Parliament with a list of amendments. I want to reiterate that the matter is a non issue and did not have to reach where it has reached. It has only gotten here because this Government decided to prostitute itself all over the country to politicize the matter and make a football out of it. That is why it has come to this. But we have lost four years. One year in our time when they stood in the path of a proper resolution of this issue and then they took three years to get it here, so four years were wasted.

We have all these amendments today and they are outlined in a list of amendments which has been circulated to the honourable House. I know what to expect this evening when I take my seat. I will see the worst of those honourable gentlemen there. *[Interruption]* I will see the worst of them come out but we do not propose to take part in that. We have made our position clear. Let them carry on as they like. As far as we are concerned we are not part of any masquerade band; let the masquerade go on by them.

We are not taking any further part in these deliberations unless it is absolutely vital and it would not be. We will take our seat and await the Government at the committee stage. If they want a resolution of this matter, that is to say, if they

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want legislation passed, all they have to do is to let good sense prevail and let us put a simple amendment that will enable both sides of the House to agree on it. Until such time I await them. [*Desk thumping*]

2.45 p.m.

The Minister of Tobago Affairs (Dr. The Hon. Morgan Job): Mr. Speaker, this, indeed, is a momentous occasion in the Parliament of Trinidad and Tobago. I stand here to represent all of those members of our society who are not lawyers, who were never Members of Parliament and who were never Leaders of the Opposition; ordinary, decent people who have an idea of the contract they have made with each other to form a state, to form a Constitution and to live under law. Such people must know—as we have been listening to their cries and anguished pleadings over the years—that the moral tone of the society has been buffeted by sundry evil forces and that, to some extent, people have formed the opinion that the state, the Government of Trinidad and Tobago, is indeed part of their problem.

We are here today to do whatever we can and, indeed, whatever we must to redress this misunderstanding with respect to the role of government in the implementation of law in this country. I sat here and heard the hon. gentleman from San Fernando East recounting the innumerable occasions that the Member for Couva South did, indeed, join with the Member for Couva North to oppose the death penalty. I quote from *Hansard* of today at 12.05—12.20 p.m.. The hon. Member for San Fernando speaking:

“Mr. Speaker, I have a funny feeling in my stomach. Let me repeat it for your benefit, Mr. Speaker, for you may not have heard it well. There was a distraction on the other side.”

And he is quoting, I presume, the Member for Couva South:

“Most countries of the world have abolished hanging and have found that it does not reduce crime. (Hanging) must be an act of desperation by the Government of Trinidad and Tobago in its inability to deal with the problems of crime.”

And he goes on:

“He, like Panday and Maharaj...”

The whole purpose of his contribution is to say that Ramesh Lawrence Maharaj and Basdeo Panday at one point in time, were in this Parliament, over there opposing the shenanigans of the Government with respect to wanting to hang

people like Ashby and others, and on account of that, we must come here today and keep repeating that as if that is the issue. Mr. Speaker, that is not the issue.

I was fortunate enough to have been asked by certain people in Tobago to represent them, which is the reason I am here today. I went up to the President's house and my hand was put on a Bible. They asked me my religion. Some people would have said Muslim, some would have said Hindu, I said Christian. They gave me a Bible and I swore to uphold the law. The oath is in the back of here—the Constitution of Trinidad and Tobago—somewhere.

So, we swear to uphold the law! That is what we are here for today. Not to argue about what “Ramesh did say”. I really do not care about what “Ramesh did say” right now! That is irrelevant. He is wasting time about what “Panday say” and what “Panday believe”. I do not care about what Panday believes! I swore to uphold the law of Trinidad and Tobago. [*Desk thumping*] One does not have to be a lawyer to understand that! One just has to be a decent, self-respecting human being to understand, Mr. Speaker, that the mischief that is afoot on the Opposition Benches has everything to do with partisan, political grandstanding, and nothing to do with implementing the law of Trinidad and Tobago. [*Desk thumping*]

This is not a matter about who is UNC, who is from Tobago, and who is Hindu, Protestant and Catholic. He was quoting the Pope at length! I, myself, am not a Roman Catholic. Anglicans are Protestants. Henry VIII wanted to marry another woman for the eighth time and he ignored the Pope and set up his own church. I think it is before Henry VIII or, perhaps, a little after, there was Martin Luther around the year 1500. He stuck a bill on the door of the church and said that he was done with the Pope.

Many people in this country do not care about the Pope! I hope the Catholics over there, and in the rest of the country, are not saying that I do not care about the Pope. I think the Pope has, indeed, a tremendous moral authority in the world, and has had it for centuries. I am a student of history, and I understand what stupidity had overcome Stalin when somebody asked him about what the Pope would think about what he does and he said, “How many divisions does the Pope have?” That is a materialistic and crass impression of the role of the church and the Pope.

On the matter of why we are here today, this extensive quotation from the Pope is otiose. [*Desk thumping*] It is, indeed, subversive of much of what we are trying to do here today, because the Pope is a supporter of the Aquinas doctrine of natural law, *Jus juris naturalis*! I will quote from Cicero about this, because we

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have to understand that if we follow the passionate appeal of the Member for San Fernando East, we might find that this Parliament is coerced into banning condoms. That is what the Pope wants: Never have sex until one knows one wants to procreate. That was the Pope's opinion that Mr. Manning wants to force down our throat.

I want to warn people that this long quote is a Trojan horse. They spent a generation making people illiterate in this country. Most of the people who did not go to school in my time, those who came after, would not know what a Trojan horse is, so they would not understand why I say this is a Trojan horse. I am saying this because I want to make the point that when we are talking about law and quoting the Pope, we have to be careful that we do not have confusion in our minds and ambiguity about contractarian principles of law and natural law principles and, therefore, go willy nilly agreeing with the offerings of the Leader of the Opposition when, in fact, many of our laws have nothing to do with natural law: None of the new laws in Trinidad and Tobago and, indeed, much of western jurisprudence. Poor fellow. He does not read these things and understand them and he comes here to brainwash ignorant, illiterate and helpless people to believe that because he can quote the Pope, they must follow him.

Cicero, in the 1st Century, BC was saying:

“True law is right reason in agreement with Nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrong-doing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by Senate or People, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and for all times, and there will be one master and one ruler, that is God, over us all, for He is the author of this law, its promulgator, and its enforcing judge.”

That is the doctrine which Aquinas acquired in the 13th Century and synthesized, and we know it now as natural law, but after that, there were all these evolutions in law and conceptions of law. Thomas Hobbs and Leviathan! Without Leviathan, without a contractarian view of law, life would be nasty, miserable, brutish and short.

We had all of these people, but Mr. Manning comes here to tell us about what the Pope says. In fact, Mr. Speaker, when we read the substance of what the Pope says about ethical relativism—this is the risk of alliance between democracy and ethical relativism—he goes into these kinds of convoluted thoughts without understanding that the contract we have made here is a contract we have consciously made among ourselves, and it is the Constitution that I have here.

This Government is committed to uphold all of these rights that are enshrined here in Part I of the Constitution. Chapter 1: Recognition and protection of fundamental human rights and freedoms; I do not know, after listening to the Member for San Fernando East, that nothing in the American document that he read from there is not subsumed under what we have here. Rights are enshrined from (a) to (k): freedom of the press; freedom of association and assembly; freedom of thought and expression; freedom of conscience and religious belief; the right of a parent or guardian to provide a school of their own choice—even if the PNM never abided by that—the right to join political parties. It is all here in our Constitution. The laws of Trinidad and Tobago, a sovereign country.

The Member for San Fernando East has been at pains to tell us this document must be subserved to two human rights commissions that are outside the jurisdiction of our contracts among ourselves. This is a sovereign state! This is our charter! Every other charter on the planet earth must be subservient to this until we, as a people, decide it must not be so. There might be good reasons why we may so decide, but I am not aware that we are here today to decide that. We are here to implement the law that says when one kills people, one shall be hanged by the neck until dead.

Many have witnessed this. Many, like myself, have sat on juries and they know it is a solemn duty, dealing with a matter of life and death. The judge instructs the jury to deliberate. They go and deliberate and come back, and the judge asks, “Have you reached a unanimous verdict?” The foreman says, “Yes, Your Honour.” The judge will then ask, “What is your verdict?” The jury then replies, “Guilty”.

3.00 p.m.

“You shall be taken away to such and such a place to be hanged by the neck until you are dead.” That is the law of Trinidad and Tobago. All we are here to do today is to understand that by oath taken we are to implement this law. Mr. Speaker, there is not one person alive with right reason who is not aware that

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when people on death row say they did not get plantain, or lunch a la carte, they are just frustrating due process.

This is not an ambiguity, but the reason we are here is because of some lawyers in this country—and I have already mentioned that what Mr. Maharaj and Mr. Panday said is irrelevant to our purpose. Thus, whatever they had done in this regard is not a material fact to our purpose here today. We are here to give effect to our understanding that lawyers in this country—many of them—have been using every instrument available to them to obstruct due process and not to implement the law. Parliament is sovereign, it makes law.

When the hon. Member for San Fernando East said that there is a separation of powers and that we cannot encroach on the matter of the Judiciary, that is sophistry of the highest, most devious and the most mischievous kind. Because this Constitution gives Parliament, as we are constituted here, power to make law and for judges to interpret and implement the law.

I have not heard or seen anything done by the Attorney General and the Prime Minister of this country since I have been in this Cabinet that would suggest to me that—all these allegations about subverting law and order, and tyrannical totalitarian initiatives and imperatives have anything to do with that. Parliament makes law and the reason we are here is to ensure that the law is implemented.

The Constitution lays down a certain principle, a certain methodology whereby it can change itself, but if it did not do that it might have been still-born and, in fact, it would have been dangerous. If you have a constitution that did not tell you how you could change it you have a dangerous document, because the only permanent condition is change.

Therefore, we are here, not to follow the mischief and misleading of the Member for San Fernando East, but to understand that Parliament makes law. Making law has nothing to do, in the context that he raised the issue, with encroaching on the prerogatives and the powers of the Judiciary. That is far from the truth.

This is not a law school, so I would go back and appeal to the natural sentiments of our people. This is not a political or partisan platform. It is not Rienzi Complex or the place where PNM people like to gather, Piggott's Corner. This is an issue having to do with the anguish of people who, call them Indians, and people who call themselves devotees of the PNM, who want to die PNM; people from Tobago East, people of the Islamic faith, Catholic people, people who are fat, thin, young and old! All the people of this country who agree to live

according to this law, want it implemented. They do not want any fancy footwork and any fancy talk about human rights commission and who want to take away people's right, which is absurd and preposterous and, indeed, ludicrous. They want the law implemented.

They want people on death row to hang by their necks until they are dead. That is what we are here for. We are not here to play games to play politics. It is not an issue about what "Ramesh did say". I heard what "Ramesh did say" and I opposed him because I was never in agreement with that way of thinking. I remember Panday said before he became Prime Minister that he is not a death penalty man, and I did not agree with him either. But both of them are in the Government and they swore and took an oath to uphold the law. [*Desk thumping*].

Mr. Beraux: You can do what you want to, but we are not going to vote for it.

Dr. The Hon. M. Job: That is what they must do. John Locke made it quite clear that if there is any reason why a Government should be rebelled against is if it fails to uphold the law. [*Desk thumping*] The same John Locke that he did not read, and Montesquieu spoke about the separation of powers in the 17th Century. Any Government that fails to do everything in its power to impose its law which is the reason for a polity or state should end. Aristotle said that all natural born men seek to live within a polity. They must make laws to determine how they behave and how they live in it.

This is what we are here for, not to argue about what "Ramesh did say". I have to keep repeating that because all these people in this country are not lawyers so they really do not care what Ramesh said. They want to live according to law, that is what I am talking about. There is a gentleman called Dole Chadee somewhere on Frederick Street and I personally have nothing against the man, I do not know him. There are people on the other side who probably know him personally. [*Laughter*] A time must come when the Mercy Committee will have done its job and pronounced on that which the judge has already pronounced.

Then there is some instrument or agency which must cause to be read a death warrant advising Mr. Chadee concerning his civil rights and what is to be done according to his rights. People are not understanding that law as it is now construed treats a condemned prisoner as a human being, he has rights, including the right to be hanged by the neck until dead. [*Desk thumping*] People do not understand that. You cannot teach everybody everything but there are some fundamentals in law. That is his right, to have it done well, right and very quickly.

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I ask this honourable House and the nation, what are we planning to do? Are we planning *a priori*, with all the evidence and the facts that we have available to allow this and other gentleman with the millions of dollars they have at their command to ensure they can engage national and, indeed, international resources, to pretend—because this is what it is about—that there is something, which is the part of due process they are engaged in, when, in fact, they want to do a "Ramdhanie" on us.

I say pretend because due process is what we are about. You cannot hang anybody in this country without going about a process described in law, and laws that antedate the act you committed. Due process, you go through it step by step: go through first court, go through appeals, go through the Privy Council, go through the Mercy Committee. Due process, take evidence, and then you hang by the neck until dead and there is where we have a problem. You have this revolving door where people interminably deceive the public that they are engaged in due process, when, in fact, there is an abolitionist constituency at home and abroad engaged in nothing more clear than obstructing the implementation of the death penalty.

I quote from statements made by Mr. Manning with respect to the death penalty in the *Pratt and Morgan* judgment and the international human rights bodies. He was speaking at a news conference on July 10, 1994 on his return from the 15th Caricom Heads of Government Summit in Barbados.

"Recent developments tell us that with the European Union coming together the Privy Council in the United Kingdom has been influenced more and more by sociological considerations in Europe which are very different from sociological conditions in the West Indies."

I did not tell Mr. Manning to say that, I do not have a verbal communication with the gentleman after so many years of torment and torture with him trying to close down every opportunity for me to express myself publicly. [*Laughter*]

I find it very difficult to communicate with him, maybe some time I might reach that point of commiseration and compassion, but now I would not do that. So I could not have told him to make that statement, he said it. The point he was making was that there were these political constituencies in the European community and in the United Kingdom and all these bodies are for abolition of the death penalty and that is what they are about. They are about frustrating the process here to thereby impose their will on the sovereign state and the people of

Trinidad and Tobago. Their mission is abolition and not due process. The public understands this, I did not have to say it.

The issue is, as Mr. Manning clearly understands, that there are these conspiracies, local and foreign, to frustrate the implementation of the law in Trinidad and Tobago and our mission is to deny them the success and the victory that they seek. We have to demonstrate by our action today, that, indeed, we do believe that Trinidad and Tobago is a sovereign state and that the will of the people must prevail. The "marish and the parish", every John, James, Seegobin, Lal, Pulmatie and Dulcie, their desire, ambition and wish is supreme to those desires of these human rights commissions. That is the fundamentals of understanding that must infuse and inform the decisions of the people in the Opposition as, indeed, we on this side and the public have already decided

This kind of chicanery and sophistry must be exposed, pilloried and lampooned. It must not be allowed to frustrate the law in Trinidad and Tobago.

With respect to Jimmy Carter's signing the same American Human Rights Convention, he did sign something, but whatever Carter, Clinton or the next President Gore or whoever signed, is not binding on the American people until it is ratified by Congress. "What you coming to tell me Carter sign?" Carter is not the law in America! He is not Bokassa! He is not Burnham. Carter worked within one of the most durable and lasting constitutional frameworks that mankind has invented, drawing the substance from all the ancient doctrines and governments. That is what the United States Constitution is all about.

Until Congress has ratified, there is no law, no binding agreement, no convention. He is absolutely irrelevant, vacuous, and determined to deceive. Such is that contribution. Mischievous and misleading innocent people! Nothing to do with the matter of fact, "bring a big, fat green book to say Carter did sign" and that the Attorney General lie. Disrespectful to the nation! Abominable! [*Laughter*]

Their darkness shall mislead those who follow them, and they are quoting the Pope to talk about truth. That intervention concerning the big, fat green book was devious and deceitful. It has the purpose of impugning the character of the Attorney General, in the same sense that there is this convoluted confusion being planted in the minds of the people that because the Attorney General—. I have a whole list in my notes here of who the Attorney General fought for. We need to deal with that, because the public needs to understand that we are here, not to play partisan politics but to do the best we can for the welfare of Trinidad and Tobago.

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Therefore, the fact that the Attorney General had frustrated the law in the matters of Andy Thomas, Kirkland Paul, Kitson Branche, and Stanley Abbott, the Member for San Fernando East comes into Parliament and spends our time uselessly to raise these issues as if to say that we are here today to recall, remember, to ponder upon the victories of the Hon. Ramesh L. Maharaj. Then he says that "Ramesh tief the silk!" He had a right to, if they did not give it to him! [Laughter] Because if he was able to frustrate a whole Government, if one little lawyer from Couva was able to frustrate a Cabinet with all the resources of the state, it could have hired men from England, and he alone was able to prevent them from hanging anybody, he deserves more than silk. [Desk thumping].

3.15 p.m.

Mr. Speaker, this leftist chronology of what Ramesh used to do and what Panday used to say is besides the point. It has nothing to do with what we are talking about. We are talking about what the Bill says. Let us turn to the Constitution (Amdt.) (No. 2) Bill, 1998. I read the Explanatory Note because it is simple for honest, decent people to understand what the issue is. It says:

“Clause 5 would introduce into the Constitution a new section 86A which would prohibit the carrying out of a death sentence after the expiration of five years from the date that it is passed. A death sentence that is not executed within five years of its passing would be commuted to a sentence of life imprisonment. But, time spent by an offender, after the confirmation of his death sentence by the Judicial Committee of the Privy Council, in referring the matter to any Court or other body would not be taken into account in the calculation of five years from the passing of his death sentence.”

This is the issue Mr. Speaker, this Pratt & Morgan decision, the fact that we are part of the Privy Council and the fact that the five-year limitation was imposed on us and we decided to abide by it. The Attorney General and the Government, since I am in it and before, has done everything in its power to ensure that all that must be done to speed up the process was done. Indeed, I heard the Chief Justice when he was making his speech not too long ago saying to the public and, indeed, he must, that we have done all that we need to do and there are no backlogs in this regard; things are moving smoothly.

So the Attorney General does what he has to do; the Prime Minister must do what he has to do; the Cabinet does what it has to do; the Chief Justice does what he must do, then at the end of the process when decent citizens go to court and the judge asks the foreman, who is a member—one of them; nobody who has a law

degree; no particular person is selected; anyone of our peers, if he kills this one I can be the juror—what is your verdict; have you reached a unanimous verdict, everybody has done what he or she had done and these people have gone through anguish. It is not an easy thing for citizens of this country to sit through torment and torture, unable to sleep at nights knowing that their decision is final; it must mean life or death. It not only applies to them but their families, relatives and many people burnt up by anguish, searing pain, only to find out that year after year, day after day, that burden must remain with them, that their action and suffering was to no avail because there are people who are part of a conspiracy and a constituency, local and foreign, to ensure that there will must prevail and the laws of Trinidad and Tobago must not be implemented.

That is what we are here about and that is why I am returning to that theme, Mr. Speaker, not because I want to bore anybody. I myself am not a lawyer but I have read a lot about law and can talk about it. We have to understand that this issue is not a partisan, political issue and it is not an issue about lawyers. It is an issue about the sensitive and sensible grievance of citizens in this country who believe in the principle that punishing murderers according to the law, is only giving them their just desert. Mr. Speaker, let me tarry a bit on that.

I have heard the PNM, now in Opposition say that they are all about capital punishment and they are the only government that have hanged anybody. The Member for San Fernando East was boasting about that, but it was not the NAR government that stopped hanging people. What are you blaming the NAR Government for? You can blame them, indeed, if they did not act vigorously to restart it, but given the circumstances in which the NAR Government existed, they were so busy trying to protect themselves from riot and rebellion, left, right and centre, up and down the place, opposition politics running rife in the country, that there are so many things I know they wanted to do that they never got done.

Mr. Speaker, we have to force the public's mind again, to this idea of this domestic conspiracy that is telling people if you start hanging people that would not solve any problem. I went up to President's house and was asked what religion I belonged to. I said Christian and was given a *Bible* and told to swear on it. Mr. Panday would have used the *Gita* and somebody who is a Muslim would have used the *Koran*. I have read all those books. I have several copies of them. I keep reading them all the time, I still do—Code of Manu and all. I know of none of those doctrines which is the quintessence and the dissertation of millennia of ancient wisdom that says the reason you must hang people or deprive them of life or liberty is because you want to solve the problem of murder and crime. It is not

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there. All the ancient doctrines are quite clear that there is a didactic and retributive aspect to punishment. It is not only about reform. It is not only about deterrents. It is about expressing society's abhorrence to these ghastly, nasty and evil deeds that are daily committed. That is what is there in those holy books.

One guy and his girlfriend—products of the PNM system; went to school, never learnt anything—wanted money to play panorama. They took a taxi to go to town but had no money. They carried a man down the creek and cut his throat, who then struggled and swam out to sea. Poor fella, he did not understand the extent of evil—this is the capital of Satan. He did not know that if he spent three hours out there they would have been still waiting for him. When he thought time passed, bleeding and in pain, he swam back to shore where they cut his throat like a goat, a chicken.

These are the people who are being defended, protected and preserved by the chicanery and Mephistophelean mischief of these conspiracies, dedicated not to due process or preservation of law and order, but to their, as Mr. Manning says, sociological considerations, their European view of life. The same set of people are forever talking about not caring about these white people and these Europeans—we are independent; we are Africans—come to Parliament and are mouthing like parrots, the same European people's ideas!

All these anti-death penalty conspiracies, not one of them was invented in Africa. Not a single one of them was invented anywhere in India. They are just mimic men, hollow, straw-headed men, with no self-respect to stand up for the sovereignty of Trinidad and Tobago, to the supremacy of our law. That is what they are about. Subverting our independence and making us satraps, instruments of other people's purposes. Mr. Manning's words are that recent developments tell us that the European Union coming together, the Privy Council in the United Kingdom has been influenced more and more by sociological considerations in Europe which are very different from sociological conditions in Trinidad, in the West Indies. That is what we are here for: to give effect, to give voice to the yearnings of the people who did not go to high school; who did not study geology; who could not pompously and vapidly proclaim themselves father of the nation. Those voiceless people.

We are here to lend our ear to their yearnings and grievances and by our action, to give them voice. That is what we are here for, not to listen to some European group; not to follow local lawyers here who are part of those European groups, who are confused men. They do not know where they belong. They do not

know where their loyalty lay and so, therefore, like Judas, are willing to conspire, to undermine the legitimacy of our Constitution and our law by pretending that they are engaging in due process.

Imagine, Mr. Speaker, some prisoner on Death Row is saying they did not give him lunch *a la carte*. I told the Prime Minister—he is there, he can answer for himself—you better bring a note to Cabinet, that we make Hilton Death Row. This is what we have to do, because unless we are able to give these people fillet mignon and tenderloin steak when they want and coffee according to when they want—if they say they want Jamaican Blue Mountain give them that; if they want Mount Kenya, give them that; if they want Tanzanian Kilimanjaro, give them that. That is what it is. It is so ludicrous. Somebody said the air was not fresh enough so you must not hang him. So it goes on, a litany of absurdities. People are coming here to demand that we must subserve ourselves to two conventions that are dedicated to that kind of mischief to our purposes.

I am not going to stand here and support that. I will denounce it to the full, with the vigour that I possess and I know that, indeed, I am giving voice to yearnings and feelings, not of revenge. I do not think Trinidadians are a vengeful people. I have not been hearing on the Talk Shows or reading that people really want revenge. They do not want to massacre people, hang them, press them, draw them and quarter them as they did long ago; put a set of weight on them and kill them with it; put them below a box and fill it up with stone—that is what they meant by “press”—or tie a rope on one foot and a rope on the other and tell two horses to go and “buss” them you in half. I do not hear anybody saying they want those kinds of barbarism to come back.

Mr. Speaker, what people are saying is that the young people in this country do not know right from wrong, they do not understand morality, and as long as we are able to allow people to kill each other like chickens and then boast to each other like one did in St. Joseph who told a woman, “Like yuh eh hear they don’t Bap”, “whap”, dead, he killed the woman. At least she might have been alive if that fellow knew they used to hang. People are saying they want that ancient wisdom that is distilled and present in our law, that is in the *Bible*, the *Gita* and the *Koran*. They want that to be part of the environment of making and forming the ethical universe of Trinidad and Tobago.

People are saying that part of the reason there is all this wildness is because all these children are watching television. They do not have any mother to guide them. It is not like long ago when grandmother told fairy tales and stories by the

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fireside, roasting corn or whatever; you had that kind of bond; you got these paradigms, those models, those allegories, those stories. They do not get them anymore. They are there with all kinds of mischief and confusion and learning a kind of bizarre and dissonant, social deviance. People are saying that what exacerbates that problem is the understanding that you can kill and not be killed, you can kill and get away with it, and you can boast about it.

People used to say on the blocks—what is called the hoods in this country—if some young man is known to have killed, all the bright, pretty girls want him. I do not know if that is true; I have never met any circumstance like that, but that is being said. It does not surprise me because I have been reading about ghetto behaviour and culture in North America for the last 25—30 years. I have lived in foreign countries—Kenya, Brazil, all about—and I understand all these things. It would not surprise me that, indeed, there are people here who feel that if a young man murdered somebody he is the man that she must have. People are saying if that little girl understood that when you do that kind of thing, society would express its moral reprobation and that hanging by the neck until death is a part of the due process in this country, if they all understood that, and the society by its operation and actions, the courts, Parliament and everybody, if we sent the right message, many of these young people would be saved from that kind of barbarism and wildness.

Mr. Speaker: Hon. Members, the speaking time of the Member for Tobago East has expired.

Motion made, that the speaking time of the hon. Member be extended by 30 minutes. [*Hon. R. L. Maharaj*]

Question put and agreed to.

Dr. The Hon. M. Job: Thanks to everybody on the Opposition side and the other side who were so kind and generous to afford me the opportunity to continue to express my desire, my passionate understanding of what the people in this country want. They do not want to talk about Julian Rogers. Julian Rogers, from all the evidence that was available, had not been operating according to law. That much is evident, that the laws here said that when you are on a work permit for a certain kind of job you must be training somebody to take over. Every time Julian Rogers reapplied he gave a different specification saying he was doing something else, and nobody was being trained. The Government, whether they did it mischievously or out of spite, they did it lawfully based on the fact that Rogers and CCN were breaking the law. That much is not in any doubt. So whether one is

sympathetic to Caricom arrangements, whether the rules of the moral incentives inherent in agreements that the Prime Ministers and heads of government might have given verbal and other assent to, the fact of the matter is that we are here not to uphold law breaking, not to encourage children to believe what Julian Rogers is, notwithstanding his conspiracy with CCN to deceive the public, that we should have left him alone. We are not here to talk about that.

Mr. Speaker, why does this hon. “Father of the Nation” come here to regale us with all kinds of peripheral and irrelevant issues, introducing partisan politics into what, indeed, is a matter for the national consensus. If I was evil intended, I might have asked when the Member for San Fernando East was talking about how the Attorney General want to lock up people in their houses—he is saying that—and at the same time he is boasting about PNM tradition since 1956. I am not saying this because I want to impugn the dignity of anybody here.

Sometimes in the heat of the argument you do not explain yourself; do not have enough qualifying clauses to make what you say clear. I never intended to say that the Prime Minister, the Attorney General and Mr. Assam are liars when they get up here to speak. I was responding some time ago to somebody on the other side and I wanted to say that my credibility in this country, as far as I understand it—Shakespeare is the one who said “the eye sees not itself but by reflection”. I am guided by other people's opinion of me and most people—even those who do not like me—are of the opinion that I try to be a truthful person and what I say, even though it is not pleasant to the ear, I say it nonetheless, thinking it, feeling it, more often than not, knowing it to be the truth on the basis of the evidence. When I got up—how could you say that nobody is lying?

The Member is getting up to talk about how the PNM tradition is not about locking up people in their houses. Mr. Speaker, I am sure you will remember a certain gentleman by the name of C. L. R. James. C. L. R. James was close to Dr. Williams. He used to teach him at Queen's Royal College. PNM was in power and C. L. R. James used to be the editor of a paper called *The Nation*. Do you remember that? C. L. R. James did not agree, for some reason, with some of the positions being taken by the PNM, and so there was a falling out. C. L. R. James was coming from England to be a cricket correspondent for some test match that was taking place here. He was body-searched at the airport—all his orifices being searched into—and he was directed to Barataria and locked up by the PNM. [Laughter] That is not a story that Job invented. I am sure the former Prime

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Minister remembers that; I am sure everybody who is old enough remembers that. They locked him up in his house.

You come to talk about this Government planning to lock up people. On the basis of the evidence, whom should we fear more? Those who are planning to lock up or those who, by experience and action, demonstrate their capability to lock up people in their houses?

3.35 p.m.

Mr. Speaker, I used to live on an estate in Cumuto and one Saturday I could not come out because I was locked in up there. Mr. Manning and his friends locked me up. They told me I could not leave because of a state of emergency. I could not come into town. They locked up the whole place because they could not fire Occah. [*Laughter*] Then they come here to talk about democracy and power. This thing about calypsonians supporting the PNM and all these other groups such as the taxi drivers federation.

Mr. Speaker, I have suffered a great deal of misunderstanding in this country because I have always argued that one of the problems is the legacy of the PNM which has left so many people ill-equipped to even understand the English language. Many years ago I was in the position of the understanding expressed by a certain gentleman—whose name I cannot remember right now—who said that literacy in the modern world must indeed encompass statistical literacy; how you interpret information using subsets of a population to make decisions about it.

Calypsonians are the worst set of people—I want to say this clearly so the *Hansard* Reporter could get it. Calypsonians are the worst samples of people you can use in Trinidad to make an inference about the political opinion of the people of Trinidad and Tobago. I would explain why and show the mischief of the people over there. What I am saying would apply, to a lesser extent, but pertinent and germane nonetheless, to the groups that the Member is claiming support him. It goes like this as an example and explanation.

I used to be an advisor to a former prime minister and was so chagrined and pained on many occasions to see the anguish on the man's face when he was explicating, explaining and trying to do his best for this country when the calypsonians were there singing that he was this and that, about him not liking black people and so forth. They were singing that he wanted to privatize state enterprises. Ten, 15 and 20 calypsonians were singing that he wanted to sell out their patrimony. However, when Mr. Manning became Prime Minister six months

later—he had not sat on the chair well enough—and was selling out what Mr. Robinson was planning to sell out, not one calypsonian sang a song. Not one.

Brother Marvin sang a song called *Jahagi Bhai*; how he saw his grandfather by a jhandi in a dhoti. It is a beautiful song. Some people thought Brother Marvin was robbed and that he should have been the calypso king. Every year after that 10, 15 or 20 calypsonians were on Brother Marvin's case. There is a tale in that. From the evidence available, calypsonians feel themselves—as indeed the same Sugar Aloes that Mr. Manning spoke about—that he had been paid to “pong” Mr. Robinson and he is being paid to “pong” the UNC. Whether they are paid or not, because they belong to a kind of ethnic and cultural constituency they naturally gravitate and feel themselves burdened to articulate the grievance of that constituency. You do not come into this Parliament and claim authenticity for the views of calypsonians on matters of national interest. That is a preposterous and absurd methodology.

Mr. Speaker, the same thing applies to these subsets of populations that the Member is claiming. Taxi drivers are not a random sample; federation of women who support the PNM is not a random sample as indeed calypsonians are not. So, how dare he comes into this Parliament to tell people that because they support him the nation supports him? It is absolutely fanciful that somebody who said he did geology and went to university can come into this Parliament and so deceive people with such biased samples from which he draws, necessarily, erroneous inferences.

