HOUSE OF REPRESENTATIVES

Monday, July 26, 1999

The House met at 10.02 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from two Members who have asked to be excused from today's sitting. One is the Member for Ortoire/Mayaro who is not well, and the other is the Member for San Fernando West who has asked to be excused. The leave of absence which they seek is granted.

PAPERS LAID

1. First Report of the Auditor General of the Republic of Trinidad and Tobago on the Non-Receipt of Financial Statements of the Board of Industrial Training of Trinidad and Tobago for the years ended December 31, 1995, 1996, 1997 and 1998. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]

2. Report of the Auditor General on the Accounts of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 1997. [*Hon. R. L. Maharaj*]

3. Report of the Auditor General on the Accounts of the San Juan/Laventille Regional Corporation for the year ended December 31, 1993. [*Hon. R. L. Maharaj*]

4. Report of the Auditor General on the Accounts of the San Juan/Laventille Regional Corporation for the year ended December 31, 1994. [*Hon. R. L. Maharaj*]

5. Report of the Auditor General on the Accounts of San Juan/Laventille Regional Corporation for the year ended December 31, 1995. [*Hon. R. L. Maharaj*]

Papers 1 to 5 to be referred to the Public Accounts Committee.

REGIONAL HEALTH AUTHORITIES (AMDT.) BILL

Order for second reading read.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Speaker, I beg to move,

That a Bill to amend the Regional Health Authorities Act, 1994 be now read a second time.

This Bill basically sets out to do two things. First of all, to preserve the pension benefits of public officers who transfer to the Regional Health Authorities and, secondly, to guarantee a pension calculated at the final salary in the Regional Health Authorities.

The Regional Health Authorities Act of 1994 established five Regional Health Authorities as autonomous bodies, four in Trinidad and one in Tobago, with a mandate to deliver health care services to the population. The Regional Health Authorities are governed by a Board of Directors and managed by a Chief Executive Officer and a management team. The services are delivered by employees of various disciplines—doctors, nurses, pharmacists and so forth.

The Regional Health Authorities are empowered to employ workers to assist in the delivery of health care services and to set the terms and conditions of such employment including a pension plan for such employees. However, most of the workers in the health sector are employees of the Government and belong to the public service. These workers have been inherited by the Regional Health Authorities.

The Regional Health Authorities Act, however, makes provisions for employees in the public service to be either seconded or transferred to the employ of the Regional Health Authorities. As a condition of transfer or secondment, their pension benefits for the period of service in the public service must be preserved.

These amendments to the Regional Health Authorities Act being proposed here today, outline the means by which the pension benefits of workers transferring from the public service to the RHAs will be preserved whether they transfer before the establishment of the pension plan, or after the plan has been established.

It is Government's intention to preserve the superannuation benefits which have accrued to a public officer who transfers to the RHAs. The preservation will be done on the basis of the pensionable emoluments applicable to the office which he held immediately prior to the employment by the relevant RHA, and will be extended to the implementation date of the RHAs plan. It also seeks to ensure that

public service employees' pension rights and expectations are not prejudiced as a result of transfer to the Regional Health Authorities.

Where, for instance, a former public officer may be in receipt of a higher salary than the quantum he received at the time of transfer, his superannuation benefit would be based upon the higher salary, and the increased cost in benefits would be met by the appropriate regional health authority. At clause 6 of the Bill, this matter is addressed by the insertion of section 30B in the Regional Health Authorities Act, 1994 after section 30, and I will explain this a little later.

A public service officer with accrued superannuation benefits in the public service who transfers to the Regional Health Authorities would have a natural expectation to have his or her terminal benefits computed on the basis of the total combined period of pensionable service in the public service and the RHAs service. In other words, a public officer who has worked as a public servant for 20 years would have 20 years' accrued pensionable service, and if he works for an RHA for 13 1/3 years, with the RHA he would have 13 1/3 years' pensionable service with the RHAs. This would add up to a period of 33 1/3 years. At 2 per cent, he would be entitled to a pension of 66 2/3 per cent of his final salary, or highest annual pensionable salary on retirement from the RHA.

Thus, it is proposed to amend the Regional Health Authorities Act by inserting after the new section 30B, another new section 30C which says:

> "Where a person who transfers in accordance with section 27(1) or exercises the option referred to in section 29(1)(a) retires or dies while being a member of the pension scheme, he shall be paid superannuation benefits by the pension scheme at the amount which when combined with the superannuation benefits payable under section 30A, is equivalent of the benefits based on his pensionable service in the public service or in a Statutory Authority combined with his service in the Authority and calculated at the final salary applicable to him on the date of his retirement or death as the case may be."

It should be pointed out that the former public servant who transferred, would have his full expectations met by a combination of payments made from two sources. Firstly, from the Consolidated Fund via the Government to preserve superannuation benefit as of the date of transfer, or on the date of implementation of the Regional Health Authorities pension plan; and, secondly, from the RHAs pension plan which would include the normal formula calculations and, also, a top-up required to take care of the enhanced benefits. The enhanced benefit is

derived from the fact that Government preserved superannuation benefits would have been calculated on a salary lower than his RHA final salary.

I give as an example a nurse who transfers to the RHA from the public service with 20 years' government preserved superannuation benefits at a salary of $3,500 per month; that is, $42,000 per year. Twenty years at 2 per cent, that is, 42 per cent of the $42,000 annually, that person would be entitled to a pension of $16,800 annually. That person retires from the RHA after 13 1/3 years' pensionable service at a higher salary, that is, $4,500 per month; 13 1/3 years at 2 per cent would give an annual expectation of $14,396. When you add $14,396 which would be the person's pension in the RHA, to $16,800 which would be the person's pension in the public service, he or she would be entitled to a pension of $31,196 per year. However, the expectation of the nurse would be 33 1/3 years at 2 per cent of the final salary, that is $35,996 so there is a shortfall of $4,800. This $4,800 is the top-up that the Regional Health Authorities would be required to pay in addition to their normal calculations so that the nurse would, in no way, be prejudiced by transferring to the Regional Health Authorities.

Mr. Speaker, clause 3 of the Bill refers: This amendment merely defines the expectation pension law which is mentioned in the amendment to section 30 which reads:

> "'pension law' has a meaning assigned to it by the Law Reform (Pensions) Act, 1997 except for the reference to the Defence Act;"
>
> "Pension laws" as defined in the Law Reform (Pensions) Act means a written law set out in Schedule 1 of the stated Act as follows:
>
> "1. The Defence Act, Chap. 14:01
>
> 2. The Police Service Act, Chap. 15:01
>
> 3. The Pensions Act, Chap. 23:52
>
> 4. The Pensions Extensions Act, Chap. 23:53
>
> 5. The Municipal Corporations (Pensions) Act, Chap. 25:05
>
> 6. The Fire Service Act, Chap. 35:50
>
> 7. The Teachers' Pension Act, Chap. 39:02
>
> 8. The Assisted Secondary School Teachers' Pension Act, Chap. 39:03"

10.15 a.m.

For the sake of clarity, Mr. Speaker, and to avoid unnecessary ambiguity, reference to the Defence Act, Chap. 14:01, is accepted since there are unique conditions associated with the pensions provisions for members of the Defence Force; for example, they have a lower pension age.

Mr. Speaker, I will like to deal with clause 4 which states:

> "Section 26 is amended in subsection (1) by deleting the words ‘salary in excess of one hundred and thirty thousand dollars per annum’ and inserting the words ‘salaries and allowances in excess of one hundred and fifty thousand dollars per annum in the aggregate."