Mr. Speaker, this question of somebody from the Hindu community telling the Member for San Fernando East that they do not support the Government. It is not a secret that there are several Hindu organizations in Trinidad and Tobago: Kabir Association of Trinidad and Tobago, Kendra and many others. Very often in this Parliament we are here passing bills to legitimize and give effect to new applicants for legal protection that involves Hindus. It is not just one of them. There are many. I understand that one of them, a high man in the Arya Samaj Movement, is a member of the IRO—they are all members of the IRO—and is a high man in the Opposition, but of course, this is a free country. So, the Member talked to his Arya Samaj member and he said that he supports the PNM but that does not say the Sanatan Dharma Maha Sabha supports them.

Mr. Speaker, it is no secret that many of us on this side have close connections with the executive of the Sanatan Dharma Maha Saba. Some people make a joke with me that I would be the next secretary general of the Sanatan Dharma Maha Sabha. *[Laughter]* So, I know how the Sanatan Dharma Maha Saba thinks.

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It is absolutely incredible and erroneous that the Leader of the Opposition could come into this House and try to mislead people into believing that the Sanatan Dharma Maha Sabha is supporting the position that they must subvert the Constitution and the laws of this country in order to give preeminence to a set of impostors who are deceiving people into believing that their shenanigans, with respect to appeals to human rights committees are, in fact, serving the process of maintaining laws in this country and are part of what we would call the due process of law. That is not true, the Sanatan Dharma Maha Sabha does not do that or else any one of us would have known.

This is not to say that—as so many of us are so likely to say—I am a tool of the Sanatan Dharma Maha Sabha. I am not. I am a free agent and I say what I want. Just this morning I had a quarrel with a big man in the Sanatan Dharma Maha Sabha concerning the fact that some pundits are up in arms because I went to the Asja sixth form and made certain statements about the Prime Minister and Hindu organizations. I do not apologize for what I say in this country. The Constitution gives me the right to freedom of speech and long before I was inside here I knew this. I say what I say because I think it is the right thing to say. I am part of this Government, I support my Prime Minister loyally because that is the right thing to do. When I do not want to do that I would leave the Government and tell them to give somebody else the “wok”. Until I am ready to do that I am a loyal team player.

Mr. Speaker, the media would not trap me and the Sanatan Dharma Maha Sabha would not trap me; nobody is going to trap me into being loyal to their purposes. I would criticize who I want, even if it is that some Hindu organizations have been mobilizing ethnic grievance to promote their own ends. I have said so because that is the particular truth. It is a general statement that one would find in Sri Lanka, India and all over Africa: People are mobilizing ethnic grievance and they end up in trouble. They ended up in trouble in Sierra Leone, Somalia, Congo, Nigeria and Bosnia.

I do not know that after I say that, I am going to go and call Mr. Manning and say that because Dr. Job say so, anybody in the Sanatan Dharma Maha Sabha would support the PNM's position. They do not support it, so that is false. If the Arya Samaj Movement and some other Hindu organization supports it, that is their right. Do not mislead people into believing that that is what all Hindus are about. All Hindus are not about that.

Mr. Speaker, I am trying to go through the substance of Mr. Manning's contribution. *[interruption]* Whatever substance I can find; substance as you may search diligently for and sometimes will not find. What does this question about freedom of the press have to do with what we are doing here? Freedom of the press. We have a Bill which seeks to amend the Constitution of Trinidad and Tobago.

3.45 p.m.

We have a Constitution which all of us have sworn to uphold. I have read out and I shall read again, part 1 section (4):

- “(g) freedom of movement;
- (h) freedom of conscience and religious belief and observance;
- (i) freedom of thought and expression;
- (j) freedom of association and assembly; and
- (k) freedom of the press.”

This is our Constitution. This is our contract between ourselves. We need not appeal to any Inter-American Human Rights Commission or any agency outside of this Republic of Trinidad and Tobago with respect to protecting these. We have sworn to do that. We have done that already. What are you telling me about some Inter-American Human Rights Commission? Why must they have pre-eminence in our jurisdiction to do that with which we have agreed and which, so far, we have been doing very well for ourselves? Except for those instances when the Member opposite has been part of a conspiracy to deny me my freedom of the press, thought and expression by using the instrument and the arbitrary power of the state that he is complaining about. He is saying that we have to protect ourselves against the arbitrary and vindictive power of the state.

This Government has been in power for three years and I do not know that anybody on this side or anywhere in the country—

I am going to read an extensive quotation to show how little these men know of what they speak. Every Monday morning Ken Gordon was on my case saying that Mr. Manning called him last night: “do not call their names.” This is a free country. Yet, the Unit Trust blackmailed the *Bomb*; blackmailed *Express*; blackmailed everybody. “If you are going to support Job we are not going to advertise in your paper or your radio station.” That was happening in this country. He is coming in this Parliament talking rubbish about freedom.

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I used to lecture to children. I still do. I was in San Fernando this week lecturing to the children about these and sundry matters. People would have heard me say that unless and until we understand the value of the capitalist institution of freedom of the press, we will not be willing and we will not be diligent to defend those institutions that we impugn and malign as capitalist agencies.

I said it on sundry occasions that there is no ancient medieval, no African society and no Indian society that had enshrined in law freedom of the press and freedom of thought and expression. In varying times you may have seen them talk about it in the *Bible* but it was not there in law. The press is a capitalist institution. I have lectured on that so I am not against the press.

I quote here from Blackstone's Commentaries:

“In this and other instances which ore have lately considered, where blasphemous, immoral, treasonable, schismatical, seditious, or scandalous libels are punished by the English law, some of a greater, other with a less, degree of severity; the liberty of the press, properly understood, is by no means infringed or violated. The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no previous restraints upon publications, and not a freedom from censure for criminal matter when published.”

I should read that again, Mr. Speaker,:

“The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no previous restraints upon publications, and not a freedom from censure for criminal matter when published.”

They do not understand that. A lot of people here feel freedom of the press is freedom to lie on Morgan Job, freedom to say Panday is a racist and freedom to say that Job said all black people are swine. I never said so. They keep publishing it editorial after editorial. They must go ahead and do that and you must not tell them anything.

That kind of nastiness is what we have to deal with in this country and Blackstone knew that. That is why Blackstone was saying that in book IV chapter 9 of his commentaries:

“Every freeman has an undoubted right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the press; but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. To subject the press to the restrictive power

of a licenser, as was formerly done, both before and since the revolution, is to subject all freedom of sentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion and government. But to punish (as the law does at present any dangerous or offensive writings, which, when published, shall on a fair and impartial trial be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order, of government and religion, the only solid foundations of civil liberty. Thus the will of individuals is still left free; the abuse only that free-will is the object of legal punishment. Neither is any restraint hereby laid upon freedom of thought or enquiry: liberty of private sentiment is still left; the disseminating, or making public, of bad sentiments, destructive of the ends of society, is the crime which society corrects. A man (says a fine writer on this subject) may be allowed to keep poisons in his closet but not to publicly vend them as cordials. And to this we may add, that the one plausible argument heretofore used for the restraining the just freedom of the press, 'that it was necessary to prevent the daily abuse of it,' will entirely lose its force, when it is shown (by a seasonable exertion of the laws) that the press cannot be abused to any bad purpose without incurring a suitable punishment: whereas it never can be used to any good one, when under the control of an inspector. So true it will be found, that to censure licentiousness, is to maintain liberty of the press."

Mr. Speaker, Blackstone; profound wisdom. Nobody in this country must have the freedom to malign and destroy this society and to spread propaganda and create public mischief without censure. Nobody in this Government has said that they should interfere with the freedom of the press. But the Blackstonian principle is inherent in much that I have heard said concerning the need to update our laws which allow people to foment hysteria and create public mischief in this country. That is the position that I have adopted.

Those of you who have read *Acts of the Apostles* will remember that Paul went to speak with the wise men of Athens. They had this place where they would go and discuss matters and Paul told them about his unknown God; some stared at him and a few listened.

How many of us have read Milton: *Paradise Lost*. Times gone by our children used to read these things. They are coming with their "Nancy stories" saying you do not have to learn letter sounds again and how you have to protect children's self esteem so you do not give them any test in school. PNM did all that. I used to

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read Greek mythology in primary school; Pandora's Box, Shakespeare. We stopped reading these things so people are not understanding when they come to say that this group supporting the PNM and that group supporting the PNM.

When you check that group it is a totally biased sample. The inferences that they talked about have nothing to do with the national constituencies. So that when you read Milton on the same issue of why freedom is necessary—all these things I have discussed and I do not have any evidence that anybody on this side has committed themselves to denying the freedom of the press or to denying Watchman, Sugar Aloes or anybody. They say all kinds of things about me but I do not bother with them. They will have to stop singing one of these days. I do not answer them, let them write on. This Government is not about that.

If some people think that we on this side have to attend to their interest in terms of injury done to people according to law, I think Blackstone is the instructor there. Police protections taken away. That is partisan, that has nothing to do with this Bill. It has nothing to do with the fact that people are using all kinds of explanations that have nothing to do with due process to avoid hanging in the society.

I am reading from the Bill again clause 4(5C)(a) of the Bill which says:

“Section 5A and subsection (5A) are deemed—

- (a) to have effect as if they have always been provided for in this Constitution; and
- (b) to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of individual.”

This is what this Bill is about. We are talking about proceedings in any court in which the condemned party will be a party. We are saying that we are trying to make this five-year limit work.

We want to do everything possible to make sure that from the date you have been pronounced guilty by a just and lawfully constituted court that within five years from that moment in time the wishes of the people of Trinidad and Tobago must be carried out. They must not say they did not get roti and because they did not get roti they should not hang. They must not go to court and appeal to the Inter-American Human Rights Commission and say they did not get a cell phone and, therefore, this is a contravention of their human rights. They must not bring these frivolous and mischievous and useless explanations which have only one purpose: to frustrate the will of the people of Trinidad and Tobago.

That is what we are here for and that is why I stood up here this afternoon and spent so much time on these commissions because that big, fat green book the Member is quoting is not American law, and it is not binding on the people of Trinidad and Tobago. Why must we make it binding when we have a Constitution that covers all they are arguing about? The rules we are putting in place are not denying anybody the fundamental human rights enshrined in law. This is what must guide our behaviour, this is our contract. If we do not agree with that let us amend the Constitution to make it so; unless we are ready to do that we want to be led by an anonymous band of do-gooders, self-interested partisan people. We cannot subserve our Constitution to their ambitions.

As I said, even the former Prime Minister understood the meaning of that. The sociological differences that come out of provenances and antecedents in Europe. In Europe within living memory of all of us here there were Governments which used executive power very capriciously and arbitrarily to impose the death penalty; Nazi Germany, Franco Spain and other European countries. That is the tradition from which these things come. That is not our tradition. Our children need to understand these things. They need to understand that laws, attitudes, ideas and culture necessarily come out of the experiences of people and we cannot allow Europeans to impose their experiences on us “willy-nilly” without understanding the provenances that determine and impel certain people to adopt certain postures, for example in Germany. If I were a German I would not want to hang anybody myself because I would be living in daily shame of the holocaust, the gas chambers and of the millions of gypsies murdered. Millions of innocent Germans murdered all over Europe because they had a government using law capriciously.

It is so in Africa today; Sri Lanka, China and other places. That is the provenance of these ideas. In Trinidad and Tobago we do not have that. I have stood up here and I have said in this Parliament, indeed, if you read my book, *Think Again*, I said many people do not know how much they have to thank Dr. Eric Williams for because as a politician he was not malign. I think, fundamentally, the courts in Trinidad and Tobago were left alone to pursue the best judgments according to the constitution and the law.

4.00 p.m.

Mr. Speaker, I want to rest my case by asserting that the purpose for which we are here today is not to pronounce on Mr. Panday or Mr. Maharaj and the positions they have adopted, but to pronounce on a Bill which is to give effect to

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the courts in this country and to due process of law so that criminals who have committed the act of murder shall be hanged by the neck until dead.

Thank you, Mr. Speaker.

The Prime Minister (Hon. Basdeo Panday): Mr. Speaker, I have been trying to find out exactly what the objections are to this piece of legislation. The Leader of the Opposition has talked about everything: the Court of Appeal, the splendour of truth, somebody in a Miami jail, Andy Thomas and Kirkland Paul. All of this has, I think, been beautifully covered by the Member for Tobago East, so I want to deal specifically with cutting out all of the flesh by the Leader of the Opposition to find out exactly to what he is objecting. I do not think he knows.

First, he says that one of the reasons he is not supporting the Bill is because when we were on the other side, we objected to the Bill and we said that we were not there to make the government look good. I want to tell him if he votes against this Bill to punish us, he will not be punishing us, he will be punishing the people of Trinidad and Tobago. [*Desk thumping*] I do not want the Leader of the Opposition to make this Government look good at all. He cannot! He cannot even make himself look good; how can he make me look good? If that is among his reasons why he would not support the Government on this issue, because he does not want us to look good, then I want to assure him that he will be suffering the people of Trinidad and Tobago. This law is not for me or the Government, it is about the people of the country.

The simple issue about this Bill is to prevent murderers from frustrating the law as laid down in Pratt and Morgan by using delaying tactics after their execution has been read, to carry the period beyond five years by using the two human rights organizations. That is the simple issue. There is no other issue before the House. The only issue before the House is about murderers who have been using the human rights organizations in order to drag on and postpone their executions to take it outside of the five years as stated by the Privy Council in Pratt and Morgan.

If that is the case, the Bill seeks to do nothing else besides that. There is nothing in this Bill except to deal with the law as stated in Pratt and Morgan. It must be done in five years, therefore, murderers must not be allowed to raise spurious constitutional motions which will take them outside the period. They must not be allowed to appeal, to take their cases to the human rights organizations and so, take the period outside of the five years. All of this talk

about whether the Americans belong to or do not belong; how silly can one get and say that the Attorney General is misleading this House because he says that the Americans do not have that right? They do not have that right, because although the treaty has been signed, it does not become law unless Congress ratifies it, and Congress has not ratified it.

What, therefore, has the Attorney General said that is false. These are red herrings to escape the truth of what is taking place here today, namely that the Opposition does not want to support this Bill, because they believe it will make the Government look good. That is all there is. There is no other argument. As I said, they may make us look bad, but they will have hundreds of people being killed every year. All of this talk about how we had argued against it and that it does not speak of being a deterrent, Mr. Speaker, even if I had believed that at one time, there are other views.

Forty-eight states in the United States now have death penalty statutes. Since Texas reinstated the death penalty in 1982, Harris County—the county with the highest number of murders in Texas in 1981; 701 murders—has executed more murderers than any other city or state in the United States, and has seen the greatest reduction in murder from 701 in 1981 to 261 in 1996; a reduction of 63 per cent. Why did I mention that? I am not here to justify. As the Member for Tobago East rightly said, whether the law is good or bad, whether it prevents murder or not, that is not what this issue is about. This issue is about upholding the law, as the Member rightly said, and the law now says that if we want to execute people in accordance with the laws of Trinidad and Tobago, we must do so within five years, and the killers are saying that now that they know that, they will drag it on beyond five years, and we cannot execute them.

This Bill has been introduced into Parliament for the simple purpose of saying, “We shall ensure that you will not use these spurious means of dragging it beyond five years, and so defeating the purpose and intent of the law”. What is the Opposition really saying? In one breath, they are saying they are not against hanging and the death penalty, and in the other breath they are demanding that the murderers be given the right to use the human rights organizations to frustrate the law. In one breath they say one thing, and the next breath they say something else.

Their only objection, as far as I have been able to gather from all the nonsense the Leader of the Opposition has sought to engage in in this House this morning, is that we, the Government, are taking away the rights of murderers to go to the human rights organization. That is the basis of their argument. So, what do they

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do? They put forward amendments. I will only touch briefly upon them, because the Attorney General, I am sure, will do a much better job than I.

First of all, they say delete clauses 3 and 4 and replace them. Clauses 3 and 4 have to do with amending the Constitution to prevent them from bringing these spurious motions. They say delete them! They have to do with allowing the murderers to use the human rights organizations in order to frustrate the death penalty. They say delete that! Delete clause 4, delete clause 5, because those are the clauses which are seeking to achieve what the Government is trying to achieve. What they want done, Mr. Speaker, is to introduce in section 4 of the Constitution a new fundamental right. What is that right? All rights acquired to individuals from the participation by Trinidad and Tobago in international treaties. Nothing could have been more stupid than that! Nothing! Not even a first year law student could have done this! I am surprised that the Member for San Fernando West sits there and says that.

All rights acquired by individuals from participation. What does that mean? From participation? What do they mean? Signing them? Is that participation? Because signing a treaty does not make it law. When a treaty is signed, it has to be ratified by the Parliament of this country before it becomes law. What are they talking about when they say, "all rights acquired to individuals"? Even that is nonsensical, meaning accruing to individuals!

If they accept that, we will go through it line by line and we accept that everything is wrong. All rights acquired to the individual. It probably means "accrued to the individual". But, accrued to the individual how? From participation by Trinidad and Tobago in international treaties. What is the definition of participation in international treaties? Mr. Speaker, do you know which international treaties? The hundreds of international treaties that may have been signed by the Government of Trinidad and Tobago since Independence. What are those rights? Does anybody know what they are? Is this House apprised of it? Hundreds of rights included in probably scores of treaties signed by this Government since we became Independent now become a fundamental right under section 4 of the Constitution. Nothing could be more silly than that! That is what they want this House to do? To make into a fundamental right things they do not even know about? When I read it I was shocked. I am sure it was not drafted by a lawyer. It must have been drafted by a geologist. *[Desk thumping and Laughter]*

This does not make sense. In international treaties. Every international treaty? Every one? None excluded? What rights are included in them? So, that cannot be

accepted. To accept that is really to make a fool of the law and to make fools of our people. Note one thing, Mr. Speaker, the Leader of the Opposition spoke for 75 minutes and he did not read these amendments. He is smart. He knew how stupid they would have sounded. I am reading them for him.

4.15 p.m.

He said in the amendment to take out the whole Bill that we have here, throw away clauses 3 and 4, and insert a Part I:

"5A. (1) Notwithstanding any existing law to the contrary, it is hereby declared that a delay of less than five years in the execution of a sentence of death imposed upon a person in respect of a criminal offence of which he has been convicted shall not constitute a contravention of sections 4 and 5."

Mr. Speaker, he asked for that to be deleted because that is exactly what is said in 5A(3), which is one of the clauses he asked us to delete.

Clause 3(a) states:

"a delay of less than five years in the execution of a sentence of death imposed upon a person in respect of a criminal offence of which he has been convicted; shall not constitute a contravention of sections 4 and 5."

Is it not the same thing? Why then did he ask us to delete it. What he did leave out though is:

"(b) any treatment alleged by a person in respect of the grounds referred to in subsection (3)(a) to (f), shall not constitute a contravention..."

Thus, he asked us to delete a clause and introduce an amendment by the Opposition which is the same thing. It has to be, otherwise he would not have asked that the whole of clauses 3 and 4 be deleted.

Mr. Speaker, again, part of his amendment:

"(2) Nothing in this section shall limit the power of Parliament to prescribe any other manner in which the sentence of death may be carried out than it has heretofore been executed."

You know what he does? That is also what he asked to be deleted. He deletes it and then puts forward an amendment to reintroduce it, but he leaves out a piece. When you ask for an amendment you do not ask for it to be deleted and then reintroduce it. You ask for what you do not want to be deleted.

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He leaves out in section 14 and section 86A:

"Capital offence' means an offence which before or on the commencement of the Constitution Amendment Act (No. 2) Bill of 1998 is punishable by death."

I would tell you why he left that out deliberately and you will see how much nonsense these amendments by the Opposition constitute. They are looking for a reason not to support this Bill because they do not want the Government to look good and to have the credit of dealing with crime. They could not do it, so nobody must do it, even if it means saving the nation.

If they were not smart enough, they must not blame me. In fact, when they introduced the Bill they went to the Senate, that in itself was a foolish thing to do, because if you go to the Senate it is going to debate the Bill without the contributions made by the elected members of this country. We are the elected Members and we must take the political flack for what we do or fail to do, not the Senate. If the Leader of the Opposition is now repaying us for refusing to support them, I would tell him something: if he had any political sense at all and he thought we were wrong, then he should have done exactly what we are doing here today. Bring the Bill, force us to vote against it and take us to the people; which is what we are going to do.

If they had any guts, merely because "we say we not supporting them they doh bring the Bill," bring the Bill before the Parliament, lay it here, force us to vote against it and to do something the people do not want and then we would have to answer to the people. If they had done that and we had voted against it and the people wanted it, they might have still been on this side and we might have been on that side. [*Laughter*] And they will continue to be there until 2015 if they do not support this legislation. [*Desk thumping*].

We are not afraid, we know that the final arbiters in these matters are the people; not him or me, not this Parliament but the people. If the PNM vote against a piece of legislation that is designed to protect the people, they will answer to them, not to me or the Government. As they accused us of not supporting them, they should have brought it here.

They want to add a new clause 5:

"(a) Subsection 4(l) and Section 5(A) are deemed to have effect as if they have always been provided for in the Constitution".

Are they saying that the rights people have acquired under the treaties would now be deemed to have always been part of the Constitution? Is that what is

happening here? If that is the case, what about those people hung outside of it already? Can they bring action against the state? Would there be a never ending series of litigations? What do you mean by saying that? "Always" means now and in the past.

Therefore, all the rights that people acquired under the treaties he is talking about and which had been violated by the Government, are now rights they always had in the Constitution! They always had that right in the Constitution and the state would have acted as if that law did not exist, now it is put in the position where it should have acted as though this was part of the Constitution. That does not make sense; total nonsense. Geologists should leave law to lawyers.

Mr. Speaker, another amendment brought by the Member for San Fernando East states:

"Notwithstanding the provision of Clause 5(a), with respect to Section 5(A) this clause shall have effect only for the persons who are under sentence of death at the time of proclamation of this Act".

What happens to people who "come under sentence of death" after the proclamation of the Act? [*Interruption*] Should I read that again?

It means if we pass a law now and proclaim it next week, it would apply only to those persons who are on Death Row. What happens to those who come under the sentence of death after the proclamation? And another thing, engineers should also not interfere with law, especially those making deals all over the Caribbean. We want to export products from this country, not corruption. [*Cross talk*]

This clause says "shall have effect only for persons who are under sentence of death at the time of proclamation". Persons coming under the sentence of death after proclamation cannot apply. You notice he deliberately removed our clause which states:

"In this section 14 and 86(a) 'capital offence' means an offence which before or after the commencement of the Constitutional (Amdt.) Bill is punishable by death."

That is the one he wants removed. It also states:

"In this section 5(A) and 86(A) apply to all persons charged with a capital offence upon whom the death sentence has been imposed by the Court whether before or after the commencement of this Act."

The Member wants that part out and for us to put in a clause that says it must apply "only to those persons who are now on Death Row".

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Mr. Speaker, the Opposition is not serious in its objections to this law, it is playing political games with the lives of people. It did not have the guts to bring this law in the first place and now that we have brought it, it is working out of sheer spite. We did not support it when they had it so they are not going to support it now. The other side sees all of these things as personal matters. I do not see this as a personal matter at all but as a matter affecting the country.

Let them vote the way they want, they will answer to the final arbiters in this matter, the people.

Thank you. [*Desk thumping*].

Mr. Speaker: Do you want to stop now and take a break?

Hon. R. L. Maharaj: I would speak for the four minutes.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, according to the amendments proposed by the Opposition, the people on Death Row would now have a constitutional right for their matters before the international human rights bodies to be determined, so that their execution would not be carried out until those matters are determined.

It is a matter of public record that seven persons' death warrants have already been read to them within the three and a half-year period and that there are other persons on Death Row including persons who are known to and are friends of the Members of the Opposition. Those persons, subject to the decision of the Mercy Committee, death warrants can be read against them. The Opposition would like those people to have a constitutional right. The Members are asking for section 4 of the Constitution to be amended so that the fundamental rights clause can be amended so that they would have a fundamental right to have their matters determined before the international human rights bodies.

This Government is not prepared to succumb or compromise the people of Trinidad and Tobago. [*Desk thumping*] We are not prepared to give their friends on Death Row any constitutional rights for them to get away from being executed. This Government believes that this Bill would have prevented Death Row prisoners from utilizing court time, state funds and making a mockery of the criminal justice system to have constitutional motions filed, in order to have the nature of prison conditions to be regarded as a fundamental right.

I would demonstrate that in all of the cases in which death warrants have been read and all the matters now before the human rights bodies we have allegations

of matters which are frivolous and which these human rights bodies are taking years to determine.

For example, if one goes to prisoner Haniff Hillaire, the complaint he lodged as breaching his fundamental rights which the human rights body will take four years to determine, and what they want to make a fundamental right is that he has been placed in a cell by himself; the cell is hot and his sleep is affected by the heat; his sleep is interrupted by noise; water in the shower is cold; he is forced to wear standard prison clothes which is hot; he is entitled to see friends and relatives for only 15 minutes; he is not provided with shampoo; his family is too poor to visit him except occasionally hence he believes that the state should give money to them to make them visit him and the state should also provide a subsidy for them to be supported.

Those are the allegations of fundamental rights which the Opposition is saying should be given to condemned murders to avoid the death warrant being carried on them.

4.30 p.m.

Mr. Speaker, these are the kinds of fundamental rights the Opposition wants to give to their friends in the prison. This is a matter in which the time has come to level with the population. We intend to level with the population. Why is it that the Leader of the Opposition, with the same policy while in government, is now not supporting the Bill? The Leader of the Opposition got up and talked for 75 minutes and gave no explanation as to why he did not bring the bill to the Parliament. He gave no explanation as to why, when the bill went to the Senate, it was not to cover matters like these and his attorney general withdrew it in the Senate. He gave no explanation why he did not bring a bill with the same policy to the Parliament in May of 1995. He did not put it out for public comment. Was his friend arrested in 1995? Was his friend in difficulties in 1995? What has happened, Mr. Speaker, to the Opposition that they have changed course?

Mr. Speaker: The sitting of the House is suspended for half of an hour.

4.33 p.m.: *Sitting suspended.*

5.06 p.m.: *Sitting resumed.*

Hon. R. L. Maharaj: Mr. Speaker, as I was saying before we took the tea break, the Opposition's proposed amendments seek to add to the rights of a condemned murderer—a person who has received due process of law, has had his

conviction affirmed by the Privy Council and who has had every opportunity to challenge the convictions—by entrenching into section 4 of the Constitution a fundamental human right that a condemned prisoner would have the right acquired to him in an international treaty.

Mr. Speaker, I must confess that the amendment is not clear and I support the hon. Prime Minister's comments about the amendment to clause 3 and I would add to what he has said. Under the Constitution of Trinidad and Tobago, section 4, guarantees fundamental rights. In that section it recognizes that the rights, which are enshrined there, have been existing in Trinidad and Tobago before the Constitution came into force. It is saying that those rights are now placed in a written document to constitutionalize—to use that expression—these rights. These rights are stated as follows:

“It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms”

So there were no new rights. These were the rights which were enjoyed by the people of Trinidad and Tobago, but were not in a written constitution. On gaining independence, one of the conditions of independence, was that these existing rights would be enshrined. There were to be no new fundamental rights; only the rights which were considered to be enjoyed by the people of Trinidad and Tobago. That is why there is:

- “(a) the right to...life, liberty, security of the person and enjoyment of property.
- (b) the right to...equality before the law...and protection of the law;
- (c) the right of the individual to respect for his private and family life;
- (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;
- (e) the right to enjoy political parties and to express political views;
- (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;
- (g) freedom of movement;
- (h) freedom of conscience and religious belief and observance;
- (i) freedom of thought and expression;

- (j) freedom of association and assembly; and
- (k) freedom of the press.”

5.10 p.m.

These are the rights which are enshrined in the Constitution and protected so that Parliament cannot alter these rights unless there is a specified majority. They are specific rights and if the state contravenes these rights then a person can go to the court and get redress for the violation of these rights.

What the Opposition now wants to do is put the rights of condemned prisoners to go to the human rights bodies as an entrenched right so that if we have to alter it at any time we will have to get a specified majority. Here it is that the Opposition also wants to give to condemned prisoners the right that if they have these human rights bodies and applications, the matters are not determined and the state attempts to execute them, not only will it be prevented from executing them, but they will be entitled to damages. Therefore, we have a situation where the victims of these horrible murders are not given compensation by these criminals, the persons who are convicted for these horrible murders, but the state, according to the Opposition, must provide money for these people while they are on Death Row.

Mr. Speaker, it shows that the Opposition really is an Opposition which operates in a *ad hoc* manner. Everybody knows, even law students and lay people would know that there is a distinction between international law and municipal law or local law. Where there are relationships between two countries in a treaty, local law or municipal law cannot deal with those matters. It is an essential principle of law that international law is not enforced in municipal courts.

As a matter of fact, I would like to put on the record that principle of law which had to be enunciated again in 1990 in the House of Lords in England. The case of *Maclaine Watson and others* and the *International Tin Council* reported at page 128:

“It is settled law that municipal courts have not and cannot have the competence to adjudicate on, or to enforce the rights arising out of transactions entered into by independent sovereign states between themselves on the plane of international law.”

Mr. Speaker, at page 119 of that judgment it also says:

“Treaty rights and obligations conferred or imposed by agreement or by international law cannot be enforced by the courts of the United Kingdom.”

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Although it is set law that treaty obligation for an individual in Trinidad and Tobago was not a fundamental right before Trinidad and Tobago became independent, it is also not possible for the courts of Trinidad and Tobago to enforce treaty obligations in the courts of Trinidad and Tobago because treaty obligations are between states. If a state violates a treaty the state answers internationally to the body for that but courts cannot enforce international obligations.

This amendment by the Opposition is attempting to bend the law for the friends of the Opposition so that they would have a fundamental right; bending the law so that they would have a right to damages; bending the law so that they would be able, when a death warrant is read to them, to say that they can go to the courts and they have a fundamental right; a new fundamental right.

Mr. Speaker, I mentioned, with respect to Haniff Hillaire, the fundamental rights that he is alleging. I want the Parliament to know that the impression which was given by the Leader of the Opposition that the commutations of the death sentences which occurred after we got into office was because this Administration was careless or did not act, the record would show—and that record has been laid in this Parliament in a document—that all of the death sentences which had to be commuted up to that time was because the last administration did not take steps to implement *Pratt and Morgan*. The delays that occurred exceeded the period of time when that administration was in office. As a matter of fact—and I put on the record of this Parliament—all of the death sentences which had to be commuted when we got into office had to be commuted because the PNM administration allowed the time period, either for the appeal process at the Court of Appeal, the Privy Council or the human rights bodies, to be exceeded. The records will show that.

When the Leader of the Opposition gets up in this Parliament and says words to the effect that this Administration did not do anything to prevent that, he must know that his government was incompetent and inefficient and I do not know what he used to be doing in the Prime Minister's office. Obviously he was not doing anything.

Another condemned murderer, Danny Baptiste, one knows that these two, people Haniff Hillaire and Danny Baptiste, were involved in the murder of a man. They went to the man's home and beat him on his head until he died and beat him mercilessly. These men are now saying—and the Opposition is supporting them—that they want to have these allegations, that is to say, whether they were in a cell by themselves, whether their sleep was interrupted by noise, whether the shower is

cold; those are human and fundamental rights and we must wait until the human rights body determines them.