In the light of our experiences, we are now bringing in the allowances that are received by the Regional Health Authority employees in this section, in addition to their basic salary.

Mr. Speaker, with regard to clause 5, section 30(2) states:

> "Notwithstanding the provisions of the Pension Act and subject to subsection (1) an officer who transfers to an Authority shall be treated in respect of his pension and death benefits as if he had not so transferred."

Retention of the foregoing provision would be in conflict with the enhancement that is proposed in the amendment relating to the calculation under the higher RHA salary if applicable, therefore, section 30 of the Act is amended by deleting subsection (2).

"Final salary" for the purpose of subsection 30C(1) has the meaning given to it by the RHA pension plan. I can just mention that the meaning is as follows:

> "In the case of a member who, within the last three years of membership, was transferred to another post and received an increase in salary as a result of such transfer, the greater of his annual rate of salary averaged over the last three years, or the annual rate of salary he would have received at his date of leaving service had he continued to hold the office from which he had been transferred. In the case of any other member, the annual rate of salary at his date of leaving service.”

Finally, Mr. Speaker, clause 7 of the Bill, in effect, seeks to amend the Pensions Extensions Act, 23:53, by deleting section 4(2). Section 4(2) of the Pensions Extensions Act requires the Minister of Finance to compute accrued superanuation benefits of persons transferred to designated Pensions Extension

Act posts in certain statutory authorities, and transfer the actual funds involved in such statutory authorities that set up their own superanuation scheme or pension plan. The indicated deletion seeks to obviate that requirement which, in the case of the RHAs, would result in unnecessary and excessive double payments.

At present, there is a degree of uncertainty among staff, who will like to transfer to the regional health authorities employ, concerning their pension rights. The Bill seeks to explicitly enshrine the pension rights of staff who wish to transfer to the employ of the RHAs. As you are aware, Mr. Speaker, it is a highly undesirable situation to have the regional health authorities having responsibility for the delivery of health care while having no direct authority over the staff who delivers this health care. This Bill which guarantees the pension rights to the transferred workers, is paving the way for Government to be able to offer the option of transfer to the public service employees to the regional health authorities. I hope that we will have the support of the Opposition in this measure. I beg to move.

Question proposed.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, I am please to lend the support of this side of the House on this legislation, the purpose of which is to ensure that public officers who transfer to the Regional Health Authorities can be assured of their full entitlement to pension benefits, on their retirement. For us, any individual who has served the country ought to be assured of his full pension benefit at retirement. We are pleased that the Government, perhaps so late, is able to come to the Parliament today with this legislation.

I want to make a few observations, however, Mr. Speaker. First of all, with respect to the specific legislation before us, I want to make the point that since there is now an obligation on the Regional Health Authority to make good any shortfall at retirement, in other words, as the Minister said, to the extent that a public officer who has been transferred to the RHA is now in a higher salaried post than that from which he was transferred in the public service, his pension entitlement would be higher, not simply for one year but for the period of service.

In other words, if a member, after serving some 20 years in the public service is transferred, and he serves a further 13 years at the Regional Health Authority, he is paid a pension based on his final salary; because there is the concept of past service funding that would be required. I suggest that rather than simply stating that liability would exist at that time, that plans be put in place to ensure funding of that liability as we go along. All that requires is some type of actuarial review, perhaps every three years, to determine the extent of the pension liability, the

amount of the pension asset that is there at present, and to make sure that gap is funded. That is critical, otherwise we would have a number of persons getting to retirement, and the Regional Health Authorities especially given the current finances of the Government, being unable to receive what they are entitled to under the legislation, in spite of the promise by the Minister. [*Interruption*]

Dr. the Hon. Rafeeq: Thank you for giving way. Are you speaking about the liability to the RHAs or the liability from the Consolidated Fund? Because they would be receiving two cheques.

Mr. K. Valley: I understand that. My understanding is that the liability of the Consolidated Fund is to make good pension entitlement up to the date of transfer. In other words, if the person worked for 20 years in the government service and his salary on leaving on transfer is $4,000, then it means he is going to get a pension of 40 per cent of $4,000. If he works for a further 13 years, and at retirement his salary is now $10,000, what he is entitled to is a pension of 66 per cent of $10,000, at retirement; that is $6,600. Remember he is getting $1,600 from the government pension, so you have got to make good $5,000.

Ordinarily, because you are talking merely about 13 years, you would mean about 26 per cent of the $10,000, but it does not work that way because you are basing the pension on his final salary at a 2 per cent formula and, therefore, you have to make good that difference. What I am saying is that you have to look at that, and ensure funding for that, as you go along. I want to make that point. My basic premise is that when one gets to retirement there ought to be no if or maybe concerning one's pension, one ought to able to get it without any problem whatsoever.

There are a few situations which trouble me, Mr. Speaker. I want to touch, first of all, on an agreement that I had the pleasure of signing with the unions of British West Indian Airways (BWIA), way back in 1994, with respect to their pension. When we were looking at the divestment of BWIA there was a surplus in the pension plan, and we decided, although the surplus technically belonged to the employer according to the rules of the pension plan, to use part of that surplus—I think one-third of it—to fund the purchase of 15.5 per cent of the airline on behalf of the members of union.

There were about six unions involved. This is the agreement, "Terms of Settlement", between the representatives of the workers of BWIA, Aviation, Communication and Allied Workers Union, Communication, Transport and General Workers Union, and the Superintendents Association, Trinidad and Tobago Airline Pilots Association, and the Trinidad and Tobago BWIA Corporation Government of Trinidad and Tobago. Basically, in this agreement

first of all, we provided for increased benefits to the beneficiaries of the pension plan. We provided to have their pensions calculated as what is the norm today on a 2 per cent benefit formula. We also provided for a level of escalation in their benefits and a number of other benefits in addition to using some of the surplus to purchase a 15.5 per cent in the airline.

On Saturday evening, speaking with a union employee I was told that up to now the employees have not benefited from this agreement, and that the current Government has been tooing and froing with respect to the entitlement of the representatives under this agreement. I want to ask this Government to act on this immediately. These are persons who have contributed to their pension plan in which a surplus existed, and our thinking was that the union members had every right to benefit from that surplus, and not simply the Government. So this is the first issue I want to put on the agenda for the Government, with respect to this pension issue.

Mr. Speaker, you would recall, I think it was in the 1998—1999 budget presentation, the Minister of Finance promised us pension portability. He told us that they were looking at some Chilean model and very soon there would be that portability, that is what we are having in this case, movement from the public service to the RHAs with the benefit of having one's pension carried over, as it were. We were promised that this would be the norm in Trinidad and Tobago. In other words, even if one were moving from the private sector there would be pension portability. That was in the 1998—1999 budget; at the end of 1997, we were so promised.

Looking at the 1998/1999 budget statement one would see we were assured that work was continuing on this and that phase one was, in fact, completed, and we would be informed in this Parliament rather soon. Mr. Speaker, you would know that this budget was presented sometime in October of last year and up to now we have heard nothing further with respect to pension portability. Quoting from page 25 of the Minister of Finance' 1998/1999 budget statement under "Pension Reform" he stated:

> "Mr. Speaker, in 1998 Budget Presentation, I stated that Government would undertake a comprehensive reform of the pension system in Trinidad and Tobago. I am, therefore, gratified to advise this honourable House that work on the first phase of the reform programme is near completion."