I read about Haniff Hillaire. These are the new kinds of rights which the PNM wants to create in Trinidad and Tobago for Death Row prisoners. The PNM wants to say that if a Death Row prisoner is placed in a cell by himself that is a fundamental right; the PNM wants to say if the cell is hot and his sleep is affected by the heat that is a fundamental human right. The PNM, by the amendment, is asking this Parliament to agree that if a prisoner's sleep is interrupted by noise that is a fundamental right; if water in the shower is too cold for a prisoner that is a right. People outside could get cold water in the shower and that is not a breach of their fundamental rights but for Death Row prisoners it is.

Mr. Speaker, this is utter madness. Let us hear what prisoner Danny Baptiste said about the breach of his fundamental rights. Mr. Speaker, bearing in mind that these are allegations of breaches of fundamental rights which these people have gone to the Inter-American Commission on Human Rights—that big green book that he read from and did not understand—this is what Mr. Danny Baptiste is alleging, that he should not be executed because his fundamental rights have been infringed and they are saying that the human rights body should be given three, four or ten years to determine that.

Fundamental rights: there is no privacy in a cell. Imagine Death Row prisoners must have privacy in a cell. There are no fans in the prison; the standard of the food is poor and there is not a great variety of food; he does not always receive his overseas mail promptly. These are the amendments that the Opposition had. One can understand why the Leader of the Opposition did not refer to it at all. He did not read anything from this, he read from the big green book about the state of all kinds of places. He read from the Pope but he did not read his amendment. He was ashamed to read from this.

I find it very significant that on an important debate like this nobody else spoke. So many lawyers, as a matter of fact the Member for Laventille East/Morvant pretends he is one of the greatest lawyers in Trinidad and Tobago, he knows everything, he is raising a placard. Not a voice has been heard, not a drum was heard but a funeral note. [*Desk thumping*]

Mr. Speaker, this is an Opposition amendment for Haniff Hillaire and Danny Baptiste but let us hear about Darren Roger Thomas, another person convicted of murder and sentenced to hang. We have read a death warrant for him and he is

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alleging the Court of Appeal decided against that matter which is now before the Privy Council. Now, according to the Opposition, they want that to be a fundamental right. Darren Roger Thomas is alleging what the Opposition is saying that we should wait until the human rights body determines the matter because they have a constitutional right to have their matter determined. They have what is called a legitimate expectation.

Let us hear what the Opposition is voting for: to have human rights for Darren Roger Thomas. It seems that they all decide they would have one set of points and send it up because they all know that as soon as they file it before the human rights bodies, the time passes and they cannot execute. That is why the PNM gave them the bad habit to do anything—practise incompetence, and inaction. Say they are passing a Bill, they did not even introduce it in the House, when they introduced it in the Senate they introduced the wrong thing and then withdrew. They sat in Cabinet and said they were passing a Bill but they do not even bring it to the Parliament then they say the Opposition prevented them from passing Bills. Mr. Speaker, if a government cannot function because the Opposition prevented the government from governing, then the Opposition deserves to be in government. If they think that this Bill would prevent us from doing our jobs for the people of Trinidad and Tobago in carrying out the death penalty, they have something coming. We will show them that they would vote against it and they would pay the price for it.

Darren Roger Thomas' complaint is before the Inter-American Commission on Human Rights. The seven people who sit on the Commission are people who do not believe in the death penalty. They come from countries which have taken a decision not to implement the death penalty. As a matter of fact, the Commission Chairman admitted to us that most of the people who comprise that body, which consists of more than seven at times, are people who do not believe in the death penalty. This is what these people are taking so long to decide. His fundamental rights infringed because his cell is very hot and it affects his sleep. He is taken out once every one to three weeks, depending on staff availability, and during this period he remains in handcuffs and is only able to stand or walk.

5.25 p.m.

He is entitled to see friends and relatives for only 15 minutes and communication is restricted through a plastic barrier. The lack of air circulation makes his visit very uncomfortable. Mr. Speaker, I want to put this on the record, because we want to show that these are the facts.

Tony Briggs and Wenceslaus James; what are their allegations? His cell is covered by bars and mesh wiring. That is his fundamental right that is infringed. His cell is opposite that of a prisoner who has been diagnosed with tuberculosis, and the prisoner fears that he, too, will contract the illness, so his fundamental right is infringed. He expects to live, because the Opposition promised him that he would live. He is rudely awakened in order to be searched, after which he finds it difficult to get back to sleep. Wenceslaus James complained that he was placed in a cell by himself and there is a phone outside his cell which rings frequently, especially at night, which prevents him from sleeping. He relies upon local newspaper articles and, therefore, he wants to get copies of also the foreign media. *[Laughter]*. So, we see what a joke this is. I am not surprised, because this is a joke opposition.

Mr. Speaker, about Clarence Charles. Let us hear his article 5(1) and 5(2) of the American convention on human rights, from which the Leader of the Opposition read, but he did not say when he was reading that those rights in the big green book are the same rights enshrined in the Constitution of Trinidad and Tobago. He did not say when he was reading that the prisoner, when he goes to Court of Appeal, if he feels his rights are infringed, he could say that, but he would not go to the Court of Appeal and say his cell is hot. He will go to the International Human Rights Bodies, because he knows that those are the groups of people who are there and they want to abolish the death penalty.

Everybody knows in this Parliament and the country that they are not genuine about these human rights bodies, because the PNM never believed in human rights in the first place. They violated human rights in Trinidad and Tobago. They conspired and wanted to abolish the Service Commission, they locked up the Speaker, as a matter of fact, they adversely undermined the Commissioner of Police's job. They have a record of violating human rights in Trinidad and Tobago, and the Leader of the Opposition gets up in this Parliament and talks about wanting to give people time when a death warrant is read.

How much time did they give Ashby? Mere minutes. Six o'clock in the morning, while the case was going on in the Court of Appeal and lawyers for the state gave on undertaking before the Privy Council in London not to execute, and the man had a claim before the same body, he talks about—the International Human Right Body—his Government did not give four days' notice. They went with instant notice and executed the man. As a matter of fact, that is why in the papers that I have laid in this Parliament, every Member of the human rights

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committee in their preliminary finding found that the then government of Trinidad and Tobago nakedly violated the Constitution and committed extra-judicial murder. They found that the government of Trinidad and Tobago murdered Glen Ashby and they got up today in a matter like this to talk about guaranteeing fundamental rights to human rights bodies. What shameless Opposition is this?

Mr. Speaker, the United Nations Human Rights Committee has made it quite clear, and the Inter-American Commission on Human Rights has made it quite clear, the Leader of the Opposition knows that, that if Trinidad and Tobago is a party to those bodies in capital cases, they would not complete the matters in accordance with law. They said that. I am reading from a letter from April 9, 1998 to the Ambassador for Trinidad and Tobago to the United Nations. It says:

“As to future cases, the committee's work is always unpredictable. It is an independent treaty body with its own duties and responsibilities which the Trinidad and Tobago authorities will understand cannot, as a result, give an undertaking to any one state party.”

So, it is saying not only on the record to us, it wrote us, the Government, saying it cannot give an undertaking to comply with the laws of Trinidad and Tobago, but here it is he wants now to give them a human and fundamental right in order for them to go to the human rights bodies so they would say that we cannot execute them.

As a matter of fact, every time a death warrant is read in Trinidad and Tobago and that person goes to court and the person says, that he is angry because of the nature of prison conditions, the blood of the nation of Trinidad and Tobago would be on the Opposition. They would have caused that. When, in a few weeks time, more death warrants are read subject to law, and people go to the courts and allege some of these things, the Opposition would be responsible for that.

Mr. Speaker, let us look at Clarence Charles. I am saying this because the Leader of the Opposition does not understand what he is doing. What we said here today is that this Government was able to do what the last government could not do. This Government was able to read death warrants within the time-frame; the target which the Privy Council set. Although it set five years, it said that if we do it within three and one half years, nobody could say we are violating his or her right. So, those warrants which have been read, have been read within the target set by the Privy Council. They could not have done that. They did not do that. We did that in two and one half years.

What this Bill was about was not to prevent that kind of delay, because we all know that five years is the period of Pratt and Morgan. The Bill specifies that, also. What the Bill is about is to prevent the misuse and abuse of constitutional motions for matters like what they take before the human rights bodies. Let us see what this other Death Row prisoner to whom a death warrant has been read is saying has happened to his fundamental rights before this international human rights body which the PNM wants Death Row prisoners to have an enshrined right in the Constitution.

Prisoner Clarence Charles is complaining a breach of article 5(1) and 5(2) of the American Convention on Human Rights, what is contained in that big green book. Inmates are not provided with adequate materials to clean themselves. So, we are getting some new things. I wonder whether they are getting it from the Member for San Fernando East. Since sentence was passed, he has been kept in a single cell with a small vent and steel bars. Where does he want to be kept? A cell with steel bars and vents! Where does he want to be kept?

We also have Samuel Winchester. These two allegations, the human rights bodies had it for years, and they did not make a decision. We decided, notwithstanding that, we are going ahead. To show you how the Leader of the Opposition does not understand this Bill, he does not understand that we took a decision that if they do not comply within the 18-month time limit, we are not waiting for them, we are going ahead. The position that they have would be considered by the Mercy Committee. As a matter of fact, we printed instructions which specified that, and the Death Row prisoners claimed that those instructions were null and void, and the Court of Appeal ruled that those instructions were lawful and in the best interest of Trinidad and Tobago.

What the Opposition is voting against today is the Court of Appeal decision of Trinidad and Tobago which ruled that these prisoners must be executed, and these are not fundamental rights or do not create any rights. Here it is that they are voting against the decision of our own Court of Appeal which ruled that these allegations are not really fundamental rights and do not create any rights to the prisoner.

Mr. Speaker, I would like to put on the record Justice Anthony Lucky's comments, the candidate put up by the Opposition to serve as the President of this country. He is a very distinguished judge, and in dealing with one of the matters that came before him, the matter of James & Briggs, here is what this judge said after talking about the constitutional motion about prison conditions which they want to entrench in the Constitution:

“In doing this, no one should be allowed to use the administration of justice and the law as engines for perpetual motion. Litigation must come to an end. It cannot go on forever. These applicants were convicted and sentenced, and they exercised their rights under due process by appealing to the local Court of Appeal and the Privy Council. The appeals were dismissed. The law of the land provides that a person found guilty of murder shall be sentenced to death and shall be executed. It is the duty of the judge to recognize that law must not be abused and the law should not be used and abused and not to permit applications which can be deemed frivolous, vexatious and an abuse of the process of the law.”

Mr. Speaker, what the Opposition is, in effect asking us to agree to, is to entrench in the Constitution processes and procedure which would promote an abuse and misuse of the law and legal processes, but another death warrant was read within the three and a half years—which they could not have done—to a man called Samuel Winchester, and let us see what rights he is saying have been infringed. He filed this before the Inter-American Commission on Human Rights. He says that he is locked up in his cell alone; he has no recreational or educational opportunities to occupy his time; he is under constant watch by a prison officer—they want to make the Constitution a mockery—a generator at the back of his cell runs almost constantly making his sleep wearisome because of the noise; his furniture in his cell is inadequate and consists of one bench, one table, one iron bed and a slop pail. He wants more furniture! More furniture for prisoners in Death Row is a fundamental right for the Opposition to enshrine in the Constitution of Trinidad and Tobago! He also says that he is only allowed 15 minutes to visit his friends and relatives, and his visit takes place near a cell, because there are no visiting rooms.

When one reads the nature of these murders which have been committed by these persons, one asks oneself the question, “How is it that an Opposition which has recognized that it has accepted the Pratt and Morgan decision that five years is the time-frame, and has drafted law to that effect—it did not come to Parliament to pass the law—is now saying that it wants to support that legislation because it wants to give human rights to these condemned prisoners which will involve them not having one cell, they will probably have to have a bedroom, a suite, maids, all sorts of things?”

5.40 p.m.

The Leader of the Opposition really seems to be a Member of Parliament who is concerned with trivialities. He spends some time in his contribution talking

about the fact that President Carter signed this convention and it was a big thing that it was signed, but it was not passed in the Congress and that under the American system they facilitate the Inter-American Commission on Human Rights to have jurisdiction. He spent such a long time reading it. I have his contribution.

Mr. Speaker, the point we were making is that when a country which has the authority to sign becomes a member, it is a fact that the United States of America is not a party to the American Convention on Human Rights, that cannot be disputed.

It is also a fact that America and Trinidad and Tobago are part and parcel of the Organization of American States (OAS) arrangement. Being within that organization is bound by the American Declaration on the Rights of Man. Under this declaration the Inter-American Commission on Human Rights has some jurisdiction to investigate matters which affect the rights set out in the declaration.

Trinidad and Tobago, like America, is subject to that jurisdiction, but what is the difference? The difference is that a person in Trinidad and Tobago does not have an individual right to petition the body. And there is a distinction, because if you have an individual right it therefore means that possibly in international law you will have international obligations to that individual. Thus, we are not part of the American Convention on Human Rights. That is why when America is carrying out executions, even though the Inter-American Commission on Human Rights make findings for them not to do, America continues to carry them out. It has taken the position that the death penalty is not part of international law but part of municipal law. The state has a right to carry out the death sentence and the Inter-American Commission on Human Rights which consists of people who want to abolish the death penalty cannot impede America.

Mr. Manning reads from this big, green book and talks a lot about a case, but does not understand anything about it. He read all the rights of the Inter-American Commission on Human Rights, but he is such a stranger to the truth and so wanted not to disclose the truth to this House that the position of the citizens of Trinidad and Tobago is of such that they cannot go to the Inter-American Commission on Human Rights on an individual complaint. Member of the press, Mr. Julian Rogers or anybody else could have petitioned the United Nations Committee on Human Rights.

The same rights enshrined in the Inter-American Commission on Human Rights are also enshrined in the United Nations International Covenant on Civil and Political Rights which form the basis of the jurisdiction of United Nations

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Committee on Human Rights. Therefore, for him to say that he wants matters taken to human rights bodies because it is a matter of principle and quote Julian Rogers and all those instances to muddy the situation as he thinks he can do, creating red herrings, is not being truthful.

Every citizen in Trinidad and Tobago at the present time, unless a person has a death penalty over his head, that person in respect of any right enshrined in the International Covenant in Civil and Political Rights, can petition the United Nations Committee on Human Rights and allege the violation. The human rights body has the jurisdiction to investigate, the Government has to respond and consider its decision.

The Member for San Fernando East is annoyed when we say that he is misleading the House and the nation, so to give the impression that a journalist like Julian Rogers would not have any right to go to an international body is untruthful. As a matter of fact, Julian Rogers could have filed a constitutional motion if he thought his rights were infringed. The Leader of the Opposition filed one but he lost. He could have gone to the United Nations Committee on Human Rights if he thought he had a case.

Mr. Panday: Has he paid the costs?

Hon. R. L. Maharaj: No, up to now he has not paid, he has asked for time. Moneys collected have not been paid, this foundation democracy fund. The state has been asking him for the money but he has not paid it.

Mr. Panday: He collected \$2 million, where is the money?

Hon. R. L. Maharaj: Then he criticizes the Attorney General for talking the truth. The truth is that the PNM government executed Glen Ashby unconstitutionally and illegally. That is a truth, because it gave an undertaking for him not to be executed and the international community has found that. The United Nations Committee on Human Rights, this same human rights body that he is talking about, is still investigating the matter, and that is why I said this may be a matter which the United Nations could refer to the International Court of Justice which His Excellency, Mr. Robinson, has been fighting so long to get in the world. I should not talk about that. I must say that the PNM administration did not violate the Constitution and the convention.

This is not a debate about whether the Attorney General as a lawyer in practice appeared for condemned prisoners to argue matters. Is the Opposition saying it is not going to support this Bill because the Attorney General as a lawyer argued the

matters of Stanley Abbott, Kitson Branche and others to contend that the delay could operate as a bar to carrying out the death sentence, when even the Privy Council later on, vindicated that position in law?

Is the Opposition saying that one of the reasons it cannot support this Bill is because the Attorney General in private practice—which was his job and his duty to do—argued any case for his client, taking any point in his favour which is in the law of the land and the human rights and fundamental freedom, and now as Attorney General he is bringing a law because his client is now the public of Trinidad and Tobago and he wants to protect the public interest, that it is not going to vote for it because the Attorney General as a lawyer appeared for condemned prisoners?

I could now understand why the PNM could not have governed properly, it was not able to put country first. The hon. Prime Minister, the Attorney General and some hon. Members on this side took certain positions on the death penalty. When we got into Government we decided that the country must come first, personal wishes and emotion later, that is that law and that is the Constitution of the land. The Opposition is against us for putting country first. It is saying that it is not going to vote for this Bill because "all yuh put country first; when all yuh was in Opposition all yuh talked about the death penalty now yuh want to put country first, we not going to support yuh on this Bill".

I have dealt with clause 3 which does not make sense and the hon. Prime Minister has dealt with clause 4. I cannot understand why the Opposition would want to amend a Bill like this by deleting the same clause and typing it on their paper. It comes on an important measure like this—it is going up and down the country and we are going up and down the country and the hon. Member talked about transitional provision which I do not think he understands because he did not explain what that was. He said all kinds of things about this Bill and comes with amendments. In the first section he puts an amendment which cannot be supported and then in the other one he removed our clause and retyped it on a new piece of paper; that is the second clause of the amendments.

I do not know why he wants to put a clause to say it is deemed to have effect if it has always been provided for in the Constitution. In other words, he is saying that we must pass an amendment which would be regarded as being effective to give these rights to the condemned prisoners as when the Constitution started. Therefore, from 1962 the families of everybody who got executed, can file

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constitutional motions for compensation against the state for breach of constitutional rights.

As a matter of fact, I have a list of the people on Death Row whose matters are about to face the Mercy Committee, and they under these amendments, would be able to file, because now they, have a fundamental right to say their rights were infringed because it is as if it existed before. In effect, the Opposition's friends in prison—and I notice that they are not disowning them—could use this section to file a constitutional motion to say that their fundamental right to these matters before the human rights bodies were violated.

Mr. Speaker, there is no way that any Government which wants to protect the rights of the people of Trinidad and Tobago can agree to this. The other side knows that we cannot agree to this, but they only put this as a red herring to show that this is why they are voting against the Bill. They know we cannot agree to this.

Mr. Speaker, they were in Government and you heard their Cabinet decisions. Did they ever agree to this? When they sat in Cabinet in 1995 they did not agree to put human rights bodies as part of an entrenched right or to give prisoners right to file for compensation. When they went back in May of 1995 they decided what we now have before the Parliament, they did not agree to this. They knew that this should be torn up.

Then they said that notwithstanding the provisions of clause 5 with respect to section 5 this clause would have effect only for the persons who are under sentence of death at the time of the proclamation of the Act. According to the PNM people who would be sentenced to death after the proclamation of the Act do not want to have the provisions of the Act.

If any government agrees to this the people on Death Row could file a motion right away and say the Act is unconstitutional, and I do not know whether that is the ploy to get us to agree to this so that if the Bill is passed their friends could file a motion to say that the death sentence is unconstitutional because the Bill is unconstitutional.

How could people who have been in Government come up with something like this? I am not hearing the lawyers, I see them with their hands by their mouths, they are quiet. [Cross talk]. Is there a conspiracy? You will get your chance to vote.

5.55 p.m.

Is there a conspiracy between the Opposition and some persons known or unknown either in or out of custody to try to get the Government to agree to these

amendments so that it would be an ammunition for them to escape the death penalty? It is clear to anybody that if this is put in this Bill, it would be regarded as unconstitutional by the court. It would be giving to the condemned prisoner in Death Row, a new and additional delaying tactic.

Mr. Speaker, we all know that even though Parliament passes laws, the courts still have the jurisdiction in some cases to declare a law to be unconstitutional, and I am making the statement that I accuse the Opposition of putting amendments which they know cannot be supported and if included in this Bill, would give strong arguments for the Bill being held unconstitutional, and it would be giving additional weapon to the Death Row prisoner to escape the hangman.

Mr. Speaker, we cannot accede to the Opposition's request. We have a duty to the people of Trinidad and Tobago, and this Government would do its duty without fear or favour and it is fully aware of the steps which have to be taken in a matter like this depending upon what happens in this place.

Mr. Speaker, I beg to move.

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

The House divided: Ayes: 21 Noes: 13

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P.

Rafeeq Dr. The Hon. H.

Assam, Hon. M.

Job, Dr. The Hon. M.

Khan, Dr. F.

Singh, Hon. G.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Mohammed, Dr. The Hon. R.
Singh, Hon. D.
Ramsaran, Hon. M.
Sharma, C.
Ali, R.
NOES
Valley, K.
Manning, P.
Rowley, Dr. K.
Imbert, C.
Narine, J.
Hart, E.
James, Mrs. E.
Bereaux, H.
Joseph, M.
Sinanan, B.
Boynes, R.
Hinds, F.
Williams, E.

Question agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

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

Mr. Chairman: I take it hon. Members that you all have the list of amendments submitted by the Attorney General and some proposed amendments which were submitted by the Member for San Fernando East.

Clause 3.

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

Mr. Valley: Mr. Chairman, there is an amendment as circulated. We are willing, of course, to make the adjustment, but I think the intent is clear.

We are suggesting that clause 3 as circulated be amended to read:

“All rights of petition to individuals accrued by virtue of accession to international treaties in relation to civil and political rights.”

Mr. Chairman: Hon. Members we have before us a proposed amendment of clause 3 by the Member for San Fernando East and one by the Attorney General.

Mr. Valley: Mr. Chairman, with respect to the amendment which was circulated by the Member for San Fernando East.

Mr. Chairman: Yes. And you are asking that clause 3 be deleted and replaced with another clause 3.

Mr. Valley: Yes, Mr. Chairman.

Mr. Chairman: So you are asking that clause 3 be amended as circulated?

Mr. Valley: Yes, Mr. Chairman, but we are modifying that which was circulated.

Mr. Chairman: What is the amendment you are suggesting?

Mr. Valley: After the word “rights” in line 1 we would delete the rest of it and replace that by the words “of petition to individuals accrued by virtue of accession to international treatise in relation to civil and political rights.”

Mr. Chairman: We simply have before us that that clause be amended as circulated, then we would take the other one and vote on them both.

Question put and negatived.

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

- | | |
|-------------|--|
| In clause 3 | A. Delete subclause (1) and the umbrella words of subclause (2) and substitute the following: |
| | “5A.(1) Subject to sections 86A and 109, and sections 42 to 65 of the Supreme Court of Judicature Act and notwithstanding any law to the contrary, where a person has been convicted and |

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sentenced for a capital offence there shall be no stay of execution, commutation, alteration or remission of the sentence by the Court on any ground including the following grounds.”

- B. After the word “execution” in the last line of paragraph (b) of proposed section 5A(1) insert the words “where such time is not less than
- C. Insert the words “prescribed by law” after the word “sentence” in paragraph (d) of proposed section 5A(1).
- D. Delete paragraphs (f) and (g) of proposed section 5A(1) and substitute the following:
 - “(f) the provisions of any Treaty, Convention, Agreement, Protocol, Letter of Understanding or Arrangement between States, however designated, to which Trinidad and Tobago is a party, applicable Customary International Law or substantive rule or procedure under International Law or any other undertaking of a related nature;
 - (g) there are proceedings in which the person is a party pending before any court.”
- E. Insert the following new subsection (2):
 - “(2) Nothing contained in subsection (1)(f), whether by implication or otherwise, shall be construed as recognition that the Treaty, Convention, Protocol, Letter of Understanding or Arrangement between States, however designated, to which Trinidad and Tobago is a party, applicable Customary

International Law or substantive rule or procedure under Inter-national Law have the force of law or give rise to any rights in law or any legitimate expectation, in Trinidad and Tobago.”

- F. In paragraph (b) of proposed section 5A(3) delete the words “(3)(a) to (f)” and substitute the words “(a) to (g).”
- G. Insert the words “and any place” after the word “manner” in subclause (4).
- H. Insert after subsection (4) of proposed section 5A the following new subsection:
“(5) In this section, section 14 and section 86A “capital offence” means an offence which, before or on the commencement of the Constitution (Amendment) (No. 2) Act, 1998 is punishable by death.”

6.10 p.m.

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

Clause 4.

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

Mr. Valley: Mr. Chairman, I beg to move that clause 4 be deleted, and substituted as follows:

Part 1A.

Exceptions for Capital Cases

- 5A. (1) Notwithstanding any existing law to the contrary, it is hereby declared that a delay of less than five years in the execution of a sentence of death imposed upon a person in respect of a criminal offence of which he has been convicted shall not constitute a contravention of sections 4 and 5.
- (2) Nothing in this section shall limit the power of Parliament to prescribe any other manner in which the sentence of death may be carried out than it has heretofore been executed.

- B. Delete subsections (2) and (3) of proposed section 86A and substitute the following:

“(2) Upon the expiration of five years immediately following the passing of a sentence of death on a person without such sentence being carried out, the sentence shall be deemed thereafter for all purposes to be a sentence of imprisonment for life.

(3) For the purposes of this section and subject to section 109 of the Constitution and sections 42 to 65 of the Supreme Court of Judicature Act, time spent by a person after the conviction and sentence for a capital offence by the High Court—

(a) In referring any question concerning that sentence including the carrying out of the sentence, or the related conviction to the Court or any other body, or

(b) In any proceedings, in any Court in which he is a party, shall not be taken into account in calculating five years from the date of the conviction.

(4) In this section “imprisonment for life” in relation to a person so sentenced by a Court means imprisonment for the remainder of the natural life of the person”.

Mr. Valley: We had no problem initially with clause 5, but we noted that in the amendment while the original bill spoke of the time after the death sentence by the Privy Council from that point until the constitutional motions and any appeals to human rights bodies, that time would not be counted. That was the intent of the original clause 5 We have noted that the amendment will now start at the High Court level, Mr. Chairman.

Mr. Maharaj: What section is that?

Mr. Valley: I am talking about your amendment.

Mr. Maharaj: Clause 5(b)3

Mr. Valley: Is that what it is?

Mr. Maharaj: It has gone to the High Court now.

Mr. Valley: Yes. You are at the High Court now. Clause 5(3) states:

“For the purposes of this section, time spent by a person after the confirmation of the death sentence by the Privy Council—

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[MR. VALLEY]

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shall not be taken into account five years from the date of conviction”.

You are moving from confirmation of the death sentence by the Privy Council to the High Court at a much lower level. Now, the Prime Minister has been making this big thing about hanging 10 years after and so forth, but obviously when this happens it could mean that an individual—again, we said unlimited time. In fact all you are saying is not to count the time at all, but you count more and more, you are not counting one more time.

Mr. Maharaj: Mr. Chairman, what we are saying is that if a person is convicted that he files a constitutional motion in relation to that matter, or any question is referred concerning the carrying out of the sentence or any matter that any time on those matters other than the time spent for an appeal process would not be counted in the five years.

Mr. Valley: No. What the amendment says:

“For the purposes of this section and subject to Sections 109 of the Constitution and Section 42 to 45, Civil Court of Judicature Act time spent by a person after the conviction and sentence for a capital offence by the High Court, conviction by the High Court”.

Once you are committed by the High Court, in the original, one had to get up to the Privy Council.

So, you are now starting to say do not count the time from the lower level. That is the point I am making.

Mr. Panday: If you are right, then we must correct it. I agree with you. If you are right. Let us make sure that you are right because there is a difference of interpretation. But, I agree with you that it has to be from the Privy Council onward and not from the High Court. I agree with you absolutely. *[Cross Talk]*.

6.20 p.m.

Mr. Panday: But how do we word it, to make it say that?

Mr. Maharaj: Mr. Chairman, may I explain? If there is any referral of the matter, not in the normal process—for example, after conviction and sentence—if there is no appeal but there are other proceedings, the time spent in those proceedings would not be part of the five years.

Mr. Manning: Well, then, say that.

Mr. Maharaj: Well, that is what (3) (a) and (b) say:

“(a) in referring any question concerning that sentence, including the carrying out of the sentence, or the related conviction to the court or any other body; or

(b) in any proceedings, in any court, in which he is a party, shall not be taken...”

Now, if it is you do not like that expression, if you suggest some other, I will look at it.

Mr. Panday: I think what he is saying, is that 109 included the whole process.

Mr. Maharaj: Subject to 109 of the Constitution, which is the appeals to the Privy Council, and sections 42 to 65 of the Appeal Court of Judicature Act, are the appeal processes.

Mr. Valley: I mean the time will still not count - they may appeal, but the time will still not count from this lower level. As you have it now, any time after High Court is not counted in the five years.

Mr. Panday: What is your suggestion?

Mr. Manning: Let the draftsmen draft it.

Mr. Panday: Okay. We can agree in principle.

Mr. Speaker, we will get the drafting people to look at it and find a formula.

Mr. Imbert: Mr. Maharaj, would “via a competent court” do?

Mr. Maharaj: “Competent court” means a court of competent jurisdiction.

Mr. Panday: Mr. Maharaj, please, write it down and read it?

Mr. Manning: “In sentencing somebody to death, or in confirming that sentence.” Okay? So it is either the High Court, the Appeal Court, or the Privy Council.

Mr. Panday: Suppose we take out the word “High” in the Draft Proposal? It will read:

“(3) For the purposes of this section, and subject to section 109 of the constitution and sections 42 to 65 of the Supreme Court of Judicature Act, time spent by a person after the conviction and sentence for a capital offence by the court...”

Would that please you?

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Mr. Manning: "...by a court".

Mr. Maharaj: Because "court" is defined, in the Interpretation Act, to mean "court of competence".

Mr. Maharaj: Mr. Chairman,

"For the purposes of this section, and subject to section 109 of the Constitution and sections 42 to 65 of the Supreme Court of Judicature Act, time spent by a person after the conviction and sentence for a capital offence by the court—

- (a) in referring any questions concerning that sentence, including the carrying out of the sentence, or the related conviction to the court or any other body; or
- (b) in any proceedings, in any court, in which he is a party, shall not be taken into account in calculating five years from the date of the conviction."

Question put and agreed to: that Clause 5, as amended, stand part of the Bill.

Mr. Chairman: There is notice of an amendment for clause 5, by the Member for San Fernando East.

Mr. Valley: But, Mr. Chairman, I thought that, given that you have taken that as 5, you are now treating this as 6. My amendment was that we renumber clause 5 as clause 6.

Mr. Chairman: No. Your amendment had to do with -

Mr. Valley: Simply renumbering clause 5 as clause 6 and inserting a new clause 5. Now we can leave clause 5 where it is, and take my amendment of clause 5 as the new clause 6.

Mr. Manning: Could we take a division on clause 5, please? Is it too late? Out of an abundance of caution, we would like to take a division.

Mr. Chairman: Hon. members, the question is that clause 5 be re-visited.

Question put and agreed to.

Question put, That clause 5, as amended, stand part of the Bill.

Question put.

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The committee voted: Ayes 34 Noes 0

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P

Rafeeq, Dr. The Hon. H.

Assam, Hon. M

Job, Dr. The Hon. M.

Khan, Dr. F.

Singh, Hon. G

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Ramsaran, Hon. M.

Sharma, C.

Ali, R.

Valley, K.

Manning, P.

Rowley, Dr. K.

Imbert, C.

Constitution (Amdt.) Bill
[MR. PANDAY]

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Narine, J.

Hart, E.

James, Mrs. E.