He goes on to criticize the former Government, that is fine, but nothing further has been said with respect to this. I am making this point because as we move into

what is called by every one so nicely the "next millennium", we would need to provide an environment where employees can move easily from one employer to the other.

10.30 a.m

And as one gets older, a major consideration in effecting such a move is whether or not one's pension would follow the individual. Mr. Speaker, there are quite a number of individuals in Trinidad who have worked in, for example, the public service and who, under the old rules, retired or resigned before age 50. I know one person, for example, who resigned at age 49 and therefore does not now qualify for a pension from the Government. Yes, in our time when we were in government we provided the infrastructure to allow for that portability within the governmental or the public services, and it is critical—this is an issue that one would expect the Government to have on its front burner—to ensure that there is pension portability throughout our economic system in Trinidad and Tobago.

I am concerned, Mr. Speaker, with the length of time it seems to be taking to bring forward important legislation to the Parliament. I mean, you would note that even in the recent election campaign when the Government attempted to state that it was doing so much, the matters they referred to were drains and roads: how many roads they fixed, how many drains they cleaned and Minister Baksh, I think, spoke about how much grass he cut, piddly stuff, rather than the important legislation geared to move this country forward.

The Minister of Finance promised us also in the 1998 Budget, again speaking about pension reform, that there would be a pension plan for daily-rated workers of the NUGFW by January 1, 1999. I would really like the Government to inform me whether that pension plan has been effected; whether there is now a pension plan for daily-rated workers. I would read once more from that budget statement. He says on page 33:

> "Mr. Speaker, for years our senior citizens have been crying out for help. In answer to their cries and to provide security for all retirees, Government will implement a number of strategies to bring some measure of relief to our senior citizens.
>
> In the case of the Government's Daily Rated Employees, I propose to introduce a pension plan, with effect from the First of January 1999."

We are now in July of 1999, Mr. Speaker, and I would be extremely pleased if the former union leader, the current Prime Minister, would inform this House whether there is that pension plan for daily-rated employees.

He went on to say:

> "All new daily rated employees joining the Service from the First of January 1999 would be required to join the plan as part of their condition of employment."

Nothing has happened with respect to that. But going even further in this budget statement, the Minister of Finance spoke about the amendment to the NIB, another pension condition, the basic pension condition of the state. It is, as it were, the foundation on which other pension plans are built. Very interestingly we saw that what was promised is quite different to what is being actually delivered. That is why I caution and hope that this is not the situation with the amendment we are debating today.

Our understanding is clear on that amendment: that the person who is transferred from the public service to the Regional Health Authorities would get a benefit similar to what would have obtained had he remained in the public service. In other words, had he remained in the public service under the current pension plan he would qualify for two per cent per annum multiplied by his final salary, multiplied by his years of service, okay. It is a final salary formula, two per cent base. The only difference being, rather than that big liability coming from the Consolidated Fund, it is now coming from the Regional Health Authorities, which process means the same: but I am making the point that unless the Ministry of Health is careful to budget for that on an annual basis and having to accumulate it. Of course, pension funds are trusteed funds and therefore must be budgeted on an annual basis, that increasing liability must be vested in the fund.

That is the point I am making, Mr. Speaker, otherwise we would get surprises as we have had with respect to the National Insurance Benefits plan, where the Minister was quite clear when he promised us on page 35 of his budget statement when he said:

> "...in order to make the National Insurance System benefits more meaningful, I propose to increase the benefits payable under the System as follows:
>
> > An individual earning $1,000 per month and who would have been entitled to a pension of $338 per month will now receive a pension of $423 per month.
> >
> > An individual earning $2,000 per month and who would have been entitled to a pension of $338 per month will now receive a pension of $606 per month.

> An individual earning $3,600 per month and who would have been entitled to a pension of $338 per month will now receive a pension of $1,055 per month."

That is what we were promised, Mr. Speaker, and he goes on to say:

> "This means that the 38,000 existing National Insurance retirees will receive higher pensions than they now receive at no additional cost to themselves."

Mr. Speaker, to me that is a very clear statement that such a person was promised an increase in his pension benefits as of now at no additional cost to him. The amendment came to this House and you would know that, in fact, we are now being told no, that is what an individual who retires 15 years from now would receive. That is what an individual who retires 15 years from now, after paying contributions which amounted to some 100 per cent increase over the period, is going to receive. So one has to be extremely careful when one listens to what the Government is saying.

That brings me to the point, because on the weekend I saw the President General of the OWTU touching on this subject and I am aware that the union is represented on the National Insurance Board. I really wanted to find out whether the citizens of Trinidad and Tobago, union members and other citizens, are being properly represented by that representative on the NIB Board, because one cannot understand how one can be promised in such clear terms an increase in benefit and then see it just evaporate away in front our very eyes.

On a more general note—or before I touch on that let me just deal with one other issue relating to the whole area of pension. Again, I go back to that basic premise, that if one has contributed during one's lifetime one ought not to be penalized for living too long. There are a number of public servants who are now in retirement, persons who had retired perhaps in the 1970s or in the 1980s, and are still being asked to live on their pensions based on their salaries at that time, in spite of inflation year after year. For some time there has been talk about doing something to at least meet that situation, even if partly. I ask this Government to look at what I consider to be a very serious issue: Government retirees and their current low level of pension benefits.

Mr. Speaker, these are persons, former permanent secretaries and other senior officials, who are now on retirement, who have taken care of themselves so they are now benefiting from long life. They are not like me, some of them do not smoke, they do not drink, they go home earlier and so forth, so they are living long, and they ought not to be penalized for living long after giving service to

their country, Trinidad and Tobago. On behalf of the Government retirees there is now an association, Public Service Retirees of Trinidad and Tobago or something of the sort. That is an issue that the Government ought to bring on the front burner and let us see whether we can make some type of adjustment to help these individuals with their daily living needs.

I touch also on the need to look again at the amount one can contribute with respect to individual pension plans while the person who is employed can contribute via a sequential plan. The individual is now limited. The amount that can be deducted for tax purposes is limited to $18,000 and that includes the mortgage interest deduction. We need really to divorce one from the other and allow individuals to provide for their retirement. As I said, when the NIB provides the base it is an extremely low base and the individual may want to make his own arrangements for his retirement and he must be allowed to do so.

On the more general note, I want to register what I consider to be a real disappointment in the slow pace at which this Government is coming forward with legislation that can really move this country forward. When we look at the legislation which has come before the House, we see what really I consider to be extremely piddly stuff and when I compare it to what we were attempting to do in the period 1992 and 1995 where we were, in fact, providing that infrastructure for growth, I am really troubled. I am more troubled when I look at the IMF report coming out of the Article IV consultation which was completed in May of this year.

What the IMF, in effect, in this report is saying is that the political management of the economy leaves much to be desired. When you look at this report—and one ought not simply to look at what I consider to be the press release piece, in other words the executive summary, because, as you know, the IMF public servants or international public servants—that is what they are—write in diplomatic language. Knowing that report is going out to the public they are extremely careful and, of course, the host country has to vet it and sign it so they are careful, although they want to make the point. One has to go into the IMF report to see exactly what is happening.

I noted some time ago, about a week or a week and a half ago, a young writer, I think it is Curtis Rampersad of the *Express*, just quoting from the press release. I would caution him as a business writer that he ought to be a bit more analytical and not really take for granted what people say in a press release, especially the current Government. As a matter of fact, this report points to certain gaps and shortcomings in the management of our economy especially the management of our finances. The report deals with the period from 1994; it takes a five-year

horizon. And while it makes the point that yes, over the five years—because the PNM government was there—things were happening, it says quite clearly that there is, first of all, a weakening of the financial situation since 1996.

10.45 a.m.

Mr. Speaker, paragraph 5 states that the fiscal position has weakened from 1996 to 1998. Paragraph 6 talks about the current account balance that has shifted from surplus into a substantial deficit, about 10 per cent of GDP in the last two years. Paragraph 7 talks about queueing for foreign exchange. At times commercial bank customers have had to queue for foreign exchange. Paragraph 8 talks about high, real interest rates. It goes on to talk about—*[Interruption]*

Mr. Speaker: I take it that you are still on the Regional Health Authorities Bill.

Mr. K. Valley: Yes, I am, Mr. Speaker. First of all, this presentation attempts to advise the Government on the specifics of the Legislation Act, to ensure that there is funding for the liability. But I am on the general point now, that in fact, the important legislation seems to be on the backburner and because of that it is hampering the efficiency of our economy, as demonstrated most vividly by the IMF Report. That is the point I am making.

Mr. Speaker, what I am saying is that we need to get our house in order. There were a number of promises made by the Government, for example: National Union of Government and Federated Workers pension plan which is still not in effect; although we were promised one thing with respect to NIB, there is something quite different. So I am saying that unless we take stock, unless we concentrate on what is important, unless we have some competence in the Ministry of Finance, then we are going to continue in this way. The IMF made the point that, right now we owe the Central Bank some $1.5 billion. As a matter of fact, at the end of last year, that would have increased because of further deficits in 1999.

With respect to the VAT office: As you know, Mr. Speaker, I have a small business, and I have got to wait six months to get a VAT refund. They tell me that the law allows six months, and they are taking the full six months. They have no money. Look at what is happening with the farmers. All I am saying is that this points to a general malaise in efficiency in Trinidad and Tobago at the governmental level, and there seems to be an emphasis on “piddly” stuff, while the real issues which would take this country forward, which are geared to position this country to be a manufacturing platform, a business and financial

centre in keeping with our vision: those issues are not being addressed by the Government. All I am using this for is to point out the shortcomings which exist in the whole pension area, the fact that nothing has been done with the trillion dollar pension scheme; Parliament has not been informed. I can point simply with respect to this IMF Report. Do you remember, Mr. Speaker, two weeks ago, the Minister of Finance came here with an amendment to the limits under the borrowing Act? According to this report the Minister of Finance was supposed to do this since May; he is saying July.

So even with that important matter—and what the IMF advise you is that listen, you need to reduce your indebtedness to the Central Bank. Therefore, you have got to increase your limit, get some funds and reduce your indebtedness to the Central Bank! That was supposed to be done since May. He came in July. This report tells the Minister of Finance that he ought to be doing some divestment in the second quarter of his fiscal year. Mr. Speaker, we are now in our final quarter and the Minister of Finance has said nothing with respect to any divestment.

The point I am making is really what I consider to be the bigger point coming out from this—that unless we get our act together, yes, we are going to be in a recession, not because anything is wrong with the fundamentals of the economy, but simply because the economic management seems to be in the wrong hands.

I thank, you, Mr. Speaker.

Mr. Hedwige Bereaux *(La Brea)*: Mr. Speaker, I wish to join this debate to make a reasonably short contribution on the Regional Health Authorities (Amdt.) Bill. Unfortunately, I was not here when the hon. Minister of Health would have presented this, but from the time that he obviously took, I think he dealt purely with the fact—and the Explanatory Note says:

> "(a) Government's existing policy on the payment of preserved superannuation benefits be maintained, so that a Pension Plan operated by a Regional Health Authority (RHA) would provide a level of pension which, when taken together with the preserved Government benefits would realise a total pension based on pensionable public service before and service after transfer to the RHA and on final salary earned in an RHA at retirement;"

Mr. Speaker, pensions, as my colleague indicated—as you get older the pension becomes more important. It is good, in fact, knowing that a pension is there and available to be had, at a reasonable rate, after one has served for a long time in the vineyard. Usually it is a sort of solace to some of the other

mistreatments you may have received. The fact that the state pension—in most cases if you are terminated for whatever reason, you do not get that state pension—unlike in industry where you have contributed and the pension is earned. Even if you are terminated somewhere down the line, when you reach 60, you receive your pension. So we see that pensions have a lot to do with the security of an employee; the way an employee looks, not only at his or her job, but the way he or she performs. Mr. Speaker, you may have all the good equipment but without good employees you do not have a good service.

We have a situation here where we have attempted to decentralize, in a certain way, the health services in this country through Regional Health Authorities, but because we are in the transition stage, there are about 80 per cent of nurses still employed by the state and some 20 per cent employed by the Regional Health Authorities. A number of them are not anxious to come over to the Regional Health Authorities because they are worried about their terms and conditions, so I see that this legislation will go some way in doing that.

As I have said on more than one occasion in respect of this Government, it is usually the singer and not the song. If we were suspicious at one time, Mr. Speaker, all we were saying might have been alluding to things because we saw the trend of their behaviour, but we were not able to prove at some time. But I think that the country today, can very well prove, in no uncertain terms, this Government's duplicity and its willingness to blatantly play "fast and loose" with the truth. Since I do not want to use any unparliamentary language this morning, Mr. Speaker, I would say to indulge in terminological inexactitudes. *[Desk thumping]*

10.55 a.m.

As my colleague, the Chief Whip indicated earlier, in the 1998/1999 budget that was just passed, the NIS pensioners of this country were promised $1,055 per month for those in the higher bracket, and $620 for those in the lower bracket. What happened? Without so much as an explanation or admission that it was either an error or because funds were unavailable, the Government went ahead and increased pensions by $75 in some cases and $100 in others. So, where persons expected $1,055 per month, they received $475 and others received a lower sum.

The Government, to this day, has not admitted that it did not speak the truth and has not given any explanation. That was said in the national budget. We passed an Act to provide for the Service of Trinidad and Tobago and we dealt with it. Mr. Speaker, what guarantee do we have that, having spent legislative

time in passing this piece of legislation—I see no basic problem with passing this legislation—that it will ever be implemented, or if any attempt is made to implement it, if it will be done in a manner consistent with the statute that we are going to pass.

Mr. Speaker, we have time and time again run into this problem. Only on July 12, 1999, the people of Siparia voted for councillors. The law, a law that was passed in 1990, provided that within three days after the elections—

Mr. Speaker: I honestly do not see the relevance of that to the Bill to amend the Regional Health Authorities Act, 1994. I thought we dealt with that issue in a certain way on Friday.

Mr. H. Bereaux: Mr. Speaker, I know that we did deal with that issue. I do not normally refer to things that occurred in other debates; you are entitled to do that, but I am saying that what really happens in this country—I am getting to the point—is that it is not so much what the Act says; it is a question of the behaviour of the Government in not carrying out what it says by law. *[Desk thumping]* I am using a number of examples.

Mr. Hinds: That is right!

Mr. H. Bereaux: Do not tell me it is right! I am waiting on the Speaker.

Mr. Speaker: I appreciate your chiding your colleagues, in that you are speaking to me and I am listening to you and they are making it difficult for me to hear you. Please continue.