Bereaux, H.

Joseph, M.

Sinanan, B.

Boynes, R.

Hinds, F.

Williams, E.

Question agreed to.

6.30 p.m.

New Clause 5

Mr. Manning: Mr. Chairman, I propose that the new clause read as follows:

- 5
- (a) Subsection 4(l) and section 5 (A) are deemed to have effect as if they have always been provided for in the Constitution; and
 - (b) Notwithstanding the provision of Clause 5(a), with respect to Section 5 (A) this Clause shall have effect only for the persons who are under sentence of death at the time of proclamation of this Act.

New clause 5 read the first time.

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

Mr. Chairman: Hon. Members, you have circulated before you some proposed amendments from the Member for San Fernando East. On the reverse side of the page, what was clause 5 is now regarded as clause 6.

Mr. Valley: Mr. Chairman, as you know, the Government voted against their substantive clauses to which these refer. Therefore, they are now spent, as it were, the clause 3 which we proposed which deals with clause 5(a) was defeated.

Mr. Sinanan: Still put it.

Mr. Valley: But what would it refer to? It refers to nothing, there is no 4(1).

Mrs. Persad-Bissessar: I am sure that the Member for Diego Martin Central would withdraw it. What is 4(1)? There is no 4(1) anymore, it does not make any sense.

Mr. Valley: That is why, I do not know whether, if you wish, you can go back to 4(1) and reconsider. I think it is clear that the PNM wants a Bill that is workable—and that is all we are saying—without interfering with the fundamental rights of our citizens. Unless, the Government is willing to revisit those two clauses, then these will refer to nothing.

Mr. Chairman: So, you are not pursuing.

Mr. Valley: I cannot pursue, my hands are tied.

Mr. Chairman: Hon. Members, the question therefore is that clause 6 is withdrawn and will not be pursued.

Amendment withdrawn.

Preamble

Question proposed, That the Preamble now stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that the Preamble be amended as follows:

- | | |
|----------|---|
| Preamble | <p>A. Delete the word “(2)” occurring in the first line of the second recital and insert the word “(3)”.</p> <p>B. Delete the words “each House is supported by the votes of not less than two-thirds of all the members of each House:” and substitute the following words in the next line:</p> <p style="padding-left: 40px;">“(a) the House of Representatives, it is supported by the votes of not less than three-fourths of all the members of the House; and</p> <p style="padding-left: 40px;">(b) the Senate, by the votes of not less than two-thirds of all the members of the Senate:”</p> |
|----------|---|

Question put and agreed to.

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[MR. PANDAY]

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The Preamble, as amended, ordered to stand part of the Bill.

Mr. Manning: Mr. Chairman, the Opposition would like to make just one more appeal to the Government, that is not too late, we can still suspend the sitting of committee at this stage and that the Government and Opposition get together and arrive at a Bill that is acceptable to both sides. We both have the same objective, I believe, but unfortunately, the Opposition has major problems with undermining the fundamental rights of citizens. It is not too late for us to get together and arrive at something that is acceptable to both sides.

Mr. Panday: Mr. Chairman, what is the hon. Leader of the Opposition asking: that we adjourn the House now for what? Ten, fifteen, twenty minutes, half an hour, two hours? I am trying to find out what is being proposed.

Mr. Manning: Half an hour for discussions.

Mr. Panday: No objection, Sir.

Mr. Chairman: Hon. Members, the question has been raised that there is yet some glimmer of hope that both sides might be able to come to terms and it is being suggested by both sides that we adjourn and suspend the committee stage of the Bill for half an hour.

Mr. Panday: Shall we say until 7.00 p.m.?

Mr. Chairman: Until 7.00 p.m. Is that the feeling of the committee?

Hon. Members, the further sitting of the committee is suspended until 7.00 p.m.

6.35 p.m.: *Committee suspended.*

7.02 p.m.: *Committee resumed*

Mr. Chairman: Ladies and Gentlemen, I understand that both sides want a little more time to discuss and I am awaiting an indication as to how much more time they need. So, in one or two seconds we would know how much time they need and we would suspend further until that time. [*Clerk of the House converses with Mr. Chairman*]

Hon. Members, we will further suspend for 15 minutes and resume at 7.20 p.m.

7.05 p.m.: *Committee suspended.*

7.26 p.m.: *Committee resumed.*

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Mr. Chairman: Hon. Members, we had got to the stage where we were just about to move that the Bill be reported to the House.

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

House resumed.

Bill reported, with amendments.

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

House divided: Ayes 21 Noes 13

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P

Rafeeq, Dr. The Hon. H.

Assam, Hon. M.

Job, Dr. The Hon. M.

Khan, Dr. F.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Ramsaran, Hon. M.

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[MR. PANDAY]

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Sharma, C.

Ali, R.

NOES

Valley, K.

Manning, P.

Rowley, Dr. K.

Imbert, C.

Narine, J.

Hart, E.

James, Mrs. E.

Bereaux, H.

Joseph, M.

Sinanan, B.

Boynes, R.

Hinds, F.

Williams, E.

Question negatived.

STATE LANDS (REGULARISATION OF TENURE) BILL
Senate Amendments

[SECOND DAY]

Order read for resuming adjourned debate on question [September 18, 1998]:

Be it resolved, That the Senate amendments to the State Land (Regularisation of Tenure) Bill, 1998 listed in the Appendix be now considered.

Question again proposed.

Mr. Speaker: Hon. Members, when the adjournment was taken this House was in the process of considering the Senate Amendments to the Preamble of the Bill. The Member for Diego Martin West was addressing the House and had spoken for some 20 minutes and therefore has some 15 more minutes that could be used.

Dr. Keith Rowley (*Diego Martin*): Mr. Speaker, thank you for the guidance with respect to the time. I would recommence my contribution by reiterating the point I was making when we took the adjournment the last time.

Mr. Speaker, I entered this debate on the last occasion to object to the inaccuracy of statements being made and being put into law by this proposal before the House. I was making the point that the third paragraph which says:

“And whereas squatting is recognised as a phenomenon in Trinidad and Tobago for well over one hundred years”

was, in fact, an inaccurate statement and was asking that such an inaccurate statement not be written into the preamble of any written law in Trinidad and Tobago.

I took the time to point out that the squatting phenomenon came into being in this country with the change from one system to the other. One can trace it back to the post-emancipation period when some small number of slaves did squat on lands which they did not own, but more importantly in the context of what is said here. The public documents of this country would show that by 1986 there were just a few thousands squatters in Trinidad and Tobago, but 10 years later we were talking about many tens of thousands and that has to do with a concept which was advanced in the last decade and which gave encouragement to the idea that, as a basic right, one can really occupy whatever land that is available to one and claim it.

Mr. Speaker, if I go to the second paragraph of the Preamble, where it says:

“And whereas the Government is further committed to the objectives of promoting security of tenure and facilitating access to land, bearing in mind the need of the population for serviced land but at the same time recognising the inability of the underprivileged to afford serviced land”

What is the need to put that as a preamble into a law. What this is saying is that the philosophy of squatting is about facilitating access to land. We are saying that you do not need to give such an official sanction to an act which is really, basically, recognized by our laws as illegal. If you cover the law like this and put this as the preamble the Government of this country is really saying that insofar as one can squat wherever one finds a piece of land, the Government has no problem because it sees that as facilitating access to land. What signal are we sending to people in this country? The only signal we can send to them is that if they can find a piece of land to occupy, they can squat. That is why we are saying that the Government is seeking to facilitate squatting as against what we would like to see which is the Government treating with the existing squatter communities by

State Lands Bill
[DR. ROWLEY]

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recognizing them and regularizing them but at the same time doing nothing to increase the instances of squatting because there are a number of negative outcomes to the whole issue of squatting as a way of providing accommodation for the population.

7.35 p.m.

There are two different positions and I would like to see the Government go back to the position that we can all agree with and that is: yes, we draw a line upon squatting. There is the whole question of what work has been done to identify who has squatted up to this point; we had the country photographed. We have the technology—and the Minister will confirm that—which can show where a squatter was on a particular day. What we do not want is this kind of open invitation by way of acceding to some philosophy that it is all right to squat. That cannot be right.

The Government sees it fit to put in paragraph 4 of the preamble:

“And whereas in furtherance of its commitment to improving living standards and to fostering healthy development, the Government is...”

Mr. Speaker, they cannot do these two things. They cannot be sending a signal that they are facilitating squatting as an acceptable form of accommodation but at the same time say that they are fostering healthy development.

Some of the most unhealthy conditions that exist in this country one will find in squatter communities because of their haphazard nature. One of the biggest problem is the management of waste products within the community, be it garbage or waste water including what we call grey matter or faecal matter. In squatter communities there are these problems because one of the things that has to be done, as they seek to regularise these communities, and probably the single largest expense, is to put infrastructure to take care of the waste because when the squatting develops people tend to do it in such a way that the buildings are very close to each other and laid out in such a way that each individual home has the responsibility of taking care of the waste of that home.

What you find are a number of solid waste management units disposed within the community in a way that is not efficient and, in some cases, not effective at all. That is as unhealthy an environment as one can find, especially on land of some grade where there is a natural flow from top to bottom.

How can they say that they acknowledge and are giving some sort of murky green light to the squatting idea but at the same time say that in so doing they are

committed to improving living standards and fostering healthy development? The very action itself is not a healthy development. I would like to believe that it is a last arrangement where, having been unable to find or afford accommodation in an area where these problems are taken care of, some persons in our community who are underprivileged, in one way or the other, have resorted to living under these conditions which we call squatter settlements.

Therefore, what we need to do is to discourage that sort of thing while taking steps to prevent the need for that kind of housing by working on the economics of the country, of course. I acknowledge that will not happen overnight but we cannot, at the same time, identify it as something which is fostering healthy development. That defies logic. In fact, as I said, unhealthy conditions are associated with squatting.

Mr. Speaker, if I broaden it to enquire about the Government's real commitment to healthy development, I can ask: "how can I believe this appearing in this Bill when, in fact, the evidence before me about the Government's commitment to healthy development—and I take healthy development here to mean conditions which impact positively on the nation's health—I ask: "can I agree to this when we have in this country a commitment by the state to reform our health system and to create the regional health authorities?"

This was done on a fundamental principle that we should shift our focus away from tertiary health care to a focus on primary health care. That is the basic plank and tenet on which the reform of the health sector was predicated. If we do not do that all the positives we thought would come with respect to the operation of the RHA system will be brought into question. If we are saying having put into law and having put into practice the regional health authority system to promote healthy development and to increase the provision of health services in the country, why then can we see a situation—let us take the St. George West County of which I am familiar and I presume, from the information I have, the same thing applies elsewhere in the country but I am intimately familiar with the St. George West system because my constituency falls within St. George West. Because of problems with the provision of health care in the community I have had to look very closely at what is being practised.

Mr. Speaker, I can tell you in the St. George West district where we are saying that we are shifting, as national policy, the focus to the provision of primary health care so that people can be attended to in the communities in upgraded health centres and newly constructed polyclinics so more people will be able to get

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ambulatory care within their community and not all will head for the Port of Spain General Hospital, Mt. Hope, San Fernando General Hospital and so forth, what is really happening is the opposite.

At the same time the Government is saying it wants to write into law that we are fostering health development, St. George West has a requirement as accepted by the establishment of 17 district health visitors. That is to provide a basic amount of care for the people of St. George West. What is happening now? We have five. So immediately, instead of providing a better service at the primary level, notwithstanding the words here by the Government and the requirement that the new system is predicated on better and more improved primary health care, what we have is a worsening of the primary health system largely as a result of the lack of provision of basic human resources.

If one looks at the question of the district nurses it is the same thing; one would see a great shortage there. If you look at nursing assistants, the establishment is for 32, we have 22. In the face of that shortage, in a situation where we have a system which we have been accustomed to and we know what is required, it is quantifiable, you can see where the shortage is and the effects of those shortages because people are not getting the same kind of care now that they were getting before the Government committed itself to improving the primary health care.

How, under those conditions, can I accept a statement by the Government in a preamble to this Bill saying the Government is committed to fostering healthy development. The Government is doing no such thing. That commitment is not being demonstrated. What we are seeing is a creeping collapse of the health service in Trinidad and Tobago.

Not only is there a decline and deterioration in the health conditions of people in squatter communities who started off at a disadvantage in the first place, but we are seeing a deterioration in the provision of health care in communities that are far beyond the title of squatter community. I think that should put the Government on notice that such a clause in this Bill is not required, is not a statement of fact and the Government should withdraw such a statement and, in fact, pay cognizance to what is happening in the primary health system.

We are not only talking about human resources, we are talking about restricting the use of medication.

Mr. Speaker: Hon. Members, the speaking time of the Member for Diego Martin West has expired.

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

Question put and agreed to.

Dr. K. Rowley: Mr. Speaker, I thank you for your indulgence and I thank my colleagues for the extension.

Fostering a healthy environment and fostering healthy development is not only about providing adequate professional services from the health care givers. The same situation would be found if one looks at the provision of medication. Remember I said that the basis of the health system is now to be provision of adequate services and improved services at the primary level at the community centres.

What we are observing now is a restriction in the provision of basic medication to these facilities. In fact, in my own constituency in Diego Martin West in Carenage it had reached the point where the pharmacist was not even made available. There was a long time when there was no pharmacist at the health centre in Carenage resulting in agitation by the community which demonstrated with placards. It was only after that kind of development—

Dr. Rafeeq: Carenage?

Dr. K. Rowley: Yes.

Dr. Rafeeq: Thank you.

Dr. K. Rowley: Subsequent to that, only recently, that situation with the pharmacist has been rectified.

How can we be committed by way of policy to strengthening what we do at the primary level but allow a situation to develop where the absence of a basic professional service like a pharmacist could result in agitation by a community because they think that they were making noise for too long and it should not be that way.

The reports I have received is that there are limitations on the supply of drugs. Basic medications which are used by diabetics are on restriction. Not that adequate amount is provided as per the need, which is what the policy says; that they will provide what is required at the primary level. That is not what is happening. Somebody is drawing an arbitrary line and saying, "you will be having

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X amount.” Regardless of whether your need is Y, your amount is X. That is the basis on which basic medication is provided at the primary level.

That runs counter to the policy and, therefore, the Government, knowing that is what is in practice, should not then come here and try to write into law some statement which says: and whereas in furtherance of its commitment to improving living standards and to fostering healthy development the Government is doing so and so. What the Government should be saying here is that it is committed to regularising squatter settlements and to prevent further squatting. That is all that is required. The minute they tell me about their commitment to improving standards and fostering healthy development, I will say to them, “I do not believe you.”

PROCEDURAL MOTION

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I am indebted to the hon. Member for Diego Martin West for facilitating the moving of a procedural Motion.

Mr. Speaker, I beg to move, in accordance with the Standing Orders, that the House continues sitting until the completion of the Senate amendments and the Motion relating to the Green Paper on Integrity Legislation which was in progress on the last occasion.

Question put and agreed to.

7.50 p.m.

STATE LANDS (REGULARIZATION OF TENURE) BILL

Senate Amendments

Dr. K. Rowley: Mr. Speaker, I was saying, I am prepared to accept from the Government, based on what is in the worst position it has been in my lifetime. There is virtually a collapse of the health system in Trinidad and Tobago, especially at the level of primary we have been through together on this particular matter of squatter regularization, unquestioningly, a statement which says that the Government is committed to regularising squatter settlements, and to prevent further squatting. Let us say that. But when they preface it by talking about healthy development, I am saying that is not borne out by facts, because the health system in Trinidad and Tobago today health care.

Of course, I do not want to go into any great detail as to what is happening at the hospitals, because in recent weeks, one would have seen the hospital stories, but when the Government talks about its commitment to improving living

standards, I cannot take that at face value. It immediately begs the question, furtherance of commitment to living standards for whom? Whose living standards is this Government committed to improving?

Mr. Sudama: People!

Dr. K. Rowley: People? It cannot be those persons who have an expectation to be treated fairly by the state, but who have suffered as a result of state intervention to direct opportunities and resources away from one group of people to another. If one wins a contract by fair tendering process, and the Government intervenes by way of its Minister and takes action to prevent one from executing that contract and earning an income and a profit, can it be reasonably said that the Government is committed to improving one's living standard? How many instances have we seen of this Government taking action against some people in favour of other people?

When there is the situation where the Minister of Finance is being forced to admit that the country's financial position is not as strong as it should be because we have lost significant revenue as a result of matters outside of our control—namely the lower oil price—but then they are pre-qualifying contractors to tender for a job and get tenders that range from \$6 million to \$8 million from the group of pre-qualified tenderers, and they choose to give the contract to the person who tendered \$8 million and deny it to the owners and employees of those who tendered for \$6 million, how can it then be said that they are committed to improving the living standards, except, of course, what they are saying is they are committed to improving the living standards of persons favoured by the Government?

My living standard would improve, very much, if I am allowed by my friend, the Minister of Agriculture, to come into the Ministry, take the Government work, repackage it, bramble it and present it back to the same Ministry for hundreds of thousands of dollars. If I am allowed to do that, my living standard would improve. No?

People like you, Mr. Speaker, like anybody else around here, were not given that opportunity to improve our living standards, but a close associate and friend of the Minister of Agriculture has once again struck it rich. The same individual about whom I had to raise an issue in this House as a member of the Caroni board being allowed to do some sort of Mickey Mouse assessment on Caroni's animal production to the tune of \$70,000, which caused the Caroni board no amount of problems in trying to account for it on the board minutes. All that came out of this

very special exercise is not better cattle for Caroni; it is cattle with brucellosis, and using Caroni staff and Caroni equipment to tell Caroni what Caroni already knew, because the public staff in the Ministry of Agriculture had done the assessment as to whether in fact, that cattle project should be allowed to continue.

Mr. Speaker: I honestly think that you are going out of the preamble.

Dr. K. Rowley: I was just turning around.

Mr. Speaker: You are taking a long time to do that turn.

Dr. K. Rowley: Mr. Speaker, one of the things that sailors will tell you is that a big oil tanker takes a long time to turn. I am talking about improving the living standard. The Government cannot tell us here that it is committed to improving living standards. I am challenging that statement. I am saying it is committed to improving the living standard of a few selected friends of Government Ministers, and I am giving an example because this commitment is not all embracing. [*Desk thumping*] It is a commitment that is selective and we cannot have it in the law as though it is all embracing. That is why I am giving the example of the Minister who cannot subscribe to this clause because, how does one explain giving his friends a contract to come up with some project to report on the socio-economic effect of the mealy bug in Trinidad and Tobago for hundreds of thousands of dollars in order to improve the living standards? To do that, they used the Ministry staff work. They used work that the Government paid for.

The Government has on the staff of the Ministry entomologists. The Government has a division in the Ministry of Agriculture that does that work as the work of those professional public servants, so if the Government wants to know what that effect is, the Government has public servants doing that on a day-to-day basis. The Minister, in attempting to improve the living standard of a particular friend gives him a contract to rehash the very same work that public servants have done, which is now presented to the Government for the Government to pay by way of contract.

Dr. Mohammed: Mr. Speaker, let me thank the hon. Member for giving way and take the opportunity to correct something he is saying there that is totally incorrect. The Minister had nothing to do with giving anyone a contract. As the Minister of Agriculture, I had absolutely nothing to do with the person who got the contract to deal with the mealy bug.

Dr. K. Rowley: Mr. Speaker, as you and I know, I do not believe anything that Minister tells me. Nothing! It just so happens that his friend, Aziz is once

again in the situation. It is just pure coincidence that the same person who he used to play vet with, has now picked up big contracts in Caroni and is now reporting on the mealy bug issue down to the point of printing it. He gets up here and tells me, "I have nothing to do with that". I simply say, Mr. Speaker, I do not believe him.

I go further to question the requirement of the Government of Trinidad and Tobago to pay money to outsiders of the Ministry to tell them what the Ministry has already done. Even if we take his denial for it, they are facilitating not the living standards across the board, but by virtue of using that approach of allowing persons known or unknown to the Minister to plagiarise the Government copyright work and send it back to the Government, this Government stands accused of not being committed to improving the living standards across the board, but of improving the living standards of selected people, whether they are selected by the Minister, his friend, or whoever. The Government stands accused. So, this commitment cannot stand.

Mr. Humphrey: On a point of order, Standing Order 36(1).

Mr. Speaker: Hon. Members, Standing Order 36(1) states:

"Subject to the provisions Standing Order No. 12 (Adjournment—Definite matter of Urgent Public Importance), debate on any motion, Bill or amendment shall be relevant to such motion, Bill or amendment, and a Member shall confine his observations to the subject under discussion."

For the avoidance of doubt, with the greatest deference, what we are discussing is the preamble which actually has to do with the standard of living and the like. With the greatest deference, every single Member of this House knows that the English language is such that it could be used by any single Member in this House—and it has in fact been used by both sides—to widen the scope of a debate, and all I am saying is that I would be very dishonest to myself if I tried to stop the Member from speaking on an aspect of this preamble. I did not invent it. It is here.

This is what it says:

"**WHEREAS** the Government of the Republic of Trinidad and Tobago (hereinafter called "the Government") is committed to the goal of improving

Is committed to improving living conditions! It is open to anybody to speak on any single word in this, with the greatest deference. One may not like it, but this is so. This is the system we have. We could change the Standing Orders, but I rule—

Mr. Humphrey: But it is squatters.

Mr. Speaker: Of course it is squatters, but in talking about squatters, one could also relate squatters to engineers. I rule that the objection to the Standing Orders does not, in fact, hold. Please continue. [*Desk thumping*]

Dr. K. Rowley: Mr. Speaker, I thank you for your masterful intervention. There are too many examples before us of preferential arrangements with respect to improving living conditions. Since those on the other side have a problem with what is being said, I can facilitate. I can say that I will give way for the Minister to get up and say that if he will remove those extraneous matters from the clause, I will not debate what is put there, if that is his problem. If the Minister gets up and says that he is prepared to amend the preamble in the way I am suggesting to simply say that the Government is committed to regularize squatter settlements, I would accept that and, therefore, there would be no need to debate this, but once he wants to leave in that condition, I am saying that we have to examine the veracity of the statement. [*Desk thumping*]

I go further. Since they want to raise it, where is this commitment by the Government to prevent further squatting? I see no evidence, Mr. Speaker, to cause me to believe that the Government is committed to preventing further squatting. My colleague from Diego Martin East pointed out, far from being the truth—the opposite is true—that the Government seems to have some design and some vested interest to facilitate further squatting; and if paragraph 2 of the preamble which speaks about this whole issue about accessing land that does not belong to the person in the first place, is somehow the Government's idea of facilitating access to land by underprivileged people, then this clause 2, and what is contained in clause 3, are at variance with each other. One cannot have a commitment to preventing further squatting while at the same time one is advocating the virtues of accessing land in the way that paragraph 2 is saying.

8.05 p.m.

In the way that the Member for St. Augustine is putting this forward we know what his philosophy is as espoused in this House, and that is: wherever you are or whoever you are, piece of Trinidad and Tobago of your choice is yours, you choose it. Why I am concerned about this is because I have had the experience to see squatting move from a situation of alleviation of personal hardship to one where it is facilitated by greed. I will give an example.

When I was the Minister of Agriculture, one year Caroni (1975) Limited harvested a cane field and a few days after the cane field was cleared three persons went on that field, put up shacks and literally staked claim to the land. When Caroni (1975) Limited (Land Division) went in its normal way and sought to break down those shacks because they were occupying a field that had only a few days before been harvested, the persons who took that action—in the context of paragraph 2 because they were accessing the land under the guise of being underprivileged—who could not seek out and pay for a plot of land somewhere, they found the means of accessing a lawyer to go to court to argue that their dwellings were being destroyed. Unfortunately, for Caroni, the court ruled that squatters were protected and the persons were allowed to remain on those lands that were still smelling of fresh cane juice.

I do not know what is there now but I suspect that if I go there now, I would not meet three galvanized shacks, I am pretty sure. That is how the whole concept of squatting has evolved in this country. The basic thread in this Bill is that if you can grab a lot somewhere Government is saying that security of tenure and facilitating access to land in the whole concept of squatting is something which we have to treat in a certain kind of way.

In light of the example I have just given, in making law outlining a philosophy underpinning that law, one has to be careful not to send the wrong signal, because that could be used to give an outcome other than the one anticipated.

When we talk about providing an alternative solution in the form of land for the landless that too is open to debate. What exactly does that mean? Is the Government of Trinidad and Tobago identifying parcels of land which it can obtain very cheaply, either from the state parcels or purchased from the public? Would it buy those lands or make them available in such a way that persons who are—according to the text here—designated as disadvantaged, can, through this alternative solution where land for the landless is now available, now access land which otherwise they could not afford? Is the Government by way of this legislation embarking on that kind of approach?

No, what the Government is doing with this entire piece of legislation is about land that was occupied in an unauthorized manner. Why then is the Government labelling it as providing an alternative solution if it does not want to be accused of encouraging squatting? Because the minute you say that you are providing an alternative solution in the form of land for the landless in the context of a whole

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squatting arrangement, it has to follow that the Government's policy is seeing squatting as a solution to this problem of land for the landless.

I am saying that we ought not to write into this law this alternative solution of land for the landless in this way because that can only mean one thing. In the face of a real committee to prevent further squatting and in the face of veiled incentives to do so, what is the basis of saying that we have seen the last of squatting in this country? There is no basis, because I am sure if we had argued 10 years ago that we had 50,000 odd squatters here, somebody would have felt that may be all the persons who needed land would have serviced themselves, and this thing would eventually have run out of steam.

The opposite is true, as we further this kind of thinking which we now want to write as the text and the Preamble to the law, what we have been seeing is not a decline in squatting but an acceleration in the process. Therefore, I say to the Government that it should take out that from the Preamble. I do not know why the Preamble needs to have these things in it, which can be challenged.

Then we go on to the rest of the Preamble which states:

"...with the intention of developing sustainable human settlements."

True, if the area is regularized and you put in the basic infrastructure and what is required, you would improve its quality but not its sustainability, because squatter settlements are largely residential. I do not know of any instance where a squatter settlement has ceased to exist because of the decrepit nature, regardless of how poor the conditions are, except in the case of the lead poisoning situation in Arima which was slightly different. Because of the peculiarities of that situation with the lead in the environment, the people had to be forcibly removed from the area for their own protection.

Other than that, squatter settlements, whether in Trinidad and Tobago, Caracas or Peru have been shown to live probably longer than some planned settlements. It has been observed that some planned settlements have outlived their usefulness and have been bulldozed and replaced by a higher quality of structure and so forth. But squatter settlements go on forever, until such time as the Government intervenes, in the way that we have agreed it should, to make a dramatic intervention that would allow the change to break the cycle.

Why then are we putting into this Bill alternative solutions with the intention of developing sustainable human settlements? You cannot encourage squatting

and at the same time say that you are trying to do it with the intention of developing sustainable human settlements. It does not make any sense.

If I go back to the issue of security of tenure, questions can be asked there.

"...committed to the goal of improving living conditions, so that everyone in the society will have access to adequate and affordable shelter, with security of tenure:"

I presume that means security of tenure at affordable shelter. Is that to apply selectively or is it to apply across the board? How can this Government which has taken a position that subsidized housing, affordable with security of tenure, is okay for persons who live in the apartments in Glencoe—

Mr. Speaker: I indicate to you that your 30 minutes has expired, so please wind up.

Dr. K. Rowley: I will wind up on this note. If the Government is writing this into law, how can we be expected to accept that, when it is all right to provide some element of subsidies for persons accessing the apartments at Glencoe, but speak vehemently, derisively, dismissively and insultingly with respect to those persons who stake some kind of claim and ask for some consideration with respect to accessing the John John Towers?

The Government is speaking from both sides of its mouth. I do not believe it and I think that this Preamble requires extensive revision.

Thank you.

Mr. Eric Williams (*Port of Spain South*): Thank you, Mr. Speaker, for recognizing me.

I must continue from where my colleague for Diego Martin West left off, because the apartments known as the John John Towers exist in the constituency of Port of Spain South. I would look at the amendments that came from the Senate and then at some possible meanings of these amendments as they relate to the society in, among other places, the John John Towers in my constituency.

The first amendments in the Preamble occur in the first paragraph. It states:

"**WHEREAS** the Government of Republic of Trinidad and Tobago (hereinafter called 'the Government') is committed to the goal of improving living conditions, so that everyone in the society will have access to adequate and affordable shelter, with security of tenure:"

I would take a closer look at the definition of some of these words and see how they are applicable. In the *Collins Concise Dictionary*, the revised edition,

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available in this House, the definition of "Access" has several meanings, but the one that is closest is on page 7:

"The right or privilege to approach enter or make use of something."

8.20 p.m.

Is the hon. Minister of Housing and Settlements providing access to the people of the John John Towers for whom they were built? The answer I would submit is "no" and we have been arguing the case. We have complied with a number of requests and submitted names and incomes and this preamble, where it says "access to adequate and affordable shelter," I would submit is not being complied with.

Let us now look at the adjective "adequate." It means:

"Able to fulfill a need without being abundant, outstanding and so forth."

Mr. Speaker, let us look at the word "affordable". When one looks at the word "afford" which is the verb, this means "to be able to do or spare something especially without incurring financial difficulties or without the risk of undesirable consequences."

Let us also look at the meaning of the word "security" because we do not need to detain ourselves very long to determine that some of the words in this preamble show clearly, the Government is speaking double talk. The word "secure" which is an adjective means: "to make or become certain", hence the noun "security" which is the state of being secure.

In the constituency of Port of Spain South in October 1992, there was a fire in an area in which people lived in housing which was in some way of describing it—ramshackle. They may not have been of the best.

Mr. Sudama: Who was in office then?

Mr. E. Williams: Mr. Speaker, I cannot account for the amnesia of the Member for Oropouche. The fire occurred, the Government of the day supported by the Opposition of the day promised the individuals which consisted of 23-odd families of that area that suitable, affordable, adequate housing would be provided for them. The question was raised by the hon. Member for San Fernando East, whether or not one wants to provide housing for all and in doing so, the PNM has taken the position that we take into account a person's income in seeking to provide housing for them. We have been faced with much ado about the actual cost and the means by which it came to what it was, and that predates me.

However, what I have come to recognize is that while much ado was made about the actual unit cost of the apartments, the effective unit cost which the Government was prepared to sell the units at, now stands in the vicinity of \$100,000 and that is incontrovertible. In fact, the Government was prepared on its knees to dispose of the units for less than \$90,000 per unit. Several editorials were written about the fact that such a high official of this nation could come into the public domain and indicate that he would go on his knees to dispose of those units into what was being called a “footel”. And I would tell you what they are saying on the streets about the idea of putting a “footel” in the John John Towers. I could only speak in the vernacular of the street, they are not necessarily my words. A gentlemen stopped me and said: “What ‘footel’ they are talking about? One fool tell a next fool that they could put a hotel in the John John Towers.” This is what was being said in the public with regard to this and I again continue to try to disabuse members of the public of being disrespectful but this is what the whole business descended to.

As I said I do not want to detain this House very long, but I must put on record that I take exception to several words in this preamble, particularly some of those amendments which have come back to this House attached to this Bill. There was a time when a delegation from my constituency in Sea Lots, which bore no particular political affiliation or even love for me, but they happen to be constituents of mine, who foresaw a problem, asked me to arrange for them to see a particular Minister. At that meeting when they were concerned about the tone of the discussion which was taking place, they sought to have a meeting and they were told—and they reported to me, and I have reported to this House—“What you think it is, the PNM you think you are dealing with? We are the Government we are going to tell you what to do.”