Mr. H. Bereaux: As I was saying, the situation with which I am dealing is that I am showing by example, several situations existing in the country where notwithstanding clear and concise law, and notwithstanding rights that exist, the Government has not been behaving properly. Therefore, a piece of legislation like this which really should bring out the total support of all the people and all the Members of this honourable House—because it seeks to put some things right which, if put right, would be able to correct some other situations elsewhere with which we are having problems.

I am explaining for Trinidad and Tobago and your good self, why I am having the problem. So, whereas I could see the relationship between what I may have tried to do on Friday last and what I am doing now, that is not the instance. I submit that what I am doing is pointing out examples of duplicity.

Mr. Speaker: I understand the point you are making.

Mr. H. Bereaux: Thank you. Mr. Speaker, the Act of 1990 says at section 13(1) that within three days after the elections, one must have a meeting to choose aldermen and a chairman. A situation existed in the Siparia Regional Corporation where the CEO of that corporation felt that because of an impasse arising, he needed legal advice. He went to seek legal advice and nobody was annoyed because it was adjourned, but to this day, today being July 26, 1999—14 days after, although the law says 3 days—no reconvened meeting, no request, we cannot find the CEO.

The hon. Member for Pointe-a-Pierre was here, and I would tell you what he said. On the request asked, he said, "When you all agree to what we want you to agree, we will hold the meeting". Here is a Minister of Government behaving like that. How then do they want us to come here and purely on their word, believe that anything will come out of this, Mr. Speaker?

We are also on the question of the Regional Health Authorities, and we have, over the last week, been hearing rumblings—it is not far from my chambers. I have refrained from going across there because I did not want it to appear that I was trying to put any political spin on it. The San Fernando General Hospital which, incidentally, is under the control of the South West Regional Health Authority, has been in disarray.

The statement made by the administrator of that hospital was that 80 per cent of the nurses in that hospital were working with the state. So, 80 per cent of those persons who are in uproar now are persons whose problems this piece of legislation seeks to address. What are the problems? I am saying that this alone will not cure the problems. The problems in the San Fernando General Hospital are endemic and have to do with Government's failure, not just to bring pieces of legislation like this one, but to properly address a misuse of Government funds. When we hear of a wing of a hospital having been opened in 1994 and needing money to equip it—

Mr. Speaker: The Member is really stretching it. I understand what you are doing. You are talking about things under the Regional Health Authority. There is a connection, yes, because that is mentioned, but I do think that to purport to discuss those other issues under this Bill is really stretching it a bit too much. I think so.

Mr. H. Bereaux: It is if you are going to rule like that, Mr. Speaker, but I am saying—

Mr. Speaker: I was hoping you would prevent me from ruling.

Mr. H. Bereaux: I do not want to prevent you. I want to persuade you to rule in my favour. *[Laughter]* The point I am making is this. It is said that money

does not buy good health—my colleague also said, nor does it buy loyalty, but we are looking at the situation where people in the San Fernando General Hospital are marching and talking about all sorts of things, and the administrator of the hospital is reported in the newspapers as saying that this is a part of the general strategy of the PSA to highlight their problems with Government.

I am saying, Mr. Speaker, that this piece of legislation coming before us would be able, in some way—or is geared in some way—to get rid of this general problem with the South West Regional Health Authority. If, for instance, there is no money to implement the pension plan, if the Government does not implement this pension plan, what do we have? We continue in the same situation where we have a number of persons, three persons on one bed.

11.10 a.m.

Mr. Speaker, we are talking about payment of pension to people who have to see about those people. When you reach a certain age the pension is the most important matter and it tells you how you will work and, if you are likely to strike and whether you will give good service to the patients. So the terms and conditions of employment of which pension is only one, that is inextricably bound to the question of the situation in the hospital today.

When we reached the point where we saw Dr. Jeehan Ali, a senior gynecologist in that hospital—I do not know if he is with the Regional Health Authority or if he is with the Government hoping to come over to the RHA—on the picket line, it tells me that something is radically wrong with the health sector in Trinidad and Tobago.

When I hear Dr. Anand Chattergoon, the Chairman of the Doctors—I also do not know if he is with the RHA or the state—I am making these points here today because I expect a reply from the Minster whereby he will say to me and for the benefit of this country that in respect of pensions, when this Bill is passed, we will not see the spectre of those persons who are endangering the lives of my constituents—and it came closer than that, real, real close.

I had cause to come into this Parliament to talk about Point Fortin Hospital, and would you believe it, over the weekend, my mother-in-law was put into Point Fortin Hospital and transported unstably to San Fernando, and when I called and tried to have her moved, they said they could not move her because she was unstable. While we are here now she is in a bed on a trolley in the passage way.

Mr. Hart: That is sad. That is very sad.

Mr. Speaker: May I suggest to the honourable Member that all of that maybe, as his colleague has said, very sad, but there is another forum for that and as lawyers would say, that is really the moot to the issue that we are going to be discussing.

Mr. H. Bereaux: Mr. Speaker, I concede that one but round, but you could very well see why I got a bit incensed, when I came to that particular point.

Mr. Speaker, I want to get back to the subject. We were talking about pensions. At one time this Government spoke about portability of pensions and I do not know if they realize how important that is, and when you whet the appetite of the population and offer things like that, the population expects it and would like to have you keep your word on these matters.

Mr. Speaker, as we are talking about pensions in the Regional Health Authorities, when you look at the PSIP at 177 on page 39, there is a critical aspect of the health sector reform programme which is the implementation of technical studies to be conducted in the areas of the health sector, financing, user fees, national health insurance scheme, audit of national programmes and so on and it is known. I expect that the implementation of pension would be covered in that area.

Mr. Speaker, you have stopped me from dealing with the core of this matter which is a question of the nature of what is happening in the health sector in the country. We cannot deal with this issue in this narrow closeted or cloistered way of dealing with pensions alone because pensions are not by themselves.

Mr. Speaker, there are other issues affecting the RHAs, other than pensions and I believe that since we are going to amend—we are amending the Regional Health Authorities Act—it is true, the amendment itself relates to pensions, but an amendment is not in a vacuum. An amendment has to look at the principal Act and what it is supposed to do and to see to what extent the principal Act is doing what it was supposed to do and if that is the case, then I am submitting that it is in order for me to put this amendment in its context of the principal Act, and if the Act is not performing in a way so as to achieve the objective, namely: a better health service for the people of Trinidad and Tobago, I submit and must point it out and then the honourable Minister will have an opportunity to tell me that it is going that way. *[Desk thumping]*.

Mr. Speaker, having put that on the particular platform, I want to say that just bringing this piece of legislation here, and the Minister not telling us anything about how the Regional Health Authorities are working, whether they are working well or in fact, what we need is more staff as opposed to just transfer pensions—.

Mr. Speaker: At this stage I am prepared to rule that the honourable Member must confine his comments, insofar as the Bill goes, to aspects of it that could be connected with the aspects of pension and I rule that what he is embarking upon now and arguing does not, in fact, conform with that. *[Mr. Valley on his feet]*.

Please, Member for Diego Martin Central, that is not the way it is done and if you continue I will deal with it. I am saying to the Member for La Brea will— *[Mr. Valley on his feet]*

Will the Member for Diego Martin Central please take his seat. The sitting is suspended for 10 minutes and may I see the Member for Diego Martin Central and the Attorney General in my Chambers.

11.20 a.m.: *Sitting suspended.*

11.30 a.m.: *Sitting resumed.*

Mr. Valley: *[Inaudible]*

Mr. Speaker: May I just say to the Member for La Brea, I want to indicate to you that the next time it is my feeling that you are off-course, I am going to ask you to take your seat. Is that understood?