Mr. Speaker, I am saying that when Members of the Government treat with the public in this manner as I have outlined with regard to the John John Towers and the Sea Lots area in my constituency, it puts the lie to these adjective and nouns which are in this preamble which seek to convince folks that the Government is seeking to provide access to adequate and affordable shelter with security of tenure. In fact, in practice, the people believe, they perceive, and in fact, the wider society is convinced that in the case of the John John Towers and the residents in Sea Lots up until that time these words do not hold truth. They ring hollow.

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Not to belabour the point anymore, there is one other concept in this preamble with which I have a problem and I believe it speaks to a particular philosophy of this Government and I read from the second paragraph of the preamble. It says:

“And whereas the Government is further committed to the objectives of promoting security of tenure and facilitating access to land, bearing in mind the need of the population for serviced land but at the same time recognising the inability of the underprivileged to afford serviced land:”

Let us look at the definition of underprivileged. What do they mean by that. I ask the question: Are there underprivileged persons in the society? What is the definition of the word “underprivileged”? It is lacking the rights and advantages of other members of society, or deprived.

Mr. Speaker, we just established in a previous matter that this Government sought to remove privileges and rights from the wider society. In fact, had this Opposition not stood for its belief based on its brief from the society, citizens of this nation would have become underprivileged in terms of their fundamental human rights. *[Desk thumping]*

In the case of this particular Bill, where it speaks to the question of land and housing, it is suggestive that previous governments have somehow created a class of folks who have been alienated from their fundamental rights and I believe nothing could be further from the truth. If one were to say that there are folks who are faced with economic challenges I would agree, if one were to say that one is faced with a housing challenge, I would agree; if one were to say some people may be faced with learning challenges, I would agree, but to imply that there are underprivileged people in this society is to put into the legislation, that governments of this nation have somehow been depriving people of a particular right and I take strong objection to the philosophy espoused here by describing citizens of this nation as being underprivileged. In fact, when you do so, you imply that there is almost no hope for these people because there is an endemic condition. If one were to point to the fact, that we as a nation face certain challenges, then one creates a situation and puts into the philosophy of legislation, the fact that there is not only hope, but a chance for overcoming those challenges and galvanize the nation to seek to overcome them.

Mr. Speaker, there are words in this preamble which need to be deleted and/or amended because they present, to my mind, a potential damage to the psyche of this society in which we live. They present a situation which is reflective of a lack of hope and there are Members on the other side who know better and to whom I

have listened continually say things in this honourable Chamber which I know to be otherwise. Quite often, they say them for narrow, political gain. We are about nation building, we are about trying to take care of the needs of our citizenry and I would dare say if one continues to describe our citizens in this manner, then one indicates that one feels less than honourable, or less than charitable, or less than anything that is positive about the citizenry of this nation. One should seek to uplift, to build, and not to tear down.

With these few words, I thank you.

Mr. Roger Boynes (*Toco/Manzanilla*): Mr. Speaker, I prepare to make just a brief intervention in this debate.

As I look at the preamble to this Bill, I have to just read part of the amendment which is before us today, and the part I wish to refer you to is the first and second paragraphs.

8.35 p.m.

This part to which I refer goes as follows:

“So that everyone in this society will have access to adequate affordable shelter with security of tenure”.

It goes on further to say in the second paragraph of the amendment that is:

“Facilitating access to land bearing in mind the need of the population for ‘serviced land’. But at the same time recognizing the ability of the under privileged to afford ‘serviced land’ Mr. Speaker.

I am simply asking that an amendment be made, so that the Government can give a certain amount of commitment to the people of this country. So much so, that the amendment would read:

“And whereas the Government is further committed to the objectives of promoting security of tenure and facilitating access to serviced land, rather than access to land”.

You see, Mr. Speaker, we have to look at the whole intent and purpose of this Bill. Among other things, is to stop squatters, and to ensure that the squatters settlement are regularized to the point that their conditions are upgraded incrementally. So much so, that the poor man can have access to serviced land, Mr. Speaker. It is not outside of his need, or his wants to obtain serviced land.

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I am suggesting that the Government should amend this so that they give to the population—the poor people of this nation—a commitment to serviced land. What do we mean by serviced land? Do we mean land without any roads, without any drainage, without any electricity, without any water? Is this what the commitment is for? To give them just raw land? Or what are we here about?

Mr. Assam: Cook the land.

Mr. R. Boynes: They are not going to cook the land either, Member for St. Joseph.

But, we are here to make sure that we look after the poor in such a manner, that water, lights, telephone, sewer system, postal services are not foreign to them. Whereas certain persons, and certain Members on the other side may look to mimic, we on this side, with respect to offering the people serviced land—Let me explain to you.

Part and parcel of the land settlement committees' function would be, to make sure that they work with members of a particular squatter community to ensure that they obtain serviced land. In other words to ensure that they liaise with every single agency in this country—Ministry of Works, so that better roads would be provided for the people so that they could liaise with the regional corporations, so that the secondary roads could be provided for them, so that they can liaise with Trinidad and Tobago Electricity Commission so that electricity can be provided for the people of this particular squatter settlement, Water and Sewerage Authority, National Self-help Commission Mr. Speaker; and the list is far as the eyes can see. In short, this committee must liaise with every agency to ensure that the people are entitled to serviced land, Mr. Speaker.

Mr. Speaker: Hon. Members, the sitting would be suspended for 45 minutes for dinner.

8.40 p.m.: *Sitting suspended.*

9.20 p.m.: *Sitting resumed.*

Mr. R. Boynes: Mr. Speaker, I wish to refer to the preamble of the State Lands Regularisation of Tenure Bill, 1988 which shows me that the Government, in fact, recognizes the inability of the underprivileged to afford service lands. But, I ask the question once more, what are they doing about it?

I am simply suggesting that if the Government is in fact serious about treating with the poor, with the underprivileged, in any meaningful manner—and the Member for St. Augustine has had a long history of dealing with underprivileged persons; persons who occupy lands in low income housing areas, underprivileged areas.

The Member of Parliament for St. Augustine ran a project close to my area, Nariva, and he ran the Sou Sou Lands project. From his experience with dealing with Sou Sou Lands, he would no doubt have had the experience, from so long ago to the present time, of dealing with persons in squatter areas, in low income housing areas. So he understands the problems of dealing with persons who are underprivileged in this particular manner.

Many years have passed since that time and we now have a piece of legislation here. It is our duty to make the particular piece of legislation workable. This is the only reason why we are here, at this late hour, tonight, Mr. Speaker: to ensure that the legislation is workable.

Our contribution is to indicate to the Minister that the Government should make their commitment clear, without a shadow of a doubt—while they understand and recognize the inability of the underprivileged to afford service lands, they should make their commitment clear, without a shadow of a doubt, to ensure that the underprivileged obtain service lands.

I will just simply demonstrate exactly what I mean about a commitment to giving the underprivileged serviced lands, by dealing with a part of my constituency called “North Eastern Land Settlement”. The Minister is very familiar with a particular area. When he was acting as the Prime Minister, he visited the particular area for the opening of some of the roads that were paved in the squatters area of the North Eastern Land Settlement. And because of the consistent and vociferous lobbying of this Member of Parliament, Mr. Speaker, we have seen that some of the roads in my area were paved. In that particular area, roads Nos. 1 & 2 and some others were, in fact, paved. So the Minister was invited and he duly attended. He observed that even in a squatter area the road was paved; it was not too good for the people. That is just one example of providing a sort of service area, serviced land, to the people.

Mr. Speaker, the money for the paving of these roads did not come from the people in the region; from my pocket; nor did it come from the Minister’s pocket. It came from the Ministry of Works and Transport. So we lobbied and utilized an agency of the State, in order to provide service lands to the people of that particular region.

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May I venture to say further, Mr. Speaker, that the members of that particular area have been liaising with the National Housing Authority with respect to regularization—as the Minister will no doubt know. the National Housing Authority is at present selling the raw land at 25 cents per square foot. So for each lot of land, Mr. Speaker, the citizens in my area will have to pay \$1,250. But that is the raw land. However, Mr. Speaker, NHA is not selling the raw land, because what is happening is that NHA is basically having negotiations with the people in that particular area. It is not only \$12.50, Mr. Speaker; it is minus the \$600 surveying fees, plus a design fee which the people of the area must pay. Up to this present day, the people do not know the cost of the design fee which they will be called upon to pay.

Suffice it to say, Mr. Speaker, the National Housing Authority is presently having negotiations with the people in that particular area for them to purchase the land. The National Housing Authority have indicated to the people that if they are to put light, drainage, proper roads, electricity, and so forth, then it will cost the people about \$6.00 per square foot of land. If my calculation is right, it will amount to approximately \$30,000 per lot of land. This sum of money is even more than that paid in the Town of Sangre Grande, Mr. Speaker. In the area close by *Locanna* Avenue, which is where I was born, land is going at \$22,000 per lot and the area is within walking distance of the town of Sangre Grande.

9.30 p.m.

You can ask Mr. Thomas, he lives at Ojoe Road, and perhaps he could sell you a piece of that property at \$22,000 per lot.

So, Mr. Speaker, those are some of the concerns of the people. Whereas NHA is saying that they will give or sell them serviced land, the price of the land is way above their means. I am suggesting, as I have suggested to the people of that area, and as we have demonstrated by our working together, the people there now have electricity. Because, even though it may be a squatters' area, the people understand that if they want something, they have to go to the various agencies and attempt to get certain facilities there. So we went with the letter of consent from NHA and we went to T&TEC and we were able to get electricity. At present we are working with WASA to try to get water for the people in that particular area.

I am saying that these same underprivileged people could get serviced land and if the Government is serious about giving them serviced land, they would put a commitment in this Bill, in this preamble, so it will make the job of the Member

of Parliament, for the people in each respective squatter development, easier to lobby the various agencies to get the various facilities on behalf of the people. If it is seen quite categorically and clearly that it is, in fact, the intent and commitment of the Government to give the people serviced land, then no agency could turn its back on the people.

Mr. Speaker, I am asking the Government to rethink its position and quite categorically, place the commitment firmly in this piece of legislation. I wonder whether or not the Member for St. Augustine is really serious about providing serviced land for the people. While he recognizes the inability of the underprivileged to afford serviced land, I really wonder if he has any intention of giving them serviced land at all.

I have looked at this particular piece of legislation and the preamble says one thing, but I am trying to find out, in terms of regularisation, what is the criteria that would necessarily equate regularisation? Where are the standards? Are they set out in this Bill? Of course not! He makes the reference that it is subject to the Town and Country Planning Act. That Town and Country Planning Act does not provide for low income or squatter regularisation. It does not! So there are no standards whatsoever for the persons who are underprivileged to be regularised. Certainly not! So there cannot be any form of commitment because there are no standards whatsoever for regularisation. This is something that I really and truly would like the Minister to address.

One cannot use the same standard for Goodwood Park as one would for North Eastern Land Settlement. One cannot! One expects the people to pay for sewer systems? I mean, for one to be regularised, one must have a sewer system. Come now! The two standards are different. He has had the expertise and experience in dealing with low income housing and squatters. He has had the experience through his Sou Sou Lands, so he understands that this whole matter has a very incremental approach, and the standards would definitely be different. So I am asking the Minister to demonstrate a commitment to the underprivileged to afford serviced land, as is stated here in the preamble.

Mr. Speaker, if you look at the preamble, you would see one of the amendments is to regularise certain squatter settlements. Mr. Speaker, I have a difficulty with this language, "to regularise certain squatter settlements". I mean, what is the intent and purport of this Bill? To regularise certain squatter settlements? We are saying that certain squatter settlements would be regularised and there are other squatter settlements that would not be regularised. Is that what

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we are saying? I find this is a very difficult pill to swallow. Because the whole meaning of squatter settlement—what does “a squatter settlement” mean? It is people who are on state lands who need to be regularised. Regardless of what creed, colour, race or political persuasion, there is a need by the underprivileged people in this particular area to be regularised. That is what we are all about here.

So, Mr. Speaker, to come to this Parliament and to have in the preamble that they are to regularise certain squatter settlements, leads one to wonder whether some would be regularised and others would not.

I am simply suggesting that one should take out the word “certain” and just say regularise squatter settlements. Also, in the definition clause, one can then define squatter settlement, if the squatter settlement has to be areas that could be regularised, that does not present any health hazard, *et cetera*, then that could be provided separately inside the definition clause for the Bill.

But, to put in the preamble that one’s intention is to regularise certain squatter areas, leads one to wonder. I am suggesting that if we are serious about assisting the underprivileged in terms of finding proper housing and proper land, serviced land at that, I am saying that justice must not only be done, justice must manifestly be seen to be done, according to *Jones vs National Coal Board*. This is the very same thing! It must not have the face of bias written all over the preamble. We must appear to be fair and we must be fair.

Mr. Speaker, with these few words, I want to reiterate to the Minister if he can look again at the Bill, and try to make the necessary amendments to the preamble, in fact, and accede to our humble requests of ensuring that the Government places a firm commitment to the provision of serviced lands to the people.

Let me just explain one last thing to this Parliament. If we are serious about providing serviced land to the people, the Land Settlement Committee should comprise Members of Parliament and representatives from the regional corporations, regardless of what political persuasion each and any one of them ascribe to, but so much so, that the people who have the office to lobby can do so in the best interest of the underprivileged. So that it makes the whole situation of lobbying for development for providing serviced land for the people in squatter areas throughout the length and breadth of this country easier. If we really are serious, we would just take a few of these pointers in the best interest of the people of this region, so that at the end of the day when this Bill is passed,

squatting would be a thing of the past and we would no longer have to come back to this Parliament to regularise anybody again.

Thank you, Mr. Speaker.

The Minister of Housing and Settlements (Hon. John Humphrey): Mr. Speaker, we are considering amendments to the State Land (Regularisation of Tenure) Bill.

The preamble is related to that title, but a new precedent has been established during the course of debating amendments that were sent from the Senate to the House, and that is, where every single Member of this House is now permitted to speak for 75 minutes on every amendment. In dealing with the substantive Bill that came before this House, all Members were permitted to speak for 75 minutes on the entire Bill, but now, in dealing with the amendments, every Member is now entitled to speak for 75 minutes on every amendment.

Dr. Rowley: It was always so.

[Crosstalk]

Mr. Speaker: Hon. Members, I just want to admit that my concentration lagged a bit, simply because I was speaking with the Attorney General who approached the Chair and I got carried away in discussing and, therefore, I am afraid I was not listening to what was just said. I am very sorry about this. I apologize. Would the Member kindly repeat what has been said?

Hon. J. Humphrey: Mr. Speaker, what I was observing, having quoted the title of the Bill, and having intimated that the amendments before us relate to the long title of the Bill, we are not debating the preamble to the Constitution of the Republic of Trinidad and Tobago, we are debating the preamble to a particular Bill dealing with a specific issue. And what I was saying is that a new precedent has been established during the course of this debate in that, whereas all Members in debating the substantive Bill are given a total of 75 minutes in which they can make their contributions, but in the amendments from the Senate—

Mr. Speaker: Hon. Members, let me tell you the way in which we will proceed while I am Speaker. I have the responsibility of interpreting these Standing Orders. And of course, it is open to any Member to challenge my ruling and come with a substantive motion. I, rightly or wrongly, have interpreted the Standing Orders in a certain way and I have indicated that to Members. Members will appreciate and I have the guidance of the Clerk and a continuous group of people in here with respect to the way in which Senate amendments are dealt

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with. That is not today, it is not yesterday, it has been there for the longest while. I assure you that when I was in the House in 1971 this is the way it was done and it is the same Standing Orders. I have tried to indicate, both in rulings and to Members who are concerned and who came up and raised the issue with me, that this is the interpretation.

9.45 p.m.

There is absolutely no way in which this House could take decisions on any bill, send it to the Senate, the Senate make amendments—if it were only one clause but this is several—change it up and then send it back here and Members do not have an opportunity of speaking on every single clause. Think about it. There is absolutely no way, under our Standing Orders—you can change it—in which this House could take a decision on a bill, send it to the Senate, the Senate makes lots of changes, as they did with this, so much so that a completely new bill was actually presented to them—I heard it; there were so many changes—and then that comes back to this House and one does not expect the other side to deal with each one separately.

I am ruling that the correct procedure is that every single—one may not like it, but this is so—clause, beginning with the first one which is the long title, once there is a change from what was done here before, has to be put to the Members of this House and they have an opportunity, if they want, to talk on it. The Standing Orders make it quite clear that every Member, in talking on any issue, has 45 minutes and that may be extended by another 30 minutes. It may be a difficult pill to swallow, but it is a pill that must be swallowed.

Hon. J. Humphrey: Mr. Speaker, I have not questioned your ruling. *[Laughter]* I was merely observing a fact that this ruling enables every Member of this House to speak for 75 minutes on every single amendment that comes from the Senate, where when the substantive bill was debated in this House Members were permitted to speak for 75 minutes on the entire bill.

Mr. Speaker, the only amendments moved in the Senate by the Government were those relating to the Tobago House of Assembly and those establishing a special fund. Every one of these amendments was moved and passed by the PNM Opposition in the Senate with the Independents who aligned themselves with the Opposition.

Hon. Members: Not so.

Hon. J. Humphrey: That is so!

Dr. Rowley: And so what?

Hon. J. Humphrey: In fact, you have two PNMs: one in this House and the other in the Senate. [*Desk thumping*] [*Crosstalk*]

I would have thought there would have been some caucus and that the Members of the PNM of the House would have communicated with the Members of the PNM in the Senate—

Mrs. Persad-Bissessar: They do not talk to each other.

Hon. J. Humphrey: —but there are two different PNMs under different leadership. Mr. Speaker, if I were a PNM Senator, on the basis of what has been demonstrated here, I would resign because I would say that the leadership of the PNM that resides in the House of Representatives has no confidence in its Senators. [*Desk thumping*]

Mr. Speaker, what if the Minister of Health had decided to reply to the Member for Diego Martin West on an entire programme of the health of this country, unrelated totally to this Bill. That is permitted. [*Crosstalk*]

Mr. Speaker: Hon. Members, I would suspend the sitting of this House for 10 minutes.

9.50 p.m.: *Sitting suspended.*

10.10 p.m.: *Sitting resumed.*

Mr. Speaker: Hon. Members, out of deference to some of the utterances which have been made here tonight, I looked at all the authorities and I am satisfied that we were right and this is the correct way to proceed.

I was in the process of indicating to the Leader of the House when my concentration lapsed when he was drawing certain things to my attention that it is not the correct thing just to do them all together. I indicated to him that if there is agreement between both sides of the House that one could do several of these clauses together, I would be prepared to accede to that. In the absence of that agreement, these would be done clause by clause.

Mr. Valley: Mr. Speaker, if the Leader of the House makes such a request the Opposition will accede to that request.

Mr. Speaker: Would the Minister of Housing and Settlements accordingly just move that in respect of the preamble so that can be put please?

Hon. J. Humphrey: Mr. Speaker, I want to respond to a couple of points made by Members opposite. The Member for Diego Martin West, for example, in reading the final recitation of the preamble honed in on the word healthy.

Mr. Speaker: The Standing Orders actually provide for someone to put the amendments that come from the Senate. It then provides for a debate on them and then it provides for the relevant government Minister to move. It does not actually provide for a reply. That is the difference as between a normal debate [*Interruption*]

All right. I hear noes. I will read it all to you. I do not know how far you have consulted the *May's*, have you? We just want to make sure we have the procedure right, so we will go through it.

Hon. Members, the procedure according to the limited Standing Orders that we have—because I would refer to this and then I will refer to the states:

“When the House proceeds to the consideration of Senate amendments,

Not may, shall be read.

“...by the Clerk and may be agreed to, or agreed to with amendment, or disagreed to. Upon any such amendment being disagreed to, an amendment may be made to the Bill in lieu thereof, but no amendment may be proposed to a Senate amendment save an amendment strictly relevant thereto, nor may an amendment be moved to the Bill, unless the amendment be relevant to or consequent upon either the acceptance or rejection of a Senate amendment.”

If one looks at amendments in Lords and one looks at pages 510 to 519 this is what it states:

“Time for considering Lords amendments

A Lords message is ordinarily received without communication being made to the House, and the message and the order appointing a day for the consideration of the amendments is entered in the Votes and Proceedings, the Member in charge of the bill informing the Clerks at the Table of the day which he wishes to select. The amendments are normally ordered to be printed at the same time.

Although Lords Amendments are normally appointed to be considered on a future day, the House may order that the amendments be considered forthwith..., in which case the Speaker first reads the text of the Lords message concerning them. An order to consider Lords Amendments forthwith results in their being considered without being set down as an order of the day, whether the order is made immediately following the communication of the Lords message to the House or later on the day on which the message is received or

on a the subsequent day. A motion that the Lords Amendments be considered forthwith is moved by the Member in charge of the bill, after notifying the Speaker, before the commencement or at the end of the orders of the day. As this practice involves the consideration of the amendments without notice and probably without their having been printed, it is generally reserved for amendments which are not material.

In the case of amendments which are material, provided there is any need for urgency owing to the state of business, the Lords message may be communicated to the House, and the motion for considering the Lords Amendments forthwith may be made between any two orders of the day, or by interrupting the business under discussion.

A motion for the consideration forthwith of Lords Amendments is debatable, but debate on such a motion must not extend to the provisions of the bill.

Proceedings on consideration of Lords amendments

When the consideration of Lord Amendments has been put down as an order of the day the House proceeds immediately to consider the amendments without any question being put, unless the Member in charge nominates a future day for their consideration or withdraws the bill. The Speaker calls the amendments one by one, and unless it is proposed to divide, postpone or amend the amendment, a motion is made, normally by the Member in charge of the bill, 'That this House doth agree (or disagree) with the Lords in the said

For a motion by the person in charge of the Bill it states:

“Notice may be given of motions to disagree with Lords Amendments. For the convenience of the House a list of provisional groupings for debate (which may include amendments to Lords Amendments etc.) is now commonly circulated in advance and the Speaker accordingly permits debate to range over several amendments which raise matters related to the subject of the amendment actually under consideration; but no debate on any amendment may extend to the general merits of the bill. No reply or second speech is permitted...”

[Interruption] I am not arguing with Members I am simply saying that I have read this, I think I understand it and I am ruling on it. I, therefore, call on the Minister to move in respect of the preamble.

Hon. R. L. Maharaj: Mr. Speaker, I am not disagreeing with your ruling but I will ask you, in the light of the fact that there were debates on matters not relating

strictly to the amendment but on the merits of the Bill, that the hon. Minister be allowed to respond in respect of these matters.

Mr. Speaker on his feet.

Mr. R. L. Maharaj: Mr. Speaker, may I be permitted—

Mr. Speaker: I do not subscribe to the view that there was debate on matters outside of what was [*Inaudible*] [*Desk thumping*]

I do not subscribe to the view that there was debate on any issue outside of the relevant clause. If that was so what you are saying would have made sense. I did not permit that and, therefore, in these circumstances I do not think that the debate should be opened up.

I call upon the Minister to move.

Mr. R. L. Maharaj: Mr. Speaker, I am not challenging your ruling but may I ask you to reconsider your ruling in light of the fact that the practice has been in this House and in the Senate that the mover of the Motion is allowed to respond.

I have been in this House as well and [*Interruption*] I do not expect them to say otherwise but I ask you, Mr. Speaker, to reconsider your ruling.

Hon. J. Humphrey: Mr. Speaker, might I be allowed to quote from the procedural brief for the Minister of Housing and Settlements given to me by the Clerk of the House? It says:

“If there are no other Members to speak on the preamble, the Speaker will call on the Minister of Housing and Settlements to reply at the end of which he must say the words, ‘I beg to move’.”

So I would ask your good self, Mr. Speaker, to instruct the Clerk of the House not to mislead Members with these instructions.

I beg to move.

Mr. Speaker: Hon. Members, I will just indicate that the Clerk of the House really has no obligation to prepare a brief of what a Member should say. I think it is very unfortunate that the Minister has brought the Clerk into this as having misled anybody. I assure the House that there was no intention on the part of the Clerk to mislead.

I have given a ruling and if, indeed, that ruling is inconsistent with something the Clerk has done, I am, for the time being, the Speaker.

Question put and agreed to.

Clause 2.

Senate amendment read as follows:

- (1)
- A. Delete the word “Division” where it appears in the definitions of “Certificate of Comfort” and “Land Settlement Division”, and substitute the word “Agency”.
 - B. In the definition of “landless” insert the words “who falls within a category designated as disadvantaged by the Minister to whom responsibility for Social Development is assigned and” before the words “who has no
 - C. In the definition of “Land Settlement Co-ordinator” replace the word “Co-ordinator” wherever it appears with the word “Chairman”.
 - D. In the definition of “regularisation” insert the word “incremental” before the words “physical upgrading”.
 - E. Insert between the definition of “regularisation” and “resident” a new definition of “relative” as follows:

“relative” in respect of any person means the spouse, parent, grandparent, brother or sister, children, including step children and spouses of those persons;
 - F. Between the definitions of “resident” and “squatter”, insert the following definition—

“spouse” includes a person who lives together with another person as husband or wife on a bonafide domestic basis although not married to that person.

- G. In the definition of "State Land", after the words "National Housing Authority" insert the words ", State Land vested in the Tobago House of Assembly,".
- H. Insert after the definition of "tenant" the following definition:
 "'Tobago House of Assembly' or 'Assembly' means the Tobago House of Assembly referred to in Chap. 11A, section 141A of the Constitution (Amdt) Bill."

Hon. J. Humphrey: Mr. Speaker, I beg to move that this House doth agree with the Senate in the said amendment.

Question proposed.

10.25 p.m.

Mr. C. Imbert: Mr. Speaker, despite the peevishness of the Attorney General and the arrogance of the Minister, I shall seek to address the deliberations of this House to the subject matter. It is very curious that the Government found it necessary to add the words, "who falls within a category designated as disadvantaged by the Minister to whom responsibility for social development is assigned within the definition of 'landless'". What are these words doing there?

If I go to the original Bill approved by this House:

"'landless' refers to a person who has no legal or equitable interest, or any other interest or claim to such an interest in a dwelling house, residential land or agricultural land upon which a dwelling house is permitted to be built."

Mr. Speaker, the preamble to the Bill speaks about land for the landless. We have to ask ourselves, why has the Government decided that the persons who are going to get land shall be designated by the Minister? *[Interruption]*

I have heard mutterings from those on that side who claim quite untruthfully that the amendments that we see before us here were recommended by our members in the other place, and I reject that. The vast majority of matters that we are debating here tonight were initiated by the Government, and it is simply untrue. One has to ask oneself, what kind of Government would bring a politician to decide who is disadvantaged and who is not disadvantaged? And from that will flow who will get land and who will not get land, and who will be given preference and who will be denied.

From the time one allows a Minister to designate disadvantaged persons and one includes that as a prerequisite within the definition of landless, then one opens this entire concept of providing land for the landless to abuse. It is typical, Mr. Speaker, of the Minister. It is obvious that the Minister of Housing and Settlements wishes to have complete control over the process, unfettered and unchamelled authority to determine who gets access to state resources. I submit, Mr. Speaker, that this is a blatant attempt at discrimination. Instead of leaving it to be defined by the courts—instead of leaving the definition open so that if someone is not satisfied that he has been treated fairly, he can appeal to the courts—the Government has inserted this ministerial power in this clause.

Why did they not just say, a disadvantaged person? I would recommend that this amendment be amended as follows. In the definition of ‘landless’, it should read as follows:

“‘landless’ refers to a disadvantaged person who has no legal or equitable interest or any other interest or claim to such an interest in a dwelling house, residential land or agricultural land upon which a dwelling house is permitted to be built.”

By leaving it simply as a disadvantaged person rather than a person who falls into a category designated as disadvantaged by the Minister, we take the ugly hand of this administration out of this section of this legislation.

Mr. Speaker, I have to ask, who dreamed this up? It is a pattern of behaviour. I call upon a Member of the Government to indicate how these words got into this definition. When one looks at other aspects of this clause, such as the new definition of ‘regularisation’, where the word ‘incremental’ has been added, so instead of physical upgrading, regularization means the physical upgrading of and the provision of services, and so forth. It is now the incremental physical upgrading of and provision of services, and again, this gives the Minister the power to upgrade certain settlements—perhaps to physically upgrade UNC settlements fully, while partially upgrading settlements in PNM constituencies.

It is little wonder, when they make these definitions so open. Why are they adding the word incremental? It adds nothing to the definition, except to introduce ambiguity. If it was left as the physical upgrading, if someone felt that he was being treated unfairly, he could challenge it, but when one adds the incremental physical upgrading, what it can now mean is that in Diego Martin East, if there is a squatter settlement, they will put the roads, water and sewer over a period of 100

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years, so 100 years from now, another abnormal Minister will come with a preamble which says “squatting has now been recognized in Trinidad and Tobago for 200 years” instead of 100. So, in Diego Martin East, they may choose to take 100 years to upgrade squatter settlements, while in Couva South, they may upgrade them within 100 days.

I believe, Mr. Speaker, that all of these amendments are designed with mischief. That is the intention. When one leaves it up to the Minister to decide who is disadvantaged and who is not, and when one allows upgrading to be incremental rather than complete—as it used to be—one is opening up the entire system to discrimination, abuse, and manipulation of the system by Government.

I note that we also have in the definition of ‘state land’, state land vested in the Tobago House of Assembly, and we need to know why this definition has been augmented. Why is it, for example, that we see in Trinidad there is to be in the definition in this amendment, an agency instead of a division? In the original Bill, there was a division. We now have an agency. The original definition was:

“‘land settlement division’ or ‘division’ means a division established under

Now, we have:

“‘land settlement agency’ or ‘the agency’ means the agency established under

Then we look at the definition for the Tobago House of Assembly and the insertion of the Tobago House of Assembly in certain parts of the definitions. Why in Trinidad is there a land settlement agency as established under section 5 with rules, regulations, procedures and powers, but in Tobago, what are the rules?

Actually, it is a fundamental weakness in this legislation and in these amendments. Why one rule for Trinidad and another for Tobago? Why in Trinidad is there an agency as established under section 5 which has a chairman and a committee, the Minister could give it direction, it has a fund, and it operates under regulations, but in Tobago, as we now see in the definition, the Tobago House of Assembly has *carte blanche*, no rules, no regulations? Mr. Speaker, it is amazing. They have prescribed and circumscribed the powers of the agency which have now appeared in this definition in Trinidad, but in Tobago, they could do whatever they want. Legal drafting gone mad!

Mr. Speaker, could someone tell us what is going on? I see another very curious amendment here. Under ‘spouse’, the definition is now a new one:

“includes a person who lives together with another person as a husband or wife on a *bona fide* domestic basis, although not married to that person.”

Again, legal drafting gone mad! In another piece of legislation that we spoke about in this Parliament recently, there was a definition of common-law spouse as defined in law.

10.40 p.m.

The Attorney General has brought legislation to this Parliament giving rights to persons who live in common law relationship. Why are we complicating the issue here? Why do we not include common law spouse? This tells me that sufficient time was not given to the drafting of this amendment. We asked the Minister to send this Bill to a joint select committee and in his arrogance he dismissed our request—as he did with the Planning and Development of Land Bill—but when he went to the other place pressure fell on him and he had to submit himself to the request of Senators, and is now wasting our time.