Mr. H. Bereaux: Mr. Speaker, I understand. You know me. I will live today and once there is life, I will get another day. So I do not get upset about things. I have been warned not to get upset.

As I was saying, the underlying principle in this Bill is the portability of pensions. I would feel that if we were to address the issue of portability of pensions in a general sense in this country, these little helter-skelter pieces of legislation would not be necessary, and I want to illustrate some examples of it.

In Trinidad and Tobago, more and more we hear that the notion of job security no longer exists; that gone are the days when one started to work for one employer and one would go throughout one's life having worked for that employer and then would draw a pension; and because of the changing situation in the world economy and the movements to and from in terms of the difference in focus and, more and more, the result is that a number of persons are doing work at home. Many persons who are now entering the job market will move from employer to employer, even those in permanent employment, in some cases. So there is the issue of the security which they would want to have in terms of a pension, it is good in respect of savings where one contributes to the pension and so forth.

But additionally, there is the issue of those persons who are employed as casual or temporary workers with companies. I have made this point here on more than one occasion, in particular, when I have regard to what exists in my own constituency in respect of casual and temporary employees who, sometimes, have worked in that temporary capacity for an employer for over 25 years, and one finds that their periods of employment are split. So one finds that in a year they would work for six months for one employer—maybe not all at the same time, month to month as the case may be—then in another year, and while they have done that they will do something for another employer. So they work for three employers in one year and they do it for a number of years. But when they do that, in each case, they would pay their national insurance, but in respect of the pension plan of the three employers with whom they had worked over that period of time, they would have done nothing. So they would be accumulating years of experience, expending their labour in respect of the particular employers, but at the end of the day they have nothing to show in terms of pensions.

What that does for the stability of the labour market and labour peace is that when these persons become 45 years of age, they start to think that in the next 15 years they would be about to retire and now they push their leaders and they clamour for permanent employment. But, one knows that in some areas the companies, both for economic and humanitarian reasons, have not dealt with permanent employment in some areas because, what they say is, "If we are going to hire and we want to do something for the lack of employment in the area, we will split a job into three", so rather than hire one person over a 12-month period, they would hire three persons for four months each, maybe splitting it differently, not four months at a time. That gives them two advantages: one, they help the area, but two, if ever they have to cut staff they do not have to go into the costs of doing so.

So I am saying that it may be better—having regard to this phenomenon which is not unique to the southern area and the oil industry, but it takes place in many other industries and many other parts of this country—to introduce a master legislation whereby we have a system where any worker who works for someone, just as he or she is required to pay national insurance, so he or she should be required to pay towards whatever pension plan that there is. There is a record of it, in this day of computerization it should not be too difficult to carry that or to track that. So that, at the end of 25 years one may not actually have an employee or a worker who is about to retire going to one employer and saying, "Well, you pay me", but he may be able to go to a number of employers or maybe three or four plants and he has a little to get here, there and so forth, and, those three or four pensions would tend to give him the kind of support he needs.

I know that the hon. Minister of Finance spoke about some general pension plan for the country, but I have heard him speak about so many things, including the national insurance pension and I have seen that it has not materialized. Therefore, I suggest that some legislation along this would go a long way in doing a number of things.

So, at the same time, having said that, and not wanting to cause anymore friction in this honourable House, I say that whereas I move to support this piece of legislation, I have serious doubts, having regard to the way the Government is managing the economy of Trinidad and Tobago, that if these plans are not contributory, whether these persons are likely to see any fruit come out of this. That is my first point. Secondly, having regard to the manner in which the Government of Trinidad and Tobago is managing the health sector, which this Bill is directly addressing, I do not see that passing this Bill here today will in any way enhance or contribute to making our hospitals in Trinidad and Tobago any different from what they are today, mainly a place where one goes in partially sick and comes back out dead.

Thank you.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Thank you Mr. Speaker, and I thank the Members on the other side for giving us their support in this legislation. I just want to respond briefly to a few of the points raised by the Member for Diego Martin Central.

First of all, that the Government will inject a sum of money into the regional health authorities pension plan in order to take care of the former Eric Williams Medical Complex Authority employees', past service and benefits and the actuarial liability relating to the top-up requirements for public servants transfers. Having regard to the continued liability—which the Member mentioned—after the first year there would be an actuarial review and thereafter there would be actuarial reviews on the plan every three years.

With respect to the issue of portability, I did not deal too much with the pension plan as it exists, but the pension plan will allow for portability, first of all, within the regional health authorities and, subsequently, with other registered pension plans in the country, because this plan would be a contributory plan and it would allow for portability.

In this pension plan which we have developed for the regional health authorities there are certain enhanced benefits. First of all, the plan, as I said, is a self-administered plan, a defined benefits plan, it is contributory, it is a portable

plan, within the regions and, thereafter, elsewhere. There will be a guaranteed pension payable for five years, that is if the pensioner should die within five years, the pension would be guaranteed for five years to his beneficiaries and provision is made for the right of a pension after five years' continuous service. When a member leaves the RHA service before the age of 50 years there will be a deferred pension until he is 60 years.

So, I think these were the major concerns, as far as this Bill is concerned, of both the Members for Diego Martin Central and La Brea.

Mr. Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 4 ordered to stand part of the Bill.

11.45 a.m.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Valley: Clause 5 is deleting subsection (2) of section 13. I want some clarification because what subsection (2) of section 13 is attempting to do is to provide some security in the intervening period until the better plan is established by the RHA. The RHA's pension plan is not yet established. The new section 13A talks about that person being able to contribute to approved superannuation benefits under the relevant pension law and I want to know exactly what is meant there. Is it that until such time that the RHA has its own pension plan? Or is it that these public servants would continue to accrue benefits under the public service pension plan?

Dr. Rafeeq: Yes.

Mr. Valley: That is the intent? Okay.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clauses 6 and 7 ordered to stand part of the Bill.

The Schedule ordered to stand part of the Bill.

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

House resumed.

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

LEGAL AID AND ADVICE (AMDT.) BILL

Order for second reading read.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move,

That a Bill to amend the Legal Aid and Advice Act, Chap. 7:07, be now read a second time.

Mr. Speaker, I am very pleased to introduce this Bill to this honourable House for a second reading. It was well-received in the Senate and unanimously passed there. I look forward to comments from Members of this House and trust that we would obtain their support for this very important piece of legislation.

Mr. Speaker, the average person thinks of legal representation in today's world, and average citizens would think of it in terms of the people who make the headlines on the front pages in the newspapers locally and internationally. People can afford a battery of the best legal minds in the field who can afford to work with renowned experts to ensure that the verdict goes in their favour. We think of the television courts, we see *Judge Judy* on TV and there are people who think that proper legal representation is out of their reach even though it is such a crucial concept to equality and justice in our society.

In our Constitution, fundamental rights and freedoms granted to our citizens in section 4(a) and (b) are as follows:

"(a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;

(b) the right of the individual to equality before the law and the protection of the law;"

In 1978 we assented to the United Nations Covenant on Civil and Political Rights which provides in Article 14 and I quote:

"1. All persons shall be equal before the courts and tribunals..."

That all persons have the right

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him."

By Article 14(d) of the United Nations Covenant, a person has the right:

"...to defend himself in person or through legal assistance of his own choosing; to be informed, and if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;"

Mr. Speaker, the full implementation of these sentiments will show respect for the rights of all citizens and would be a true hallmark of a mature and very civilized nation. Fifty years after the Universal Declaration of Human Rights, there are very few nations on earth which managed to implement the inalienable right to legal representation in order to gain redress that the framers of the declaration intended. That is why over the past 30 years countries as far apart as Singapore, the United States of America, Canada, and Australia have all enacted some kind of free or heavily subsidized legal assistance to those unable to pay for legal representation.

The very first Legal Aid Scheme was set up in 1949 in the United Kingdom. The scheme underwent several changes, reformation and so forth and at present, there is going through the House of Lords in the United Kingdom, a Bill known as the Access to Justice Bill which seeks to further modernize the granting of legal aid in the United Kingdom. The United States of America has also made provisions for free, subsidized, legal services to those unable to afford them. Their schemes are somewhat different from ours. They take the form of the public defender's scheme, a *pro bono* scheme which requires members of the American Bar Association to provide a percentage of their professional legal services free to the members of the public unable to pay for them.

Mr. Speaker, it is interesting to note that the law society of New York which has been in existence for over 120 years—in addition to the number of schemes available in the United States—has grown over the years to include lawyer referral systems, military sponsored programmes, court-based programmes, self-service centres, and quick court systems which are interactive, multimedia systems which operate from specified court sites.

Here in Trinidad and Tobago, we passed in 1976 the Legal Aid and Advisory Act as Act 25 of 1976. The purpose of the Act then, as it is now, is to make legal aid and advice in Trinidad and Tobago readily available for persons of small or

moderate needs to enable the cost of legal aid or advice granted to persons either wholly or partly out of moneys provided by Parliament.

Prior to the passing of that Act, the only way a person of limited means could possibly get legal assistance was by petitioning the High Court *in forma pauperis*. If a petitioner was worth less than $240.00 including his clothing, his tools and his income, if that was below $12.00 per week, then he was entitled to some legal assistance, although in criminal matters he would only get the assistance for the most serious offences such as murder or treason.

Mr. Speaker, it is because of inadequacies in dealing promptly with persons of modest means that Cabinet then appointed a committee chaired by the highly respected Mr. Justice Braithwaite. Other distinguished lawyers serving on that committee were the Secretary of the Law Society, Sen. Inskip Julien; Mr. Rupert Archbald, Q.C., President of the Bar Association; the Chief Magistrate, Mr. Roopchand; Ms. Carrington, who was Treasury Solicitor; Mr. Maharaj and Miss Jean Permanand, now Justice of Appeal who was then the representative of the Ministry of Legal Affairs. That committee studied three reports: the Sinanan Report, the Permanand Report and the Crawford Report as well as other Legal Aid Schemes in other jurisdictions.

The committee's terms of reference were to come up with an appropriate administrative scheme to determine the categories of cases with financial legal aid as opposed to legal advice which would be available to determine where litigants might make a financial contribution to members of the legal profession by making themselves available to represent clients free or at reduced fees. They were also enjoined to draft the Bill which subsequently became our Legal Aid and Advice Act.

The then Minister of Legal Affairs, the Hon. Basil Pitt said: and I quote from the *Hansard* of May 21, 1976.

> "Our Constitution guarantees fundamental human rights and freedoms to every person. But these rights would be unavailing if the means of vindicating them are denied the litigant because of his poverty. This Bill, therefore, must be regarded as a fitting supplementary to the Constitution. It is my hope that through the implementation of the Legal Aid Scheme, all men will learn to cherish the quality of life vouchsafed to them by the inflexible observance of the rule of law and the impartial administration of justice.
>
> This Legal Aid and Advisory Scheme will, I trust, ensure that justice will not be the privilege of the affluent, but the right of all."

A few days later, Sen. Julien who served on the committee had these words to say:

[MR. DEPUTY SPEAKER *in the Chair*]

And I endorse them, Mr. Deputy Speaker. The words said by Sen. Julien are just as relevant today as they were in 1976.

> "If the concept of social and economic justice as expressed in the preamble to our new Constitution..."

Mr. Deputy Speaker, he was then referring to our Republican Constitution on which there was much debate in 1976.

> "...making justifiable any infringement of the rights and freedoms of citizens of this country are to have any meaning whatsoever, or to be of any practical effect in respect of the poor citizens of this country whose rights are infringed, then they must be given, in my view, the means whereby they may go to the courts for redress and have their cases properly argued and determined, irrespective of their state of penury, irrespective of their race, colour or religion...
>
> I say this for in my humble submission, equal justice under the law must imply free legal services for those who cannot afford to pay for them, most especially those segments of our society who dwell below the poverty line."

Mr. Deputy Speaker, those remarks are true today as they were 20 years ago. The notion of equal justice for all is equality justice which must remain any nation's goal to develop and maintain systems that encourage equal justice and change as the needs of that society evolve.

The Act of 1976 set up a Legal Aid and Advisory Authority with a director who had to be an attorney with several years' experience and a board nominated by such bodies as were then equivalent to the Law Association: the Chief Probation Officer, an officer from the Ministry responsible for national security, and the National Insurance Board. The President made their appointments to the Board of the Legal Aid and Advisory Authority.

12.00 noon

The Authority was, by section 8 of the Act, required to meet at least once a month, was empowered to regulate its own procedures by way of standing orders. It was able to co-opt individuals and to attend particular meetings.

More important, it was guaranteed its autonomy by section 9 of the Act, which provided that, under the exercise of its functions the Authority was subject only to the general direction of the ministry responsible for social security.

The general scheme of the Act was to provide legal services to those who could not otherwise afford them, by appointing lawyers from panels created by the Authority and paying these lawyers a very nominal fee for their services.

The Legal Aid and Advisory Fund was set up to defray the expenses of running the Authority and the Scheme.

Sections 23 and 24 provided that a person whose disposable capital was less than $1,000 and whose disposable income was less than $2,500 per year was entitled to a Legal Aid Certificate; and that a person whose disposable capital was up to $4,500 and whose disposable income was up to $4,500 per year was entitled to legal aid on payment of their contributions. Those were the two categories of persons who were entitled to legal aid.

In real terms, however, Mr. Deputy Speaker, what this means at present under the existing law, is that the person who is receiving an income which is in excess of $500 per month is not eligible for legal aid; and that persons who are therefore receiving old age pensions would fall outside of the ambit of the Legal Aid Scheme and would not be entitled to legal aid. What it further means is that persons who receive a disability grant and, therefore, persons who are most in need in our society are also outside of the ambit of the Legal Aid and Advisory Act and they, too, are not entitled to legal aid under the provisions as they now exist in law.

Further, at present, legal aid is only available for a limited range of matters. It is available in the magistrate's court for all indictable offences and offences where the person charged is a juvenile. It is available for summary ejectment in the magistrate's court and for proceedings under the Coroners Act. Legal aid cannot be granted, at present, for any matters in the Petty Civil Court, that is to say, civil actions where the claim for damages is $15,000 or under. It further cannot be granted for applications under the Domestic Violence Act.

In the High Court, legal aid is available for all indictable offences, for civil matters, for all actions except relater actions, for defamation, election petitions—which I think might interest my friend from La Brea—and judgment summonses. Provided the applicant satisfies the means test it will not be useful. [*Interruption*] It will not be useful to you.

Mr. Deputy Speaker, it is therefore clear from this outline that the Act—the existing law—with respect to legal aid is—[*Interruption*] I withdraw that—it is not relevant for you. It is therefore clear from this outline that the Act, unfortunately, is not available for the establishment and enforcement of many important legal rights which touch and concern citizens of Trinidad and Tobago.