If the Minister had the charity, the politeness, the good sense, the decency and the regard for parliamentary democracy, and had acceded to our request at that time for this Bill to be sent to a joint select committee—

Mr. Speaker: You need to confine yourself to the matters that are before us and not go into other issues that may have arisen. Insofar as you want to object to any of these, you may do so, but going into other things as to what the Minister did and why, I will not allow it.

Mr. C. Imbert: I am thus guided, Mr. Speaker, and as always we on this side respect your ruling. We do not misbehave like the others. [*Interruption*]

I want the Minister to tell me why he has changed "division" to "agency"? [*Interruption*]

Mr. Humphrey: Call me in the office and I will tell you. I will give you my direct line.

Mr. C. Imbert: What is the point in this whole thing? Is it to establish a semi-autonomous body that could operate outside of the natural system and that would be available for manipulation by the Minister?

Mr. Assam: Are you asking a rhetorical question? We cannot answer you.

Mr. C. Imbert: We need to know why there was this change.

Mr. Speaker: Order please!

Mr. C. Imbert: Mr. Speaker, I can assure you that when we come to the actual Part V which is referred to in the definition about "Land Settlement Agency", we will have a lot more to say about that.

Thank you.

Mr. Speaker: Order please!

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, I too, like my colleague from Diego Martin East have some concerns with respect to some of the definition changes, and more precisely the definition of "landless", and the change from how it was defined in the original Bill to how it is now being defined.

I would focus on just two aspects of those concerns. Firstly the disadvantaged; and secondly, the concern about the involvement of the Minister of Social Development in determining who should be considered landless.

The definition of disadvantaged says "socially or economically deprived or discriminated against". My first concern is, who is going to determine what is considered to be economically deprived? In doing so, what criteria are we going to use? If we are talking about "economically deprived" are we going to use the poverty line? If we are going to use it as the criteria to determine whether someone is economically deprived, which poverty line are we going to use?

I recall that the Ministry of Social Development in conducting an exercise, determined that there was a minimum amount of income being utilized by different household sizes as a means of determining the poverty line. I do not have with me the exact numbers, but on the basis of the Ministry's determination of that poverty line, some 35 per cent of the population was considered to be below it. However, if we will be using the United Nation's definition of poverty which uses a different set of statistics, then we are talking about 40 something per cent.

My concern is, what criteria would be used to determine who is disadvantaged, from an economic aspect? And as a result of that, on what basis is the Minister of Social Development—who is given this responsibility—to determine who is to be considered landless on the basis that they are disadvantaged.

Not only that, we know that the whole question of disadvantage from an economic perspective varies by regions, in that, because of the regions in which some people live and because of the fact that they have access to other kinds of resources, an income level by itself in a particular geographical area would not be

considered as being economically disadvantaged. [*Cross talk*]. These factors must be taken into consideration.

Mr. Speaker: Order please!

Mr. M. Joseph: I support my colleague from Diego Martin East, because then it is a subjective—[*Cross talk*]

Mr. Speaker: Hon. Members, I appeal to you on the Government side to allow the Member to make his contribution.

Mr. M. Joseph: Thank you, Mr. Speaker. I was making the point that it is now left to the Minister to make a very subjective decision as to who can be considered to be disadvantaged, and in so doing, a whole lot of mischief can be created in the process. Therefore, I too agree with the Member for Diego Martin East and suggest that we refer to the original definition of "landless" in the original Bill which refers to a person who has no legal or equitable interest or any other interest or claim to such an interest in a dwelling house, residential land or any housing unit erected by the National Housing Authority or agricultural land upon which a dwelling house is permitted to be built.

Thank you.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I rise to support these amendments, but more especially to correct the misleading information that the Member for Diego Martin East placed on the record. We tried to indicate to him that he was misleading the House but as is his usual manner he insisted that we did not know what we were talking about.

I remember this Bill very distinctly when it passed through the Parliament. I could recall Members on this side asked the Member if he had read the amendments, but the point is not just reading them. These amendments came before the House, we debated them, the Member would go through his normal ranting and raving for 75 minutes and then he comes here and misleads us by saying that he remembered a Bill that came to this House which dealt with the definition of "spouse" and he asked why did we not use the same definition.

We tried to indicate to him that it was the same, but he insisted it was not. I would read the definition that comes out of the Cohabitational Relationships Bill which this House passed. It says that a cohabitational relationship is one between cohabitants who not being married to each other are living or have lived together

as husband and wife on a *bona fide* domestic basis. That is the same principle embodied in the definition of spouse contained in the amendments. I could not allow him to mislead us once more as he always attempts to do.

He asked why there was one rule for Tobago and a different one for Trinidad in the amendments. Again, if he had read the amendments very carefully he would see it there. It says that it is dealing with Act No. 40 of 1996 and talks about the Tobago House of Assembly pursuant to section 54 of the THA Act.

Thus, once again, he does not read the Bills or remembers the ones that have gone through the House. He attempts to mislead the House and then say that we have him here wasting time, when, in fact, he is the one wasting our time.

Regarding the other point the Member made about these amendments being engaged in mischief, just as he is asking, Mr. Speaker, I will also ask him through you, whether the entire Senate in passing these amendment engaged in mischief in sending them to the House? Is he saying that the entire Senate was engaged in mischief in passing these amendments? He also said that the hon. Minister had pressure in the Senate and that is why he made all these amendments and brought them to this House.

Mr. Speaker, I am in favour of these amendments and I thank you for the time to clear up those points.

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, in light of what the Member said with respect to Tobago, I am constrained to raise a specific question because from time to time I hear this panacean statement about Act No. 40 of 1996.

When we asked the question on this side it was not without knowledge of the existence of this Act. What we are saying is that there is land in Tobago and land in Trinidad, in both places there is a state agency. The law spells out how this matter should be handled by the state with respect to Trinidad. It places constraints, procedures and regulations on the handling of land in Trinidad. I find it amazing when I am told that the reason we do not see a similar description for land in Tobago is because Act No. 40 of 1990 exists. That is not an answer, because there must be some law that exist about land in Trinidad.

Is it that we are just to surmise that those persons who are in authority in the Tobago House of Assembly will put something in place to control the administration of this Bill on land in Tobago? If that is so, why is it necessary to spell out details, controls, procedures and regulations for land in Trinidad but then

it is left up to the politicians in Tobago to somehow, some way, somewhere treat with the land in Tobago?

10.55 p.m.

The fact that cannot be denied by the Government side is that whereas we know how it would be handled in Trinidad, as governed by specifics, we have no way of knowing what is going to go on in Tobago. In Trinidad, it says that a certain identifiable machinery is put in place, but that cannot be done in Tobago. It is left up to the Tobago House of Assembly.

What if the Tobago House of Assembly does not put a system in place? I am not saying it would happen, I am simply saying that the explanation opens us up to this. What if it takes the position that they of that executive council are in fact the Assembly? When one speaks of the Tobago House of Assembly, one is speaking of the executive council and they would see about land distribution with respect to squatter regularization, and identifying the landless and so forth. If they take that position, would that be on par with a similar situation in Trinidad, or are we creating two different countries? In Trinidad, a citizen would have to go to this agency which is governed by procedure and one would know how it can be applied to you and how it cannot.

Suppose in Tobago—and I am not accusing the Tobagonians of that—they decide to handle it completely differently? I was in this Parliament when Act No. 40 of 1996 was passed and I know there are no rules in that with respect to squatter regularisation. If this law is going to permit the people of Tobago to regularize squatters and this Parliament sees it fit to put regulations and procedures in place for land in Trinidad, I think some indication has to be given as to how the Tobago House of Assembly would do it. It cannot be left up to them. Who in this Parliament tonight would tell me exactly what the Tobago House of Assembly would do? When you tell me that, all I have is your word, because the Tobago House of Assembly does not have to take your word for it because there is no law which says how it shall be done.

Mr. Speaker, let me give you an example of why I am raising this. I have had experience with this before. There was a time, after the Tobago House of Assembly was formed when persons who should have known better moved heaven and earth to practise administration of public management in Tobago in the Tobago House of Assembly without the existence of Standing Orders. I do not know if you know that. There were no Standing Orders governing the conduct of

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business in the Tobago House of Assembly, and while we say we subscribe to Westminster democracy, in that agency, there were no Standing Orders, and I distinctly recall one debate where a Member of the Opposition was raising the point which was critical of something which the chairman had advanced. In those days there was no presiding officer, and the chairman said, "I do not agree with you, sit!" And it ended there because there was no Standing Order to prevent that kind of abuse.

I would tell you further that while we agree that there is some measure of autonomy that is made available to our fellow citizens in Tobago, there has to be some regulation which we can all understand. Let me give you an example. I am not saying that they will thief anything, I am simply asking how do the regulations there mesh with the rest of the country? Right now in Tobago, while this Parliament approves that the Tobago House of Assembly has the authority to take steps to get staff to carry out the responsibilities which were given to it, and there is no problem with that, the Tobago House of Assembly sees it fit to hire staff in addition to the established public service, there is no problem with that, it sees it fit to hire contract staff, there is no problem with that, but there is a procedure by which contract officers are hired and there are guidelines for the hiring of such officers. I am telling you that is not happening in Tobago. Every Tom, Dick and Harry who is sufficiently connected and favoured can have a contract under terms and conditions to be determined without reference to the accepted regulations, and I am saying that these things are going to cause problems down the road.

I am telling you further, that I have no problem with nationals in Tobago being trained, and the Tobago House of Assembly has some authority for bringing this into being. At the moment, there is a concern in Tobago that in attempting to discharge its responsibilities, scholarships are being awarded left, right and centre. We have no problem with scholarships, but there must be transparent procedures in place, and nobody can tell me that there are transparent procedures in place. It is not that we are against persons being trained by way of scholarships, but there has to be a procedure which we and all Tobagonians know of and all applicants can access. It cannot be you hear "x" or "y" got a scholarship, and you open yourself up to all kinds of accusations. *[Interruption]*

Mr. Speaker, I would ignore that wound-up animated toy because he does not understand what I am talking about, but coming from the media, I would think he would know better. Mr. Speaker, I am talking to you and I am saying that these are problems which are festering and growing in Tobago and whenever the matter is raised, there is one answer all the time and the answer is, Act No. 40 of 1986 as if that solves all the problems or is a panacea for all evil. All we ask is in

discharging its autonomous responsibilities, which we supported, we want to see procedures in place, otherwise problems would arise.

Let us look at how a problem is arising. Mr. Speaker, are you aware that some of our citizens in Tobago are funded by way of scholarship to offshore medical schools in Grenada? And this is being paid for in US dollars by the Tobago House of Assembly, and whereas the national position of accreditation—the National Medical Board—which would certify a doctor, does not recognize that medical school. There is the state funding students in that school, and I am saying that I have no problem with Tobagonians getting medical scholarships. The question I ask is why not scholarships to Mount Hope, and how were they selected? What is the procedure being followed, and when these students graduate from Grenada where are they going to work if the Government of Trinidad and Tobago says that such qualifications are not recognized in this country? Do you see the difficulty which we are creating and if it is not addressed now, when those graduates return, there is a new problem which starts with Tobago does not like Trinidad, and I am saying let us not do that. Let us follow procedure, and asking for clarification on procedure.

Mr. Speaker: I would like to indicate that you are moving away from the content of clause 2.

Dr. K. Rowley: I thank you very much for your tolerance, but I sought to demonstrate whereas in this case when we asked what procedure would be followed, and why was it not prescribed for Tobago in the way in which it is prescribed here—I was saying to you in the absence of some clear indication of how it should apply we could end up with this measure either having different arrangements, or none at all and chaos developing. I am addressing a situation which is now becoming habitual. It is not an isolated instance, but it seems to be a habitual matter and now we are talking about land management for squatters, I am raising it and saying I am seeing the same kind of problem arising and I would like somebody on the Government side to tell me if they know what is the procedure which is being followed in Tobago and what guarantees we have that there would not be abuse of a procedure which is not in-keeping with what we have accepted for Trinidad.

We believe that the same terms of controls, regulations and procedures which apply in Trinidad should by and large apply to Tobago. We should not have two different categories of citizens. So whether it is scholarships, land distribution, or contract worker, because they are working for the same state, there should be

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some commonality between the conditions and what the Tobago House of Assembly does in autonomously discharging its responsibilities, but it does not mean that it creates a completely new situation where some people in Trinidad can feel that it is a different country, or somebody in Tobago can feel they are in a different country. I raise this without malice to anyone, I raise it because I am saying to you it is the germ of problems to come and in some instances, the problems are already here.

I would be very happy indeed, if any of my colleagues on the other side can explain to me how this would operate in Tobago. I would be very happy indeed if my colleague, the Member for Tobago East can indicate in the debate, if not in great detail, just some indication as to what he expects to happen when the Tobago House of Assembly is called upon to administer this piece of legislation. If he does that I would be very grateful to him because I would like to know what to expect.

Thank you.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, it is amazing how this Opposition really comes here and does not read the amendment and asks for explanations.

We had Act No. 40 of 1986 debated in this House and, therefore, the presumption must be that Members should be very familiar with at least the arrangement for Tobago, as far as the Tobago House of Assembly is concerned. In the Bill, the word "State Land" includes land held by the National Housing Authority and state land vested in the Tobago House of Assembly and any other land transferred to the State from time to time for any State Agency for the purposes of this Act.

The Tobago House of Assembly under this Act stated that the land in Tobago is vested in the Tobago House of Assembly subject to the right of the state. The ownership is in the state and the Tobago House of Assembly is really the trustee on behalf of the people of Trinidad and Tobago. The Act also states that this Act does not affect the right of the Cabinet to have the overall monitoring of the policy in respect of all the matters.

Under this Bill, in respect of lands in Trinidad and Tobago, there is a Land Settlement Agency which would administer this Act, the Squatters Act, in relation to lands in Trinidad and the Tobago House of Assembly would administer and carry out the provisions of the Act in relation to the lands in Tobago.

Why in a matter like this we have to talk about scholarship of the people of Tobago to some other country? Why do we distrust the Tobagonians so much? Why do we believe that the Tobagonians would thief the land in Tobago? Why do we believe that Tobagonians cannot be trusted with administering anything which relates to Trinidad and Tobago?

11.10 p.m.

Dr. K. Rowley: I thank the Minister for giving way Mr. Speaker; and nothing that I said could be construed in the way he has just described it.

I would like to ask the Minister, are we to understand that there would be, in Tobago, in order to administer this provision, an agency with chairmanship, with Members of a Board with regulations and procedure mirroring what exists in Trinidad to carry out the effects on the Trinidad land? Is that what you are saying? Are we to expect that?

Hon. R. L. Maharaj: The Tobago House of Assembly on the direction of the Central Government to Cabinet would have to put whatever mechanisms in place for it to work. As a matter of fact, we all know that the Tobago House of Assembly is subject to all the questions of accountability that apply to Trinidad and Tobago. Why is it that we are not asking about the land settlement agency in Trinidad?

The whole problem is one of distrust, and there are mechanisms in place, there are rules and regulations that would be in place in order to monitor all the accounts of the Tobago House of Assembly.

I do not see, Mr. Speaker, why it is in a Bill like this in which we are merely dealing with the legal structures. We are not dealing with actual operation, because obviously, there would be rules and regulations. We are dealing with the legal structures; and you must have a legal structure to administer the set up in Tobago.

The Tobago House of Assembly Bill: both the letter and the spirit of this Bill give to the Tobago House of Assembly, the people of Tobago autonomy. I do not think it is fair to the people of Tobago to insinuate that they cannot be trusted with administering some of the affairs that apply in respect of land. If it is that the Opposition has a problem at any time that there are not sufficient checks and balances and that there are not sufficient rules and regulations, they can raise that. The act has to be administered by rules and regulations.

Mr. Speaker: Member for Toco/Manzanilla.

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Mr. Roger Boynes (*Toco/Manzanilla*): Thank you very much Mr. Speaker for allowing me. Now, let me make certain observations concerning specifically the proposed amendments that are before us here tonight.

Mr. Speaker, I look at the clause which defines landless, and I refer to the original Bill not to this new Bill that was presented to us. I propose to read what the definition of landless states, what the amendment suggests and what the new Bill looks like; and I would demonstrate to this Parliament the absolute need for us to adhere to the ruling of Mr. Speaker here tonight. We have to go through each of these amendments clause by clause and make pronouncement on them. So that the correct thing will be done. And let me just demonstrate this point to justify why the Speaker has ruled in the way he has.

Let me explain:

Landless means, and it refers to a person who has no legal or equitable interest or any other interest or claim to such an interest, in a dwelling house, residential land or any housing unit erected by the National Housing Authority etc”.

The proposed amendment suggests that you insert the words “who falls within a category designated as disadvantaged by the Minister to whom responsibility for social development is assigned” and before the words “who has no legal”.

The new Bill simply goes on to include the aspect of “who falls within a category designated as disadvantaged by the Minister to whom responsibility for social development is assigned”. He puts that in front of the other words in that particular section. And nowhere here does it mention anything about the units built or erected by the National Housing Authority.

Mr. Speaker, this is totally bad drafting. The proposed amendment should have indicated that it proposes to delete units provided by the National Housing Authority. It does not do that. So, if it is that it has to be amended properly, it must say so in the proposed amendment. It just cannot propose one particular amendment and in the proposed Bill it simply just disappears. We are here to do the correct thing, and I am suggesting the reason why the Speaker has read the Standing Order is that we would go through this clause by clause to ensure that the correct thing is done here tonight.

Certainly, as part of the amendment if it is that the Member for St. Augustine do not wish to have any housing unit erected by the National Housing Authority, he should say so in his proposed amendment.

Secondly, I wish to look at the clause dealing with regularisation. It states here that it means “the incremental physical upgrading of and provision of services to, designated areas and land settlement areas.” Now, that is the definition of regularisation. If I may read it again “regularisation means incremental physical *et cetera*, Mr. Speaker.

Mr. Speaker, whereas I understand regularisation can deal specifically with the incremental physical upgrading of a particular area; dealing with the standards for upgrading a residential area would be different for the regularisation of a squatter area.

Now, I assume that the definition of regularisation would be a bit more specific. If we are to define regularisation and there is no provision in the Town and Country Planning Act for low income housing, or squatter development we now have to look to this particular Act, especially this particular clause, to define what regularisation would be. At what point would any particular squatting area be deemed to be regularised? We say “the incremental physical upgrading”. What does that mean? Does that mean that the area must have roads developed? Does it mean that the area must have roads, drainage, lights, water? Does it mean it must only have drainage? How do we define regularisation of a particular squatting area in the absence of any standards in this present Town and Country Planning Act?

There has not been any harmonisation with the Planning Act. In the Planning Act, it provides the standards for low income housing and for squatter areas. But, there is no harmonising of this Act with the Planning Act. So, we now are left as today, with determining what are the standards for low income housing and squatter areas. We have to look now at the Town and Country Planning Act which is silent on it.

We now have to look at this Act under the definition for regularisation. Do you know what it says? The incremental upgrading. What does that mean? Would somebody on that side tell me what that means?

Mr. Speaker, we all come here for information, we all come here for proper definition so that the Bill will be solid as a rock in the best interest of development for the people of this region; because at the end of the day, we on this side are saying, the Member for St. Augustine has had a wealth of experience in dealing with the Sou Sou Lands. He has seen some ups and some downs, he has seen some areas make it and some fail; he knows what the problems are—the process is a difficult one, Mr. Speaker, and the reason we are here is to make this Bill a workable Bill.

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11.20 p.m.

This is the reason why we are here. We are not here to waste anyone's time. We ask, talk, say, preach and appeal to them on the other side, to put the proper thing in place to ensure that the Act can work. I beg the point again, how do we define "regularisation"? At what point do we know when a squatter area has been regularised? What are the standards? So I am simply suggesting that we properly define this particular word in the clause, Mr. Speaker, to give some workability to this particular Bill before us.

Now, I also wish for us to look at the clause defining "State lands" and I am seeing it includes land held by the National Housing Authority; state land vested in the Tobago House of Assembly. Why not state land vested in regional corporations? There are lands in Tooray, in my constituency, on which there are squatters, and the land is vested in the Sangre Grande Regional Corporation. Why not have "regional corporations" included here? Why not?

Do you know Mr. Speaker, the only reason why this whole aspect of state lands vested in the Tobago House of Assembly has come before this Parliament and has been placed into this Bill? It is because the Member for Tobago East sat here during the debate of this particular Bill and said absolutely nothing on it; absolutely nothing, whatsoever—it is only when he went to Tobago and was questioned by members of the Tobago House of Assembly as to why he did not mention them or why they were not consulted. He announced over the media that he had nothing to do with it; but he sat here in the committee stage and went through every, single clause. He is misleading this Parliament. He sat here and said nothing. This is the reason why, having reached upstairs, they are hurriedly pushing it and saying it is the only amendment they have placed in the Senate; they hurriedly pushed this, Mr. Speaker, to take shame out of the eyes of the Member for Tobago East. It is the only reason. *[Noise]* I speak because I have Tobago in my heart. My aunts and uncles are from Tobago. Part of me is Toco, the other part is Tobago. *[Desk thumping]* I speak for my people. I am saying, when we come here, we must not fool anybody; we must come and do the people's work, all the people's work. This is what I am saying, Mr. Speaker.

Mr. Speaker, in closing—I see that I have the House fully awake—I simply wish to re-iterate that we are here trying, as we go from clause to clause, to make sure that we have a workable Bill. This is all we are here for.

Thank you very much.

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Question put.

House divided: 18 Ayes 11 Noes

AYES

Maharaj, Hon. R. L.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P

Rafeeq, Dr. The Hon. H.

Assam, Hon. M

Job, Dr. The Hon. M.

Khan, Dr. F.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Ramsaran, Hon. M.

Ali, R.

NOES

Valley, K.

Rowley, Dr. K.

Imbert, C.

Narine, J.

Hart, E.

James, Mrs. E.

Bereaux, H.

Joseph, M.

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Sinanan, B.
Boynes, R.
Williams, E.

Clause 3

Senate Amendment reads as follows:

Clause 3(c): Delete this subclause and substitute the following:

“(c) A squatter or tenant in respect of his actual occupation or tenancy of lands owned by a State Agency listed in the Schedule, and on which there is a dwelling house before the appointed day, so however that no occupant therein may obtain a Statutory Lease or a Deed of Lease until such time as the land is designated and legally transferred to the State”.

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

Question proposed.

Question put and agreed to.

Clause 4

Senate amendments read as follows:

Clause 4 In subclause (1) line 2, substitute for the word “security” the word “protection”.

Clause 4(3) Delete the word “or” between the words “Deed” and “Lease” and substitute the word “of”.

Clause 4(4) A. After the word ‘Committee’ add the words “or the

B. Delete the word “certifies” and substitute the word

11.30 p.m.

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

Question proposed.

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Question put and agreed to.

Clause 5

Senate amendment read as follows:

5

Replace this clause with the following:

“The Land
Settlement
Agency

5. (1) There is hereby established a body corporate to be known as the Land Settlement Agency.

(2) The Agency shall have a common seal which shall be officially and judicially noticed, and shall in its corporate name be capable of suing and being sued.

(3) The constitution and procedure of the Agency shall be in accordance with the rules pursuant to section 34(1).

(4) The Agency is charged with the responsibility for administering and carrying out the provisions of this Act with respect to State land in the Island of Trinidad.

Act No. 40
of 1996

(5) The Tobago House of Assembly is responsible for administering and carrying out the provisions of this Act with respect to State lands which are vested in the Tobago House of Assembly pursuant to section 54 of the Tobago House of Assembly Act.

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

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, this clause summarizes the points made by my colleagues from Diego Martin West and Toco/Manzanilla.

And specifically the amended 5(3),

“The constitution and procedure of the Agency shall be in accordance with the rules pursuant to section 34(1).”

Mr. Speaker, this is the essence of the point made earlier. Whereas in Trinidad this amendment now establishes a body corporate to be known as the Land Settlement Agency; in Tobago, there shall be no such arrangement.

If in fact, we go to the amended clause 5(5), the amendment states that:

“The Tobago House of Assembly is responsible for administering and carrying out the provisions of this Act with respect to State lands which are vested in the Tobago House of Assembly pursuant to section 54 of the Tobago House of Assembly Act.”

But in this amendment, this agency shall have a chairman and members who shall have qualifications and practical experience in matters relating to law, planning, surveying, engineering, land management, community and social development and other disciplines. The agency which is now established by this amendment is being defined by law. But there is no definition whatsoever of the body in Tobago which is going to administer this Act. There is no requirement, for example, with

this amendment that the agency or body or group of persons, or whatever, who will administer this Act in Tobago would have any qualifications such as the qualifications I just mentioned.

I would ask the Government: why have they not put into this law, through this amendment, that there will be a land settlement agency in Tobago under the jurisdiction of the Tobago House of Assembly? [*Desk thumping*] This is legal drafting gone mad! If in Trinidad there is an agency, which has rules as prescribed in section 34, which has a chairman, which has qualifications of persons, they have tenure of office, all kinds of things, there is a rubric, a framework, a set of rules for the operation of the agency in Trinidad: why do we not have the same thing in Tobago? You see, we are going to come time and time again to this problem where we believe that, "Look, we should just leave that up to them". And we are going to run into trouble time and time again.

Because experience has shown that especially with Tobago, when there is ambiguity, a loophole or a definition is not tight enough, there is the potential for abuse. Experience has shown us that. I cannot see why the Government is resisting this.

What we are seeking to do in this Parliament here tonight is to improve this legislation. We are giving the Members opposite a mechanism to improve the operation, that there shall be a land settlement agency in Tobago under the jurisdiction of the Tobago House of Assembly, and it shall have a chairman and it shall consist of no fewer than five persons. Are you telling me that in Trinidad the Land Settlement Agency must consist of persons with special qualifications and not so in Tobago? So there are no engineers in Tobago? No lawyers, no planners, no surveyors, no land management practitioners in Tobago, Mr. Speaker?

It makes no sense. Why the need to prescribe conditions for operation of the Land Settlement Agency in Trinidad, if not in Tobago? Why not just leave them out in Trinidad too? Why not just say that the land settlement agency shall be responsible for administering and carrying out the provisions of this Act and prescribe no rules, no regulations, nothing with regard to that agency. Because that is what they are doing with respect to Tobago. One cannot just blithely and glibly say—as the Member for Siparia always does—and I am so disappointed on so many occasions when she gets up to speak in this Parliament: she does not think about what she is saying. One cannot just offer the sort of cover-all, Act 40 of 1996. Act 40 prescribes no regulations for land distribution and squatter regularisation. Nothing. It just gives the Assembly the power to do it, but there are no prescriptions, rules or regulations.

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Are we saying in this Parliament that in all matters relating to Tobago, we must exercise no oversight whatsoever? So why do we have a Member for Tobago East and a Member for Tobago West? What are they doing here in this Parliament if they are not supposed to talk about Tobago. If they are not supposed to place any legislation with regard to Tobago on the table in this Parliament, then what are they doing here? Let us abolish the Tobago East and West seats and let us have a federation.

I submit that both the Members for Tobago East and West are abdicating their responsibility. Those two Members have been elected in general elections to bring the views of Tobago here. Their job is not to bring the views of the Tobago House of Assembly here. They have a separate national responsibility.

Mr. Speaker: I think we are veering away. You started very well. You are starting to move away from it.

Mr. C. Imbert: Mr. Speaker, I am guided.

The point I am making is, if we look at this clause very carefully, it states:

“The constitution and procedure of the Agency shall be in accordance with the rules pursuant to section 34(1).”

It does not say anything about what rules they are operating under. This is bad drafting. It is all done in haste.

In the original Bill, there was very little thought given to Tobago at all. When one looks through the original legislation, the original clause 5, which is now being amended, there is no mention of Tobago at all. It appears that the persons who drafted these amendments felt that they could solve that problem by just sticking in “House of Assembly” here and there wherever you have “division” or “agency”, and not looking at the consequence of that.

So that I would like someone on that side to get up and tell me: in which body of law are the prescriptions contained for the composition of the body that would be administering this Act in Tobago?

I can see what is happening in Trinidad. I can see an entity, an agency which has a seal which is comprised of non-politicians, or professionals, I can see that intent in the wording relating to Trinidad. They talk about a chairman and persons having qualifications and so forth. But it is clear to me that in Tobago the House of Assembly would have the power to have politicians directly involved in the regularisation of squatters. In Trinidad it will not be that way, the Minister will give his policy guidelines, he will give his directions but, as defined in the

amendment, an agency will be comprised of professionals and will operate under certain rules and so forth. In Tobago, the politicians will be able to operate as the agency and it will bring the politicians in direct contact with the distribution of land, there will be no appearance whatsoever—forget appearance, there will be no neutrality in this, Mr. Speaker.

11.45 p.m.

The people of Tobago will not have the benefit of an agency or body of persons who have been selected because of their professional competence.

So, I am asking that the Government consider what they are doing and to make amendments to this amendment which establishes a land settlement agency in Tobago under the jurisdiction of the Tobago House of Assembly with the same type of composition and rules as the land settlement agency in Trinidad. If they do not do that there is going to be chaos and “ole” mas in Tobago because persons would seek to interpret this very badly drafted amendment as they see fit and to suit their own particular devices and purposes.

Mr. Speaker, I thank you.

The Minister of Sport and Youth Affairs (Hon. Pamela Nicholson): Mr. Speaker, I have some grave concerns with this area in this document. I am very unclear as to how the whole question of squatter regularization in Tobago would be addressed. I subscribe to the view that you are giving the powers here to politicians. [*Desk thumping*]

Mr. Speaker, it says here “the Tobago House of Assembly”. Who is the Tobago House of Assembly is another question I have to ask. When one looks at the Act, there are certain areas, for example, section 33 talks about the executive council of the Tobago House of Assembly doing the business of Tobago. When we say the “Assembly” are we talking about the executive council of the Tobago House of Assembly or are we talking about the 16 members who make up the Tobago House of Assembly? If not, it should be stated that there shall be a committee or a land settlement agency or a land settlement council. [*Desk thumping*]

I feel so very strongly and this is unclear even when one looks at the behavioural patterns and the interpretation of this Act—the Tobago House of Assembly Act—by the Tobago House of Assembly. It is very important that one tightens these clauses that govern the Tobago House of Assembly. I am very happy that the Tobago House of Assembly will have the privilege to do certain

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things. I am not against that but you must have clarity so that there will not be problems re the interpretation of the Act. You will have a lot of problems here.

I feel so very strongly and I would like the government side, to which I belong now, to look at this again because Tobago is not independent. What you have is devolution of powers. If you have a policy as to how it should be done, you have the same thing running across but it will be done from Tobago under the purview of the Tobago House of Assembly, but then it should be a council or an agency. I believe that this is unclear; this is not telling us exactly who will be carrying out the work for the Tobago House of Assembly. We are having a lot of problems with the Bill in itself and this would just make it even worse if we continue in this way.

I believe that we should be looking at this again. What do we mean by the Tobago House of Assembly? I am asking that question because it is a unicameral system. You have 16 people making it up, are you saying that it is the executive council? If it is the executive council, say the executive council of the Tobago House of Assembly will do so and so. When you say the “Tobago House of Assembly” you are talking about everybody. If not, we should be saying so. When we look at this Bill it tells you very distinctly what is meant by the Land Settlement Agency. I believe the same should go across into Tobago even though it is under the purview of the Tobago House of Assembly. The Land Settlement Agency under the Tobago House of Assembly.

I would like the Attorney General to look at this again so that we would not have any conflict because right now you are having conflicts because of the unclarity of the Bill.

Thank you, Mr. Speaker.

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, before I make my brief intervention, I want to congratulate my colleague from Tobago West for the courage of her conviction—[*Desk thumping*—]—and for demonstrating the quality and intent and purpose of the oath we all took when we became Members of this House and that is to exercise our responsibility without fear or favour.

Mr. Speaker, any person who is reasonable, and I assume that we are all in this House reasonable men and women, would understand the request that we are making. As a born and bred Tobagonian I got up here and asked the Government why is it that in a national situation where we set out by agreement to do something for the national community we see it fit with respect to those lands in

Trinidad to spell out under law certain arrangements but have not taken the steps to ensure that a similar case will apply to Tobago.

I pointed out how problems have developed or are likely to develop because of a different interpretation. While the objective might be the same both in Trinidad and in Tobago, the two separate administrative bodies are proceeding along different routes on matters of contracts, scholarships and so forth. I see a similar thing developing here. If we do not rectify it what happens? A man from Couva gets up and accuses me of casting aspersions on Tobagonians, therefore on myself.

Mr. Maharaj: What do you have against Couva? Why not a man from Tobago?

Dr. K. Rowley: I am saying that the Attorney General who, to the best of my knowledge—*[Interruption]* In fact, he is not from Couva, he is from Diamond Village.

Mr. Valley: He is not from Couva. I am from Couva.

Dr. K. Rowley: Mr. Speaker, I take that back. The man from Couva is the Member for Diego Martin Central. I would put it differently. A non Tobagonian. I asked reasonably straight forward questions with no hidden agenda or malice, and the only response I got from the Government is that we do not like Tobago, we do not have any confidence in Tobagonians because they would “tief” Government money which is totally irrelevant to the points I raised.

My colleague from Diego Martin East got up and identified the same problem I had and is making the same request to the Government and the Member of Parliament for Tobago West, with the courage of her conviction, got up and asked it. Now I want to ask the Attorney General if he would accuse her of casting aspersions on Tobagonians too because that was the easiest answer he could give. We still do not have the answer. Because for the Trinidad lands the state is duty-bound under law, if this is passed, to put this agency in place. If that is not done and any act of regularization takes place, or is purported to take place, that will be an illegal act, but in Tobago there is no yardstick to govern or to measure it. I ask: Why? Instead of telling me why I am being accused of not liking Tobago and of casting aspersions on Tobagonians and so forth; and the Government with its arrogance forcing its own Member to get up here tonight and say, “I, too, am of

Mr. Maharaj: You are speaking for my Member now?

Dr. K. Rowley: Your Member? Your Member? She is my Tobago sister. Your Member?

Mr. Speaker, I am asking the same question in the context here again. Are we to expect that the Tobago House of Assembly, out of the goodness of the hearts of members of the Tobago House of Assembly, all 16 of them, that they will comply? As my colleague from Tobago West asked: What does the term “Tobago House of Assembly” mean? Does it mean the executive person? Does it mean the executive council? Does it mean the secretary for agriculture under whom lands fall, or does it mean the 16 members in the Assembly who are the Tobago House of Assembly? *[Interruption]* I do not have to think, idiot. What I am saying is that to prevent that ambiguity the law must define what it wants to happen. The same way it is defined in Trinidad that citizens of Trinidad and Tobago living in Trinidad will have to approach this land authority as spelt out in law, there must be some equivalent body in Tobago.

Mr. Speaker, I do not want to belabour this point or appear to be belabouring a point, but we have to learn from our experiences. One of the big problems in Tobago, especially with public officials is that there is a situation which exists where politicians interface very directly, and uncomfortably so, with public servants because the buffer as exists in the rest of the country—say a minister and a public servant by way of a permanent secretary and so forth—there is some gray area in Tobago and there is an interpretation by certain politicians in Tobago that they are, in fact, chief executive officers of the public servants.

12.00 midnight

When we know that and we ask: how is this Government going to operate? Is that not a reasonable question to ask the Government? As my colleague from Tobago West said we are not a federation; Tobago is not independent. What we say we want for the people of Trinidad and Tobago we mean just that. What we want for Trinidad we want for Tobago and *vice versa*. What applies in Trinidad has to apply in Tobago.

What we have done so far is to give Tobagonians a free hand to do in Tobago unto the people of Tobago. We have given no licence to mash up the place or to create new standards in Tobago. We have a national perspective and we are saying if it is not put properly in place we cannot then blame people for interpreting it in a way that is different; and that different interpretation will lead to aggravation, discord and an uncomfortable relationship.

All we are saying is let us do it right and not allow these differences to arise. Why is the Government resisting that? The same way in which they spelt it out for Trinidad they should spell it out for the Tobago House of Assembly or the executive or whatever it is, saying that it will have a similar agency. It does not need to have all the same resources and so forth or the make up of human resources. We know Tobago has a smaller population and we will accept if they do not spell out an engineer, lawyer, surveyor and so on because in small communities it might be difficult to identify people to fill those positions.

I know, operating at the level of the Cabinet, when you have boards that tell you exactly how you pick people by profession it is a very difficult task to find the right person to fit the requirement of the law. We will accept if they say in Tobago they will have an agency without spelling out professional qualifications. But do not just leave it up to the goodwill and the goodness of the hearts of politicians, with all due respect. This is an invitation to abuse.

What if, in interpreting it, they take the position that they are the Assembly, they are the Land Secretary and they are responsible for handing out or managing state land squatter problems. This is exactly what the lawyer is permitting. Can you imagine, Mr. Speaker? Tobago has no end of state land and you allow any politician *carte blanche* to designate land settlement areas, to designate who will be regularised and so forth. They have turned over all the state land in Tobago to one individual to do as he sees fit. That is the effect of what this law is saying if we take the position that they will handle it the way they see fit, because Act No. 40 of 1996 gives them that power.

In the Assembly there is one politician who is the Secretary for land and I am not accusing him of anything. It can be Mr. X, Miss Y or anybody, but that officer responsible for lands can find him or herself in a situation unfettered by any law or regulation, free to distribute land under the guise of squatter regularisation, to designate areas of state land under his control as land settlement areas, and to proceed to invite into that area persons to access those lands; and the law—I am not going ahead of you, Mr. Speaker, but just to make the point—that we are dealing with tonight, permits that individual acting in the function of a Minister to set the terms and conditions for those lands. Are we aware of that?

The law says that if they designate a land settlement area, the Minister will determine, in his discretion, the terms and conditions for those lands. The person who is in Tobago carrying out that function is the Secretary for Agriculture under the Assembly. Do we really want to give a politician that kind of total control over

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all state lands in Tobago? Mr. Speaker, the answer must be no, we are not so irresponsible. I say it again, I am appealing to the Government to take the word of caution and to take the word of reason expressed to them, not by the other side but by the Member for Tobago West whom I support wholeheartedly. [*Desk thumping*]

Hon. J. Humphrey: Mr. Speaker, I beg to move.

Question put.

The House divided: Ayes 18 Noes 12

AYES

Maharaj, Hon. R. L.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Rafeeq, Dr. The Hon. H.

Assam, Hon. M.

Job, Dr. The Hon. M.

Khan, Dr. F.

Singh, Hon. G.

Nanan, Hon Dr. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Ramsaran, Mr. M.

Ali, Mr. R.

NOES

Nicholson, Hon. P.

Valley, K.

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Rowley, Dr. K.

Imbert, C.

Narine, J.

Hart, E.

James, Mrs. E.

Hedwige, B.

Joseph, M

Sinanan, B.

Boynes, R.

Williams, E.

Question put and agreed to.

Clause 6

Senate amendment read as follows:

Delete the word "Division" wherever occurring and substitute the word "Agency".

Hon. J. Humphrey: Mr. Speaker, I beg to move that this House doth agree with the Senate in the said amendment.

Question proposed.

Question put and agreed to.

Clause 7.

Senate amendment read as follows:

- A. Replace the word "Co-ordinator" wherever it appears with the word "Chairman".
- B. In subclause (1) delete the word "Division" wherever it occurs and substitute the word "Agency".

Hon. J. Humphrey: Mr. Speaker, I beg to move that this House doth agree with the Senate in the said amendment.

Question proposed.

Question put and agreed to.

Clause 10.

- C. In paragraph (h) delete the word “register” and substitute the word “Register”.
- D. Renumber paragraph (i) as (l) and insert after paragraph (h) the following new paragraphs:
 - “(i) enter into contracts to carry out and do other acts or things incidental to the purpose of the Agency or the Assembly under this Act;
 - (j) research and development;
 - (k) facilitation of micro-enterprise within communities;”

Hon. J. Humphrey: Mr. Speaker, I beg to move, that this House doth agree with the Senate in the said amendment.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, I will not be long on this clause. In this clause, there is the introduction of the word “Assembly” once again, and there are several new subsections. The more important one of which is:

“(i) enter into contracts to carry out and do other acts or things incidental to the purpose of the Agency or the Assembly under this Act”.

Again, what this is doing is, in Trinidad, the Agency which will be a body of professionals, shall cause titled investigations to be done; surveys, preparation of planning and design layouts, infrastructural upgrading works, establishment of settlement councils in communities—the agency does that in Trinidad—preparation of certificates of comfort, deeds of lease and so forth. But in Tobago, it is not an agency comprised of professionals. It is the Assembly. Again, we have to ask ourselves, is this what we want?

In Trinidad, we have a structure where the Minister is once removed from the administration, but in Tobago, the politician is in direct contact and control of all of these matters, including title investigations, infrastructure work, and the issue of certificates of comfort. What is a politician doing issuing certificates of comfort? This certificate of comfort is a document that squatters will receive verifying that they were in occupation of the designated land on the appointed day, and whereas in Trinidad it will be a technical exercise, where some person working for the Agency will actually visit sites and conduct surveys to determine whether persons should be issued certificates of comfort or not, there is a bit of technical oversight.

No such thing can take place in Tobago. It can or it cannot, but the way it is worded, the Chairman of the House of Assembly or the Secretary for Agriculture could just walk down into Arnos Vale and say, “You have been squatting on this land. Here is a certificate of comfort”. We really should not do these things in this Parliament. We should try to create a buffer between the politicians and the exercise of state powers of this nature. Again, this clause is giving the Assembly the power to enter into contracts and to issue certificates of comfort. It really is inconsistent with the regulations that are being put in place in Trinidad. I ask the Members of the Government, again, to consider this and to consider the wisdom of their actions. They really do not seem to understand that they are putting tremendous power and tremendous potential for abuse into the hands of politicians in Tobago. I ask them to think again.

I thank you, Mr. Speaker.

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Mr. Roger Boynes (*Toco/Manzanilla*) : Mr. Speaker, I wish to draw your attention to clause 10(c) whereby the amendment reads as follows:

“with a view to developing viable communities”.

As we have mentioned before, in order for this Bill—which would be made an Act and become the law of the land after proclamation—to be a workable one, we here must ensure that from our experience over the years in dealing with low-cost housing, squatters and with Sou Sou Lands, that we put things in here that we know would be in the best interest of ensuring that communities are viable.

Many of us, for instance, in our communities, have been very hard working. The work of a Member of Parliament is not easy, and every single Member of Parliament would understand and know how difficult it can be—the sacrifices that each and every one of us has to go through in being a Member of Parliament. Sometimes we ask ourselves why we do it, but we do it because of our love of our communities. We love to see the community grow from strength to strength, and that is why I am suggesting that if this Bill is to be a workable one, and if we are to make viable communities, we have to understand the essence of communities and what will make them grow from strength to strength.

The fact is that the elected Members of Parliament are the ones who use their offices and lobby for the development of communities. They are the ones who will go from agency to agency to bring whatever Government resources are available to bear on the region and on the communities. There are village councils, self-help groups, action groups, churches, youth groups, and all of these interest groups have a lot in common. All of them have the best interest of the development of their particular communities at heart. They all work together, selflessly so, to develop and make the communities viable.

I am suggesting to the Minister, if he wants to ensure that the Agency will have the power to make these communities viable, he cannot simply have it hanging here in this particular section: “by preparation of planning and design layouts with a view to developing viable communities”. I understand that one has to deal with the Member for St. Augustine if one is dealing with physical planning of a particular region, and the Member for Oropouche is in charge basically, of the socio-economic planning for a particular region.

Mr. Speaker, in dealing with these two gentlemen and dealing with their respective ministries, one would get an idea of how to go about planning for the overall development of a particular community, but it does not stop there.

Negotiations must take place with every interest group in that particular community, because one cannot simply stay in a ministry and understand what is the best interest of that particular region in order to make that community a viable one.

I am suggesting that they include in this particular clause “liaising with the various interest groups, the Members of Parliament and the Councillors”. Put that in this Bill to make it workable. Similarly, with respect to 10(k):

“Facilitation of micro-enterprise within communities”

Once again, this is hanging. The Agency is responsible for the facilitation of micro-enterprise within communities. Let us be honest here. How is this going to work? There must be some sort of catalyst. There must be some sort of driving force to get this to work. If it is that we really and truly are concerned about the squatting community or communities at hand, we would ensure that we amend the Bill to read “by liaising with all interest groups, Members of Parliament, and Councillors for the facilitation of micro-enterprises within communities”.

What will happen is that the Councillors and the Members of Parliament would use their office to lobby every Government agency to bring in Government resources in the particular community. The church would utilise its good office and lobby for the development of that particular community. At present, Mr. Speaker, I am working with the Pentecostal Church, among other churches in the Sangre Grande region, and together we have come up with a plan where we look at the community as a whole and see what is in the best interest of development for the young people in that particular region, what we can do to really and truly encourage business in that particular region; and we have come up with several ideas.

We are bringing FundAid, we are bringing the Small Business Development Company, we are bringing the Venture Capital Company to give seminars to the young people of the community. The National Alcoholic & Drug Abuse Prevention Programme (NADAP) is coming to give programmes and talk on behalf of that particular organ of the state so that persons will understand that drugs are not the answer. We have plans to go to every school, as we have started doing, to run programmes, to have debating competitions, to have reading competitions, so that not only the wise men would come from the east. The wise men and women would come from the east. If anybody is looking for a wife, come to Sangre Grande!

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We are building communities from the ground up. That is why we have to understand that in order to make it workable, one has to start from the ground up. One cannot play politics with developing the groundwork.

Dr. Khan: Just a point of clarification; is wife development one of the micro-enterprises the Member is developing?

Mr. Boynes: Mr. Speaker, the point I was making is that a part of the policy is to really and truly make the people of that particular region as literate as ever, so that anybody looking for a bright young man or young woman, please look in the direction of the east, because we intend to run a lot of literacy programmes.

12.25 a.m.

There is a computer caravan, and we are asking the Minister to ensure that he sends it up to the Pentecostal Church where we could have so many young people exposed to computer literacy, and it goes on and on. It just goes to show that if we are conscious about exposing our communities to business and micro enterprises we cannot have it hanging in a vacuum. We have to ensure that we liaise with the various Members of Parliament and councils regardless of what political party they ascribe to—that is not the answer—the answer is to make sure we have a Bill that could really and truly push the development of communities, and that is what we want here today. I am suggesting if the Member for St. Augustine could hear our plea on this side and make these few amendments, we would be most obliged.

Thank you.

Mr. Barendra Sinanan (*San Fernando West*): Thank you, Mr. Speaker. I join this debate specifically to deal with the amendment proposed in clause 10(h) which talks about "the preparation and upkeep of a register containing all relevant information pertaining to Certificates of Comfort, Statutory Leases and Deeds of Lease". The question I am asking is, where and how will this register be kept? Would it be at the Ministry of Housing and Settlements or at the Red House under the aegis of the Registrar General's Department?

If it is going to be under the aegis of the Registrar General's Department, I have spoken on numerous occasions in this House, and I am sure that the hon. Attorney General and the Minister of Legal Affairs are also well aware of the state of the Registry in the Red House in Port of Spain. I have made the point before that a large part of the commerce on this country is dependent on the Registry situated downstairs, and to tell you that it is in a dilapidated condition is putting it mildly.

I have seen a letter written by the Title Clerks Association which talks about the state of the books at the Registry; books are missing, pages are torn out, and really and truly, any practitioner of conveyancing is on a hit and miss mission and can be put to great expense if one misses a title deed.

A statutory lease and a deed of lease both create interest in land. A statutory lease is one for 30 years and cannot be assigned otherwise by a transfer to the state or for the remainder of the term of years in the estate of a deceased person. A deed of lease is for 199 years and can be transferred with the consent of the Chairman of the Agency or the Assembly, as the case may be.

If it is that this register is going to be kept in the Red House under similar principles as for the registration of deeds, I am saying to this honourable House that the facilities at the Registry downstairs, and the soon to be transferred registry to the Huggins Building cannot cope with this.

Sometime ago the Minister of Legal Affairs spoke about computerization. For the last 15 years all previous governments have had people come down here to attempt to computerize the Registry. Every single one of them from the time of the NAR, the PNM and the present Government, all the people they have brought down here have left in frustration. [*Interruption*] This Government has just brought down somebody else, the first set of persons it brought down left in frustration. Again, I am appealing to the Government.

We have in this House the hon. Attorney General who in his previous incarnation was a practitioner at the Bar and whose firm has a big conveyancing practice. We all suffer from what is going on there, so it would be really interesting to find out and I hope the Minister of Legal Affairs would indicate, exactly where and how this register is going to be kept. There is a problem downstairs and it would not be solved by moving the Registry from there to the Huggins building.

We talk about squatters: there are thousands in this country. How are you going to enter this thing? I raise the question and I hope the Minister of Legal Affairs would reply to me.

Thank you.

Question put.

The committee divided: Ayes 19 Noes 10

AYES

Maharaj, Hon. R. L.

Persad-Bissessar, Hon. K.
Lasse, Dr. The Hon. V.
Griffith, Dr. The Hon. R.
Humphrey, Hon. J.
Sudama, Hon. T.
Nicholson, Hon. P.
Rafeeq, Dr. The Hon. H.
Khan, Dr. F.
Assam, Hon. M.
Job, Dr. The Hon. M.
Singh, Hon. G.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Mohammed, Dr. The Hon. R.
Singh, Hon. D.
Ramsaran, Hon. M.
Maraj, Hon. R.
Ali, R.
NOES
Valley, K.
Rowley, Dr. K.
Imbert, C.
Narine, J.
Hart, E.
James, Mrs. E.
Bereaux, H.
Joseph, M.
Sinanan, B.
Boynes, R.

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Question agreed to.

Clause 11

Senate amendment read as follows:

- A. In subclause (1)(a) substitute for the word 'security' the word 'protection'.
- B. Delete subclause (1)(b) and substitute the following:
'(b) does not create an interest in land but only a personal right to protection from ejection'
- C. In subclause (2) -
 - (a) Delete the words 'appointed day' and substitute the words 'commencement of this Act' and delete the word 'Division' and substitute the word 'Agency'.
 - (b) After the words 'Land Settlement Agency' add the words 'or the Assembly':
- D. At the end of sub-clause (3), insert the following words:

'and such evidence shall include the declarations of two deponents who are not relatives of the squatter who attest to the fact that the squatter was in actual occupation of the dwelling house before the appointed day.'

In subclause (4) delete the word 'Division' and substitute the words 'Agency or the Assembly'.

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

Question proposed.

Question put and agreed to.

Clause 12

Senate amendment read as follows:

- "A. Delete the word 'Division' and substitute the words 'Agency or the Assembly'.
- B. Insert the word 'further' before the words 'period of one year'.
- C. Delete the word 'independent'.
- D. After the words 'deponents' add the words 'who are not relatives of the applicant'.

Mr. J. Humphrey: Mr. Speaker, I beg to move that the House doth agree with the said amendment.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, I do not know if we are going to get any response from the Government because it appears that it is not willing to debate with us. [*Laughter*]

This clause allows a period of two years for someone to apply for benefits under this legislation, and this is a point we had raised before. You have within one year after the commencement of this Act, which does not have to be the appointed day, so you have the appointed day, then sometime after that you have the commencement of the Act and then a year after that you can apply for a certificate of comfort, and then a further year after that you could send in a late application. What is this all about? Why not just say two years and done? Why say that you could apply after one year and then send in a late application for a further period of one year?

This is legal drafting gone mad! Why one year and then a further period of another year? Would someone on the other side please tell me why? I really would like to know. We had no explanation. What is happening in this debate is that no one on the Government side is presenting these amendments. It is the typical contempt and arrogance of the UNC; typically coming into Parliament where copious amendments are made to legislation and there is no explanation.

I am simply asking someone who understands what is going on to explain why you have one year to make an application and then another year for a late application.

Question put and agreed to.

12.40 a.m.

State Lands Bill

Monday, September 21, 1998

Clause 13.

Senate amendment read as follows:

“Delete the word “or” between the words “fine” and “five thousand

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

Question proposed.

Question put and agreed to.

Clause 14.

Senate amendment read as follows:

- A. After the words “to whom this Act applies, who” insert in subclause (2)(a) the words “has obtained a Certificate of Comfort pursuant to section 11 and who”.
- B. Delete Paragraph (a) of subclause (3) and substitute the following new paragraph:
 - “(a) commences upon the making of a determination by the Committee pursuant to Part VI”.

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

Question proposed.

Mr. Sinanan: Mr. Speaker, a certificate of comfort does not create an interest in land, but only a personal right for ejectment and this amendment is saying that a statutory lease can only be obtained by somebody who has a certificate of comfort, but a statutory lease creates an interest in land. How can one get an interest in land from something which does not create a legal interest in the land? In other words, a certificate of comfort does not create a legal interest, but only a personal right from ejectment, whereas in order to obtain a statutory lease which creates an interest in land you are saying one must have the certificate of comfort.

Question put and agreed to.

Clause 15

State Lands Bill
MR. SINANAN]

Monday, September 21, 1998

Senate amendment read as follows:

- A. In subclause (2) delete the word “Division” and substitute the word “Agency or the Assembly”.
- B. In subclause (3)—
 - (a) between the words “development costs” and “cadastral survey” insert the word “and”, and
 - (b) between the words “cadastral survey costs” and “and all fees and stamp duty” insert the words “to the Land Settlement Agency or the
- C. In subclause (4)—
 - (a) replace the word “Co-ordinator” with ;
 - (c) add at the end of the sentence the words “or the Assembly, as the case may be”.

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

Question proposed.

Mr. Sinanan: Mr. Chairman, when one looks at clause 15(4), from practical experience we have learnt that sometimes when one applies to the National Housing Authority for a consent, it states that only the Chairman can sign it. Sometimes the chairman is not in the country, he may be away from office, likewise, this subclause is stating that a consent can only be signed by the Chairman or the Assembly. How can the Assembly sign it? It has to be somebody in the Assembly to sign the consent. I think it should be specific in saying who in the Assembly.

With respect to the Chairman, what happens if the Chairman is away or he is ill? This is limiting the consent to be signed only by the Chairman. If it says; “by an officer of the Agency” that takes care of the fact of when the Chairman is away or ill. If that is not done, when someone has a lease or mortgage to sign he is kept back because the Chairman, or the Assembly is not available. Suppose the Chairman passes away, until another Chairman is appointed, nothing would be done.

- B. Renumber clause 16 as clause 16(1) and insert a new clause 16(2) as follows:

“(2) With respect to lands vested in the National Housing Authority the Chairman of the Authority shall, pursuant to a resolution of the Board, empower the Land Settlement Chairman to execute all deeds of lease under this Act, on behalf of the Authority.”

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

Question proposed.

Question put and agreed to.

Clause 17.

Senate amendment read as follows:

- A. Delete the word “Division” and substitute the words “Agency or the Assembly”.
- B. In subclause (3) insert after the words “Order,” the words “subject to affirmative Resolution of
- C. After subclause (3) insert the following new subclause:
- “(4) Part VI shall apply in respect of each lot of land within the Designated Areas in the Schedule.”

(iii) by any other person on the basis that the requirements of section 19 have not been complied with, so however, that any such application shall be made before the expiration of the six week period of notice referred to in section 22(3).”

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

Question proposed.

12.55 a.m.

Mr. Williams: Thank you very much Mr. Speaker. I am just rising on a point of correction with respect to drafting of clause 18, subsection (b)(iii).

Just simple correction Mr. Speaker.

The power of the Minister to amend the schedule may be on application to the Minister “by”, and then you have “by” again. So you know, you have to take out one of the bys. That is 3, the “by” should be deleted in clause 18(b)(iii) line 3

And if I may read how it sounds.

“On application to the Minister by any other person on the basis that the requirements of Section 19 have not been complied with. So however—

Mr. Speaker, that does not make sense. Perhaps, what I would suggest is that you delete “so” from line (3), and “that”. It would then read:

“On application to the Minister by any other person on the basis that the requirements of Section 19 have not been complied with. However, any such application shall be made before the expiration of the six week period of notice referred to in section 22(3).

Probably it is just a typographical error, Mr. Speaker.

Question put and agreed to.

Clause 20:

Senate amendment read as follows:

- A. After the words “the Minister” add the words “and the Assembly” occurring in paragraph (b).
- B. Delete the words “or other matters relating thereto” occurring in paragraph (b).

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

Question proposed.

Question put and agreed to.

Clause 21.

Senate amendment read as follows:

- A. After the words “the Committee” add the words “and the Assembly”.
- B. Delete the word “Division” and substitute the words “Agency or the Assembly”.

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

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Question proposed.

Question put and agreed to.

Clause 22

Senate amendment read as follows:

- A. Delete subclause (1) and substitute the following new subclause:
 “(1) Within twenty-eight days after completion of the title investigation the Agency or the Assembly shall cause to be published at least once per week over a period of four weeks, in at least two daily newspapers, a notice containing the names of persons who are deemed to be claimants by the Agency or the Assembly and the description of the land in respect of which each claim is made”.
- B. Delete the word “Division” occurring in subclause (3) and substitute the words “Agency and the Assembly”
- C. Insert after the word “Committee” the words “or the
- D. After subclause (3) insert a new subclause (4) as follows:
 “(4) The Assembly shall submit to the Committee on a monthly basis a list of all claims which have not been conciliated or settled at the community level”.

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

Question proposed.

Question put and agreed to.

Clause 23.

Senate amendment read as follows:

- A. Delete the marginal note and substitute therefor the words “dispute procedure”.

- B. Insert between the words “designate”, and “the Committee” occurring in subclause (2), the words “or which are already included in the Schedule”.
- C. At the end of subclause (3) insert the words “and in the case of State lands vested in the Tobago House of Assembly, the Assembly shall so determine”.
- D. Delete the word “Division” occurring in subclause (5) and substitute the word “Agency or the Assembly”.
- E. Delete the words “which a copy” occurring in subclause (6) and substitute the words “with a written

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

Question proposed.

Question put and agreed to.

Clause 24

Senate amendment read as follows:

Delete this clause and substitute a new clause as follows:

- | | |
|---|--|
| “Names
to be
entered in
Register | 24. The Committee or the Assembly shall cause to be entered in the Register referred to in clause 10(h) the names of all persons who are entitled to the statutory lease in a designated area, being |
| | (a) the claimant whose claim has not been challenged pursuant to section 22, or |
| | (b) where the claimant’s claim has been challenged, the party in whose favour the Committee or mediator has ruled, or in whose favour the matter has been conciliated or settled at the community level pursuant to section 23”. |

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

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Question proposed.

Question put and agreed to.

Clause 25

Senate amendment read as follows:

- A. In subclause (1) after the words "The Minister" add the words "and the Assembly"
- B. Delete the words "and unable to access land on the
- C. Delete the word "28" and substitute the word "27".
- D. In subclause (2) insert after the word "order", the words "subject to affirmative Resolution of

Add a new subclause 25(4) as follows:

"(4) Land in a Land Settlement area may be laid out in accordance with an approved development plan made by the Land Settlement Agency or the Assembly, for purposes not limited to residential use and may include areas set aside for recreation, small scale commerce, community facilities, homesteading and other uses which tend to enhance the economic and social development of the community thereby established".

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

Question proposed.

Question put and agreed to.

1.05 a.m.

Clause 26

Senate Amendment read as follows:

- “A. Insert between the words ‘permission’ and ‘to reside’, occurring in subclause (1) the words ‘by the Land Settlement Agency or the Assembly’.
- B. Delete the word ‘Division’ and substitute the words ‘Agency or the Assembly’.
- C. Insert after subclause (3) the following new subclauses:
 - (4) Without prejudice to this section a person who is desirous of acquiring land in a Land Settlement area for any of the purposes specified in section 25(4) may apply in writing to the Land Settlement Agency or the Assembly for a lease of that land.
 - (5) For the purpose of subsection (4) a person shall include a non-natural person such as but not limited to, a co-operative society, association, corporation or company.
 - (6) In determining whether or not to approve the application of a person for a lease pursuant to section 26(4), the Agency and the Assembly shall act in accordance with the Regulations.
 - (7) The term of years of the lease to be granted under section 26(4), and the terms and conditions thereof, shall be in the discretion of the Agency or the Assembly as the case may be”.

Mr. J. Humphrey: Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

Question proposed..

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, in the preceding clause—for those Members on the other side who are awake—the Assembly was given power to designate land settlement areas. In this amendment, we see a very dangerous provision—26(7)—and I wonder if Members really studied it carefully:

“(7) The term of years of the lease to be granted under section 26(4), and the terms and conditions thereof, shall be in the discretion of the Agency or the Assembly as the case may be”.

When we debated this matter on another occasion, there was quite a lot of argument about whether the lease should be 199 years. The point was made that in Woodbrook leases are only granted for 30 years. Now we have a complete *carte blanche* where a lease could be granted for 199 years, 5 years, 500 years; land could be leased at 5 cents per square foot, \$5.00 per square foot, and so forth.

Do we really want to give this absolute discretion to the Agency or the Assembly? I would recommend an amendment, Mr. Speaker.

Mr. Humphrey: Look at clause 25(4).

Mr. C. Imbert: Mr. Speaker, I am aware that the purposes referred to are not limited to residential use; but that is not the point. Why are we giving the Agency or the Assembly absolute discretion to determine the term of the lease and the terms and conditions thereof? Should we not at least limit the term of years to 199, to make it consistent?

It means that the Agency or the Assembly—

Hon. Member: You must have discretion.

Mr. C. Imbert: Why should we have discretion? Then let us have discretion throughout.

Mr. Speaker, the cross-talk that I am hearing is utter nonsense. If we have fixed 199 years, in the previous amendments, as the term of lease for all squatters in residential occupation, why are we allowing an Agency or the Assembly to grant a lease that could exist for 199 years? Why do we not limit it to 199 years or 100 years or 30 years? Why do we not limit it to 30 years? Why are we leaving it open like this and giving this Agency or Assembly absolute discretion? This is not practical, Mr. Speaker. It is not practical.

I would ask that the Government think about this very seriously and prescribe some limits. It is clear to me that the Government has no intention whatsoever of listening; but I would hope that they would have a change of heart. This is totally inconsistent with the rest of the Act. It is completely inconsistent.

For the benefit of those who are awake, it says:

“...the terms and conditions thereof, shall be in the discretion of the Agency or

- C. At the end of subclause (2) insert the words “or the Tobago House of Assembly Act as the case may be” and insert in the margins adjacent thereto the words “Chap. 57:01 and Act No. 40 of 1996”.

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

Question proposed.

Question put and agreed to.

Clause 29

Senate amendment read as follows:

- 29 Delete the word “Division and substitute the words “Agency or the Assembly”.

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

Question proposed.

Question put and agreed to.

Clauses 30 and 31

Senate amendment read as follows:

- | | |
|---------------------|---|
| 30—31 | Renumber clauses 30 and 31 as 34 and 35 respectively and insert after clause 29 the following new clauses. |
| 30 Fund established | 30. (1) A Land settlement Fund (hereinafter referred to as “the Fund”), to be administered by the Agency, is hereby established for the purposes of this Act. |
| | (2) The fund shall be utilised by the Agency for the purpose of carrying out its functions as specified in section 10 and for such other purposes as may be specified in the Regulations. |
| 31 Deposit | 31. The fund or any part thereof may be held |

on deposit with any financial institution in which public monies of Trinidad and Tobago may lawfully be held on deposit.

- | | | |
|----|--------------|---|
| 32 | Bank Account | 32. The Agency shall establish and operate its own bank account for the purpose of this Act and shall deposit therein sums credited to the Fund. |
| 33 | Audit | 33. The accounts of the Land Settlement Agency shall be subject to audit by the Auditor General in all respects as if the accounts of the Agency were the public accounts of Trinidad and Tobago. |

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

Question proposed.

Question put and agreed to.

Clause 34

Senate amendment read as follows:

- | | |
|----|--|
| 34 | After the words "the Committee" insert the words "and the Assembly". |
|----|--|

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

Question proposed.

Question put and agreed to.

Schedule

Senate amendment read as follows:

North Trinidad

Bagatelle South,
Diego Martin
Scorpion Village

Upper Carenage

Sea View Hill,
Carenage West

Factory Road Waterfall,
off Diego Martin Main Road

Upper Mercer Road, off
Diego Martin Main Road

L'Anse Mitan, Carenage
Bagatelle Central including
Savannah Terrace Nos. 1&2
Upper Bagatelle and Patna,
Diego Martin

McKie Lands, Port of Spain

Upper Belmont Valley Road
into Lady Young Road,
Port of Spain South

Clifton Circular Road,
Port of Spain South

Clifton Lane, East Dry River

St. Paul Street,
Port of Spain South

Rose Hill,
Port of Spain South

Lodge Place,
Port of Spain South

St. Joseph Road,
Port of Spain South

Herman Scott Street,
Port of Spain South

Irving Lane, East Dry River

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Alfred Richards Street,
Port of Spain South

Annisette Street,
Port of Spain South

Clifton Street,
Port of Spain South

Joropo Drive, Upper Sam
Boucoud, St. Ann's

Upper Blanch Street,
Bourg Mulatresse

Between Carrisal Road and
Damien Bay, Maracas Bay area

Mt. Hope Place, Maitagua
Sogren Trace, Laventille

Malick, Barataria

Shende Street Extension,
San Juan

El Socorro South

Upper Mendez Drive,
Champ Fleurs

William Street,
Champs Fleurs

Upper Mt. D'or,
behind the savannah

Farm Road, St. Joseph

Quarry Drive, Champs Fleurs

Mount Hope (back of
Government Housing Project)

North Elizabeth Gardens,
St. Joseph

North of Bamboo Drive,
Champs Fleurs

North of Hutton Street,
St. Joseph

Bamboo Settlement No. 3,
Valsayn South

Khalay Village, St. Augustine

Dookiesingh Street, Spring Caroni*
Village via Freeman Road,
St. Augustine

South of Churchill-Roosevelt
Highway, Pasea Road
Extension, Tunapuna

South of Churchill-Roosevelt Highway,
Mausica Road South, Tacarigua

Bon Air North,
Arouca North

Five Rivers, Arouca North

Printeryville, Arouca South

Race Course, Arouca South

Peytonville, Arouca South

Samaroo Village, off
O'Meara Road, Arouca South

Old Malabar and India, Arouca South

Maturita Triangle, Arima

Zone 8, Arima

Heights of Aripo

Heights of Guanapo,
La Retraite Dump Road

Calvary Hill, Arima

Paria Brasso Seco,
Morne Lacroix

K. P. Lands, Valencia

Alexander Trace, Valencia

Valencia Long Stretch (N)

Valencia Long Stretch (S),
Scientific Area

Farmlands, Turure

Blake Avenue, Guaico

Picton Road Extension,
Sangre Grande

Ojoe Road, Hospital Land,
Sangre Grande

Ojoe Road, Sellier Road,
Sangre Grande

Graham Trace,
Sangre Grande

Sahodeen Trace, Vega de Oropuche

Toco Main Road including
Mora Trace

Matura Village, off
Toco Main Road

Salibea, off
Toco Main Road

Lance Noir, Paria Main Road,
Toco

Plantation Road, Valencia

Clarence Trace, Valencia

Quash Trace, off Foster Road,

Sangre Grande
Piarco Village, Piarco
Mt. Dor, north of NHA project
Mt. Hope Road, Mt. Hope
Morvant Old Road, Morvant
Second Caledonia
Morvant
Jean Avenue, Diego Martin
River Estate, Diego Martin
Las Cuevas Estate, Las Cuevas
Ackbarali Trace, Arima
Alexis Street, Morvant
Maracas Valley, St. Joseph
Madras Settlement, Cunupia
Picton Quarry, Laventille
Simeon Road, Petit Valley
Dundonald Hill, Port of Spain
Beetham Estate, Phase 1V,
Port of Spain
Eastern Quarries, Laventille
Wallerfield, off Churchill-
Roosevelt Highway
New City, Valencia
Upper Leon St. , Laventille
Streatham Lodge
St. Augustine

Big Yard, Carenage
 Churchill-Roosevelt
 Highway, D'Abadie
 Churchill-Roosevelt
 Highway, Piarco Old Road area
 Rice Mill Road, Bon Air, Arouca

Central Trinidad

Carlsen Field West
 San Francisco Land,
 Caroni Central
 Base Road, Arena
 Pereau Hill, La Phillipine Estate, Caroni*
 Gran Couva
 California Village California Caroni*
 (next to the
 children's playground)
 Springvale, Sookoo Trace, Caroni*
 St. Johns Road, Claxton Bay
 Lawrence Wong Road,
 Longdenville
 Kelly Village, Caroni East
 Mac Lean Trace,
 Las Lomas #1
 La Paille Village, Caroni
 Mappepire Road, Williamsville
 Piparo settlement and
 Dindial settlement, Piparo
 Corosal Road, Whiteland
 Squatterville, Macaulay
 Arena Road, Freeport

Bholai Trace, Carapichaima	
Brazil Village, San Rafael	
Milton Village, Couva	Caroni*
North of Carli Bay Road, Couva	Caroni*
South of Carli Bay Road, Couva	Caroni*
Ben Lomond, Williamsville	Caroni*
Carlsen Field East	Caroni*

South Trinidad

Teak Village, Claxton Bay	
Bayshore, Marabella	PSAEL*
Harmony Hall Estate, Caroni*	
near Lady Hochoy Home, Gasparillo	
Corner Realize and Cunjal Roads, Barrackpore	
Madingo Road, Blocks 1 and 11, Princes Town	PSAEL*
Former Railway Line Road, Gandhi Village, Debe	Caroni*
Digity Trace, Clarke Road, Penal	
Manohar Road, Rochard Road, Penal	
Julien Trace, Rochard Road, Penal	
Platanite Trace Rochard Road Penal	
Ramsabad Trace, Rochard Road, Penal	
Sunrees Road, Legal Trace,	PSAEL*

Oliver Drive, Penal

Tin-Pan Alley;PSAEL*

Lower Barrackpore

Lily Trace, SipariaPSAEL*

Gambal Street, Siparia

Wilson Road, Clarke Road,
Penal

Ramlal Street, Penal

Ribiero Trace, Penal Rock Road,
Penal

Penal Junction, Penal

Bunsee Trace, Penal Rock Road,
Penal

Laltoo Branch Trace, Penal PSAEL*

Snail Trace, Morne Diablo

Haggard Trace, Penal Rock Road,
Penal

Digity Village & Branch Trace,
Penal

Penal-Quinam Road, Penal

Lachoos Road, Penal

Mulchan Trace, PSAEL*
Fyzabad

Hickling Village, PSAEL*
Fyzabad

Sudama Village, Brothers Road
Fyzabad

La Brea Trace, Siparia

Un-named Trace (back of

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Fyzabad Composite School) Siparia Road, Thick Village	PSAEL*
Small Trace, Fyzabad	PSAEL*
Standard Road, Fyzabad	PSAEL*
Zachariah Avenue, Thick Village	PSAEL*
Ramroopsingh Trace, San Francique	
Arena Village, Rancho Quemado	PSAEL*
S.T.O.L Road, Lorennotte	PSAEL*
S.S. Erin Road, Palo Seco	PSAEL*
Coora Branch Road, Siparia	PSAEL*
Jacob Settlement, Santa Flora	PSAEL*
Tank Farm Road, La Brea	PSAEL*
School Road, Santa Flora	PSAEL*
Guerra Trace, Quarry Village, Siparia	
Quinam Road, Siparia	
Taylor Avenue, Rito Ville, Siparia	
Robert Hill, Quarry Road, Behind Nello Buaccano	PSAEL*
Hill, Quarry Village, Siparia	
Alexander Village, Agapito Trace, La Victoria Trace, Santa Flora	PSAEL*
Jacob Alley #2 "Back-a-yard", Los Bajos	PSAEL*

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Fly-Over, Santa Flora	PSAEL*
Beach Road, Palo Seco	
Palo Seco Settlement, Palo Seco	PSAEL*
#4 Road, Palo Seco	PSAEL*
Webber Trace, Palo Seco	PSAEL*
#Nine Road, Palo Seco	PSAEL*
#Seven Road, Palo Seco	PSAEL*
Chinese Village, La Brea	PSAEL*
Pt. D'or, La Brea	PSAEL*
Pier Road, La Brea	PSAEL*
Belle Vue, La Brea	PSAEL*
Old Jersey, La Brea	PSAEL*
Los Bajos, Los Bajos	PSAEL*
Warden road, Cap de Ville, Lower Hollywood Road, Point Fortin	PSAEL*
Sobo Main Road, La Brea	PSAEL*
Sobo Junction, La Brea	PSAEL*
Sobo Tank 100, La Brea	PSAEL*
Union Village, Vessigny	PSAEL*
Vance River, Guapo	PSAEL*
Trintopec Quarters, Guapo	PSAEL*
Lime Field Road, Guapo	PSAEL*
Cruse Field, Guapo	PSAEL*
Square Deal Corner, Vessigny	PSAEL*
Guapo, Point Fortin	

Red Road Cemetery, Block Road, Point Fortin	
La Fortune Extension, New Village, Point Fortin	
Fortune Street, New Village Point Fortin	
Springle Avenue, New Village Point Fortin	
Dam Road Extension, Point Fortin	
Southern Gardens, Warden Road, Point Fortin	
Egypt Avenue, Point Fortin Reid Road and Reid	PSAEL*
Road Extension, Point Fortin	
Lot 10 Village, Guapo	
Southern Main Road, Cochrane	PSAEL*
Alexander Street, Point Fortin	PSAEL*
Seedon Alley, Point Fortin	PSAEL*
Moraldo Street, Point Fortin	PSAEL*
Egypt Village, Point Fortin	PSAEL*
TNA Road #2, Point Fortin	PSAEL*
Reservoir Hill, Point Fortin	PSAEL*
Laptiste Street, Point Fortin	PSAEL*
Parry Lands, Point Fortin	PSAEL*
Egypt Extension, Point Fortin	PSAEL*
Warden Road, Point Fortin	

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Old Dam Road, Point Fortin	PSAEL*
Dam Road, Point Fortin	PSAEL*
TNA Rd. #1, Point Fortin	PSAEL*
La Fortune Extension, Point Fortin	PSAEL*
TPD behind T&TEC substation Point Fortin	PSAEL*
Hollywood, Point Fortin	PSAEL*
Suzzannah Trace, Mt. Stewart Village, off Naparima Mayaro Road	
Good Hope and Bawani Estate, Southern Main Road, Cunapo	
Guatapajaro Road, Caratal	
O'Brien Trace, Biche	
Prudence Trace, Biche	
New Settlement, Biche	
Ecclesville, Rio Claro	
Guayaguayare Old Road, Rio Claro	
Springle Street, Egypt Village	
La Fortune Drive, Egypt Drive, Point Fortin	
Cedar Grove, Mayaro	
Bristol Village, Mayaro	
Main Road, Guayaguayare	
Fairfield Estate, Princes Town	

St. Mary's Village, Moruga	
Blitz Village, San Fernando	
Embacadere, San Fernando	
La Savanne, Guayaguayare	
Toruba South	
Cumoto Road, Barrackpore	PSAEL*
Lagoon Trace, Moruga	PSAEL*
Siparia Road, Siparia	PSAEL*
Corinth Village via San Fernando	Caroni*
Friendship Village via San Fernando	Caroni*
Mora Settlement Trace, Guayaguayare	
Diamond/Picton via San Fernando	Caroni*
Hermitage via San Fernando	Caroni*
Stone Road, Piparo	
Butler's Park, New Village, Point Fortin	
Ravine Ranch, New Village, Point Fortin	
Sesame Street, Gonzales Village, Point Fortin	
Salick Trace, Gonzales Village, Point Fortin	
Teschier Village, Point Fortin	

Tobago

Louis D'or Estate,
Louis D'or, Tobago

Castara Estate, Castara

Tobago

Buccoo, Tobago

- * Where the word "Caroni" is listed to the right of a site name, this indicates that the site is currently owned by Caroni (1975) Limited. Where the word "PSAEL" is listed to the right of a site name, this indicates that the site is currently owned or managed by Palo Seco Agricultural Enterprises Limited.

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

Question proposed.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, just a little note on to the Minister of Housing and Settlements. One area in my constituency which was included in the Schedule when the Bill left the Lower House, I have noted in the amendment here in the new Schedule it is not listed. I have had some enquiries from persons in the area, that is how it was brought to my attention, so I am very much interested in finding out why it is not there; that is Waterhole in Cocorite.

Mr. Maharaj: We cannot tell you that now.

Mr. K. Valley: What do you mean you cannot tell me that now? I want it on the Schedule, that is the bottom line.

Mr. Speaker: Just one second. For the avoidance of doubt, although the mover cannot move, there are Members on one side who could reply to things that the other side said. Indeed, the Member for Siparia replied to things that had been said, so that, I do not think that anybody should go away with the notion that one cannot say anything in response to something that has been said on the other side.

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, just to bring to the attention of the hon. Minister of Housing and Settlement. Just a correction at page 2 of the Schedule. The location is, Joropo Drive, Upper Sam Boucaud, Santa Cruz and not St. Ann's.

Thank you.

Mr. Roger Boynes (*Toco/Manzanilla*): Mr. Speaker, I rise to point out two areas which I have seen have been placed in the Schedule. It is the Valencia Long Stretch North and the Valencia Long Stretch South, scientific area.

Now the problem of the persons who occupy the Valencia stretch has been an issue of contention for a very long period of time. What is at present taking place is that the area is a forest reserve, it is a watershed area and members of the forestry department have been going to the court, have been getting orders from the court and they have actually been demolishing quarters of persons who occupy that forest reserve area.

If we pass this as one of the areas which is to be regularised under this Schedule, how do we relate with the two? On the one hand, it is designated a forest reserve, so all the occupants are illegally occupying same. On the other hand, we are actually passing law here today under this Bill to regularise these squatters here. Because I understand that the problem has been going on for a very long period of time and I do not want us here to make the problem worse. We are here to try to solve the problem.

So, I want to send a note, let me go on record right here and now and say that I am very concerned about how that situation would work out in the best interest of the people of the area and of the law of the land. So if the Member for St. Augustine could take notice of the law and of the fact that the area is, in fact, a forest reserve, because I have been having several negotiations, even with members in his ministry, to deal with that particular problem and they understand the problem. We have had several visits. I have visited the people on the stretch, both north and south, trying to solve the problem. I have been to court with this matter on several occasions, persons have come to me with tears in their eyes, but the law is the law and it has, in fact, been enforced and several persons have had to actually flee from that particular area. So I want us to know exactly what, in fact, we are doing here today. It cannot fly in the face of the law.

So I am saying to this honourable House, I am saying to you, Member for St. Augustine, the correct thing must be done. I want what is in the best interest of development of the people of that area, and also the law.

1.30 a.m.

If something can be worked out so that we do not infringe the law of the land we on this side would be only too happy. We hope that we do not pass laws here today that fly in the face of other laws.

Question put and agreed.

**JOINT SELECT COMMITTEE REPORT
(INTEGRITY LEGISLATION—GREEN PAPER)**

[THIRD DAY]

Order read for resuming adjourned debate on question [September 4, 1998]:

BE IT RESOLVED that this House take note of the Report of the Joint Select Committee of Parliament appointed to consider the Green Paper on Integrity Legislation, which was laid in the House of Representatives on Friday September 07, 1997. [*Hon. M. Assam*]

Question again proposed.

The Minister of Trade and Industry and Consumer Affairs and Minister of Tourism (Hon. Mervyn Assam): Mr. Speaker, at this very late hour or, I should say, at this very early hour of the morning it seems to be my lot in life to have to introduce debates on Motions or Bills.

I well remember that when the Member for Diego Martin Central was making his contribution he told me that I was not allowed to speak in a certain manner and that he expected me to make my contribution as, perhaps, he wanted to dictate to me notwithstanding the fact that some of his Members, the Members for La Brea and St. Ann's East, went in a certain direction on a Motion that was presented before on the Ombudsman. It is really unfortunate that the Member for Diego Martin Central dragged the Chairman of the Integrity Commission into the debate, because I did not really want to discuss what transpired during that meeting with the Chairman of the Integrity Commission; but having done so, he leaves me with no choice but to respond to some of the allegations that he made on that occasion.

When people do not understand the English language or they do not understand a certain kind of argumentation or when they are unaware of certain principles of discussion, this is the pitfall that will be the fate of people like the Member for Diego Martin Central.

The entire Joint Select Committee had agreed that before we went out on public meetings, before we started to take evidence and before we had discussion among ourselves we would invite the Chairman and Members of the Integrity Committee to give us a kind of overview, perspective and some insight into integrity legislation and so forth.

Very conveniently, and most unfortunately, the Member for Diego Martin Central decided to take certain of my remarks out of context because I was using the Socratic method. It is the method by which you draw out of people things that they do not normally wish to tell you. It is where the word education comes from. *Educo*: to lead or draw out. That is the Socratic method.

As a consequence of my use of the Socratic method, the Member for Diego Martin Central fell into a trap. If he had done philosophy, logic and the scientific method he would not have demonstrated the level of ignorance that he did on the last occasion when he was on his feet discussing this Motion.

I will give you an example of why I went in this direction. I welcomed Justice Collymore and invited him to give us some overview of integrity legislation and to walk us through some of the documents that were before us because, as a former Judge of the High Court and someone who had been the Chairman of the Integrity Commission for some time, and who had participated in a number of regional and international conferences with respect to integrity legislation and had presented papers on these matters, I thought he would be the fittest person to elucidate on these matters and to give us some guidance, so that when the Committee began to operate on its own we would have a certain framework within which to deliberate.

When I called on Justice Collymore to do so his reply was, "Mr. Chairman, I did not think I was required to go through the documents. I thought I would have answered some of your concerns." So he came to answer concerns, not to show us the importance of integrity legislation; not to educate us on the various integrity legislation in different parts of the world; not to give us an idea of what his concept of integrity was all about. He said he did not come for that. He said the Green Paper really came about through the previous administration which appointed a working party to examine this matter and which completed their labour just about the time the present Government came into power and this document came into existence. He insisted that he should not do what I was requesting and, in fact, it was Sen. Mohammed who came to my rescue. She said that before we got into the meat of it she was very curious to know more background about the work that went into it and what were the deficiencies because there was a 1987 Integrity Act. Therefore, what I said was reinforced subsequently by Sen. Mohammed, but he did not say that.

He went on to ridicule the Member for St. Joseph for attempting to draw out Justice Collymore, in the usual Socratic method that is used by intelligent people

who wish to explore and who wish, with a sense of curiosity, to have a better understanding of matters. He tried to paint a picture in the final analysis that the Chairman was against legislation pertaining to integrity.

Let me tell you what I said in terms of that particular allegation that was made by the Member for Diego Martin Central. I do not seem to be able to find the thing although I had it marked but it is in the verbatim notes. The point is, I made it categorically clear on that occasion that I was totally in agreement and supported integrity legislation. For the Member for Diego Martin Central to have stood up and painted a picture to the public gallery and the Members here that I was attempting to deny the Members of the Integrity Commission an opportunity to support the Green Paper and other draft pieces of legislation is really a most unfortunate stand that he took.

Mr. Speaker, I was really attempting, in a certain situation, to protect, support and defend the Member for Diego Martin Central. He began to emphasize the fact that in my questioning of Justice Collymore with respect to integrity legislation I asked, “Are people corrupt because of X, Y, and Z reasons? In your experience, why are people corrupt? Is it because they are naturally venal as human beings? Are they corrupt because they are greedy by nature? Are they corrupt because they are not properly paid and if they are not properly paid why do we not pay them properly?” The Member for Diego Martin was sitting there and I was supporting his case because he claimed, both in public and private, that he would never be a Minister again because of the poor salaries and poor compensation package that is paid to Ministers. In fact—

Mr. Valley: Mr. Speaker, just for the record, I was not present at that session.

Hon. M. Assam: Mr. Speaker, it was because of the impecuniousness that the Member for Diego Martin Central has exhibited in some of his statements which led him to put in his letter of resignation when he was a Cabinet Minister, because the Prime Minister would not implement the Salary Review Commission’s increased levels of compensation. I saw the letter of resignation but he would not know that. I am surprised that he would deny that he did not resign.

Mr. Valley: Mr. Speaker, for the record again, I never resigned from the Cabinet based on the fact that there was no implementation of the decision of the Salary Review Commission.

Hon. M. Assam: I would not argue with the Member for Diego Martin Central, but he did put in his resignation as a consequence of that problem.

Mr. Valley: Let me say again, that is not correct. That is not correct.

Hon. M. Assam: I recognize that the compensation package for parliamentarians and Ministers was something that had to be looked at in the context of integrity legislation and the Chairman of the Integrity Commission became very political in his statements and his answers. I was surprised that someone such as a High Court Judge—who is supposed to be a person of equanimity—became extremely agitated by my line of questioning. He gave one the impression that he was becoming more and more political in his responses and said, “Isn’t that what the NAR did and isn’t that what the UNC said, and isn’t that what you said on a political platform?” And I thought it was improper for a Chairman of an Integrity Commission to become so political in his statements and responses.

1.45 a.m.

Therefore, I continued to be Socratic for the sole purpose of being the *agent provocateur*. That is why I took that line of argumentation which the Member for Diego Martin Central could not understand and does not understand. I became the devil's advocate as result of that. I tried to find out whether, in fact, this man understood what integrity was all about, because he was harping on financial matters, and I was trying to draw it to his attention that integrity is more than that, and corruption is involved in much more than a Minister or parliamentarian putting his hand in the till. But, he was very narrow. He had tunnel vision, and I was trying to elicit much more from the Chairman. This is why he tried to quote and give the impression that I was against integrity legislation and all I was interested in was a big pay package for Ministers. This is very unfortunate.

The Member for Diego Martin East compounded it. He fell into the same trap. He said:

“But we heard from my colleague from Diego Martin Central that during the deliberations of the Committee, the Minister himself was one of the persons foremost resisting the efforts of the Commission.”

Could you imagine this? He fell into the trap.

Mr. Speaker, he went further in his contribution and said:

“We heard that the Chairman of the Integrity Commission made certain points and that the whole question of the airport contract was raised during the committee's deliberation. We heard that the Minister piloting this Motion has

problems with some of the points being made by the Chairman and members of the Integrity Commission.”

The Member for Diego Martin East again misled himself and allowed the Member for Diego Martin Central to mislead him. He went on to say:

“And, Mr. Deputy Speaker, the Chairman of the Commission singled out the Deyalsingh Report and singled out governmental action in the face of the recommendations of that Deyalsingh Report.”

Let me tell how the Deyalsingh Report came into the picture.

Mr. Speaker, it was Sen. Mohammed who raised the whole question about the airport. On page 107 of this document, it was Sen. Mohammed who raised the question. This is what Sen. Mohammed said when addressing Justice Collymore:

“Mrs. Mohammed: For example, in the recent Deyalsingh Committee that was appointed, if the Integrity Commission had that type of power, it means that a matter like that could have been referred to the Commission.

Justice Collymore: Yes. Then we would have reported to the Parliament on the Commission and you would then take the decision. In other words, we are acting as your servant in the matter. Hopefully, there are persons who enjoy your confidence and sometimes these inquiries are quite lengthy—I can tell you that from personal experience—and it certainly would command greater respect if it is done by a body which commands public confidence. We examine it and make our recommendations to you, and then you deal with it according to your procedures.

Mrs. Mohammed: So you merely make recommendations?

Justice Collymore: Yes, we do. I do not think it would be proper for us to sit in judgment of any Member of Parliament: that is not our job at all.”

Mr. Valley: What went before?

Mr. Assam: What went before was:

“Mrs. Mohammed: Are you suggesting that an offence of public misconduct be created?”

He was talking about moral matters, and he gave us a whole paragraph on what is a moral matter and what is a legal matter. But, the Member for Diego Martin East is just a mischievous, diabolical Mephistopheles, he said:

“And, Mr. Deputy Speaker, the Chairman singled out the Deyalsingh Report and singled out Government action.”

It was Sen. Nafeesa Mohammed who raised it, but out of this meeting, from page 91 to page 140—which is 49 pages—there is a tiny paragraph about the Deyalsingh Report which was raised by Sen. Nafeesa Mohammed, and responded to by Justice Collymore, and this gentleman seeks to mislead Parliament and the national community by a fabrication of untruths and misleading statements. What does one do with such a Member of Parliament who repeatedly comes—

Mr. Imbert: I go to page 22, which is 80 pages before that reference where the Chairman says:

“**Mr. Chairman:** I feel I should almost whisper this in your ear. What was the Deyalsingh Commission about?”

The Chairman of the Integrity Commission raised this matter long before.

Mr. Assam: That is not true at all. This is the book! This is the official record of Parliament.

Mr. Imbert: This is from the book.

Mr. Assam: I am not taking that. There is no page 21 here. This starts at page 91. Do not come with that! This is the record of Parliament. He went on to say, “all of these things are contained in the *Hansard*”. Now, Mr. Speaker, the Member for Diego Martin East does not seem to understand that this was never in *Hansard*. This is the report of the entire minutes, meetings, proceedings, verbatim notes of the Joint Select Committee of Parliament on Integrity in Public Life. This is not part of *Hansard*. The Member for Diego Martin Central read from this book that was recorded in *Hansard*. So, to say it was in the *Hansard* is not true. He said all of this was recorded in the *Hansard*. Again, false and misleading. Why is the Member for Diego Martin East such a mischievous diminutive of a man?

When I was making my presentation, and I have all of the transcripts of the *Hansard* from 1987, both in the Senate: Senator Valley, and in the House, Mr. Manning, Mr. Marshall and Mrs. Muriel Donawa Mc Davidson. All of the presentations were obscurantist. It is quite true. I read all of them. They emphasized not the need for integrity legislation, not the importance of the integrity legislation, not that it should be widened. They trained their guns on the late Selwyn Richardson, and the whole of Mr. Manning's speech was essentially attacking Selwyn Richardson. He was attacking Selwyn Richardson because he was the Attorney General at the time in 1987, and Mr. Manning, the Member for

San Fernando East was attacking him on the basis that he was a lawyer who was in need of legal advice. That is the *Hansard*. I have it!

Mr. Speaker, for them to come here and try to be so dishonest in their presentation is a very sad thing for me, really. Extremely saddening. I have lost a certain amount of regard for my two colleagues, the Member for Diego Martin Central and the Member for Diego Martin East, because when they come to this House, I have no difficulty with “picong”. I have no difficulty with trying to play a bit cute sometimes, but, when one stands up in this House and plays to the gallery and has newspaper men and women here printing what one says as if it is gospel when one is really being malicious, fallacious, misleading and diabolical, that is a different matter altogether.

When one has twisted, contorted and convoluted what people have said and made it into a whole maze of untruths and misleading statements, that is a dangerous kind of posture to assume in Parliament. I would hope that they would go and repent of their sins and make a good confession, and like the President of the United States, a firm purpose of amendment, because I believe they need psychiatric counselling. I really believe the Member for Diego Martin East is in need of that, because he has such a twisted mind. He has such a devious mind, and he is in need of psychiatric counselling, because he stands up and gives the impression to the entire national community that what he is saying is correct, accurate, truthful and in most cases, it is a tissue of untruths.

I often wonder what is the reason for that. Is he trying to compensate for something? What is he trying to compensate for? The party that he represents in this Parliament had every opportunity in the world to introduce integrity legislation. From the time Act 4, 1976 was promulgated with sections 138 and 139 referring to the establishment of an Integrity Commission, their Government did nothing about it, their party did nothing about it, and in fact, throughout his entire contribution, he admitted that the PNM was corrupt.

2.00 a.m.

He was saying, not because we were corrupt that corruption should be perpetuated. That was the thesis which he was trying to weave in his argument on that particular day. It almost reminded me of a certain candidate, Mr. Desmond Cartey who one night in St. James said: “All ah we thief.”

Mr. Speaker, I find it rather disgusting that a Member of Parliament could indict himself and his party and say that they have been corrupt, and yet wants to give the impression that he is lily white, and this side is as dark as the halls of Hades. I am amazed that the Member could have the temerity to stand in this Parliament and make the kinds of allegations he makes about me being fired from my job and so forth. I am amazed because the Member for Diego Martin East knows quite well that most of the things which he says is not the truth. He gets a kind of diabolical and mischievous delight in what he says, and because he knows that the press is fond of reporting him almost verbatim, he takes advantage of the opportunity to do so—prime time!

Mr. Speaker, I am totally committed to integrity in public life, and to the introduction of integrity legislation. All of us on this side are so committed and I only hope that when the Bill is brought back to the Parliament; we would get the kind of support we need. The Members on the other side have transformed themselves into the “against Opposition”. Their name should be changed to the “Against Party” because they seem to be against nearly every measure which is being brought. I wonder why they are so negative and I believe it is because of a lack of leadership and direction, philosophy, and commitment in the party that has brought them to this.

Mr. Speaker, I wish to endorse everything we have done in the Joint Select Committee on Integrity in Public Life and to thank all the people who participated and made inputs.

Mr. Speaker, I beg to move.

Question proposed.

Question put and agreed to.

Resolved: That the House take note of the Report of the Joint Select Committee of Parliament appointed to consider the Green Paper on Integrity Legislation, which was laid in the House of Representatives on Thursday November 6, 1997.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that the House do now adjourn to Thursday, September 24, 1998 at 1.30 p.m.

On that date, and not necessarily in the order in which I am calling out, we propose to deal with the amendments to the Dental Health Bill—and Members would get their notice tomorrow—amendments to the Planning and Development of Land Bill, the Deoxyribonucleic Acid (DNA) Identification Bill, the Indictable Offences Bill and the National Trust Bill.

Mr. Speaker: There was a matter to be raised on the Motion for the Adjournment.

Mr. Valley: Mr. Speaker, we agreed that we would do it on the next day.

Mr. Speaker: And the second reading of the Bill?

Mr. Valley: Mr. Speaker, I spoke with the Clerk and it was agreed that it would be done at the next sitting.

Mr. Speaker: I see. It would be nice if somebody tells me these things.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 2.07 a.m.