It is for this reason that the present Act bears a number of complaints and why the amendments before this honourable House are so desperately needed. The Act has not been amended since it was enacted in 1976, that is over 23 years ago. There have been plans and proposals for amendments since 1978. Mr. Deputy Speaker, the financial limits of this Act put it out of the reach of most of our citizens. There are limitations on the types of actions for which legal aid is available.

In 1993, the Legal Aid and Advisory Authority held a symposium at the Hugh Wooding Law School to acknowledge the 15 years' existence of the Legal Aid Act and to discuss the way forward. Mrs. Hazel Thompson-Ahye, the Director of the legal aid clinic at the law school, made a contribution on the future of this service. On the Bill she made the following comment, and I quote:

> "The main criticism is that of the very unrealistic capital and income ceiling qualification. It would seem that only the very destitute could benefit. Outside of the ambit of the Act, is a body of floundering, unaided defendants, would-be litigants who are drowning in a mass of undefended rights."

This is, and has been, the problem since 1976 when the Act came into force. The Act was—in 1976 when this was put into law in this country—quite forward-thinking as I said. Because, very few nations at that time had enacted legal aid legislation.

There are many now, in this country, whose rights for equal justice under the Constitution and under the United Nations Conventions are not being met because they fall outside of the financial net as provided within the legislation.

There have been several pause, as I said before, since 1978. In 1993 the then Minister of Consumer Affairs and Social Services, Dr. Linda Baboolal—I quote from *Hansard* in the Budget Debate—said:

> "We are also looking at proposals to have the Legal Aid and Advice Act amended, to widen the powers of the director, to bring the Act into conformity with existing legislation and to increase the qualifying disposable income. We would raise the income so that more people would be able to access the services of legal aid...to extend the application of the Act to include proceedings under the Domestic Violence Act."

Mr. Deputy Speaker, many women and women's groups in this country are very concerned because under the present Act, applications under the Domestic Violence Act cannot be made. Persons seeking protection orders and who are victims of domestic violence cannot get any help from the legal aid scheme,

regrettably because that Act, which came into force since 1991, was brought into force after the passing of the Legal Aid Act of 1976 and therefore was not incorporated in it. The amendment then is very necessary. This holds true for many pieces of legislation which have created statutory rights, protections and benefits after 1976, which were not envisaged at the time of the passing of the 1976 Act. Those have been left out. What we are doing in the amending Bill is to bring all these pieces of legislation to be covered within the Legal Aid Act.

Mr. Deputy Speaker, it is the intention and purpose of this amending Bill to make legal aid more readily available and to make legal aid more accessible to all the citizens of Trinidad and Tobago. We intend to do this by:

(i) increasing the income limits so that more people would be eligible for legal aid;

(ii) increasing the fees paid to lawyers to ensure that more and better lawyers are available to all;

(iii) increasing the range of matters to which legal aid is available; and

(iv) making it procedurally easier and quicker to obtain a legal aid certificate, and in domestic violence cases, to obtain an emergency certificate.

Mr. Deputy Speaker, if I may go quickly through the provisions of the Bill. Clause 3 of the Bill substitutes the word "minor" wherever the words "child", "infant" or "young person" occurs, in that each of the words above refers to a different age group. We have tidied this up by using one word to refer to all persons under the age of 18 years. The word "minor" refers to all children below 18 years of age. It follows a trend in new pieces of legislation to use one word to refer to children of all ages, rather than using the various words which complicate matters such as: infant, child or young person. Each one may be defined in law as being of a different age group. Clause 3, by way of tidying up the Act, inserts one word "minor" to refer to all children under the age of 18.

Clauses 4 and 5 have been amended to reflect the fusion of the legal profession in Trinidad and Tobago, again, tidying up. When the Act came into force we did not have the fusion. There were barristers and solicitors so that to tidy up clauses 4 and 5 the words "attorney-at-law" are inserted instead of solicitor or barrister as the case may be.

Clause 5 acknowledges that there is only one representative body for attorneys—the Law Association. That Law Association can nominate four

lawyers to sit on the board of the Legal Aid and Advice Authority. In clause 5 it provides that in nominating attorneys to the Authority, regard should be had to the need for regional representation. There was a bias, in a sense, that it was felt that most of the attorneys nominated to sit on the Authority were from Port of Spain because it was easier for them to get to meetings and so forth. Because of that, it did not encompass the views of lawyers from across the two islands of our twin island state. We have now asked that regard should be paid to the need for regional representation, so that attorneys from the north, south, east, west and of course from Tobago, could be represented adequately.

Clause 6 inserts a new section 3A immediately after section 3 on the appointment of a qualified person to act as secretary to the Board. Such a person would have to be an attorney-at-law.

12.10 p.m.

Clause 9 inserts a new section 5A which eliminates any doubt regarding the exception of taxes by the Authority and assets acquired for its own use, including VAT on goods imported for its own use.

Clause 10 inserts a new section 13A to the Act. This has been proposed for over 20 years. What it does is to provide for the free transfer of staff between the Authority and the Public Service, just as staff can transfer between bodies such as the Regional Health Authorities. Remember the difficulty where persons under the Regional Health Authorities, just as under the Legal Aid and Advice Authority, that there was a difficulty for public servants to transfer to the Authority. So this clause now provides for that easy transfer of staff. The purpose of this clause is to ensure matters such as pension rights and security of the service.

Clause 8 provides for the establishment of a panel of skilled mediators. These persons must have the necessary qualifications on alternative dispute resolutions and we have already sourced skilled personnel who are ready and willing to act as mediators. This clause also relates to clause 22 of the amended Bill. The new clause provides that where a legal aid certificate is granted, the Director may specify as one of the terms and conditions of the grant, that the applicant must submit to mediation as a means of resolving the matter for which the legal aid certificate was granted.

It is our respectful view that this is a very important clause introduced into the whole process of mediation. This is a process with which we are all familiar that has been used by elders in our villages to settle disputes within the village. More recently, we have been hearing much about alternative dispute resolution which

has been used in a number of countries to find speedier resolution to all kinds of disputes and to litigation, of course, in a bid to cut down the backlog in our courts and to cut down on mounting costs of both parties in a dispute.

So that this process of mediation in this Bill is wider than the kind of community mediation that was proposed under the Community Mediation Act. This process would refer to the finding of solutions in civil as well as criminal matters. This mediation process could resolve family and land disputes which are often entwined. It would, in the long run, clear some of the backlog in the courts. It could help ease stress on the parties and, certainly, the expenses the parties have to bear.

Clause 11, Mr. Deputy Speaker, inserts a new section which empowers the Authority to set up schemes to improve its efficiency. These schemes may be varied or revoked subsequently. It is a new and innovative section which will give the Authority power to set up schemes such as the duty officers' scheme as proposed in Magistrates' Courts on a trial basis.

Under that proposed scheme, it is suggested that legal officers would be employed by the Authority to assist in Magistrates and High Courts where they will provide advice to needy persons; they could assist the court in guilty pleas and advise in respect to consent orders. As I said, there is a proposal under the Legal Aid Authority for such a scheme to be set up on a trial basis.

The new section 15A(3) allows the Minister to approve, subject to negative resolution of Parliament, regulations for administration of such schemes, so that whenever new schemes come forward, we will not have to go through the whole debate on it, but regulations could be set by the Minister, subject to the negative resolution of Parliament.

Clause 13 substitutes new section 16(4) and (5) and this provides that where either party to a Summary Court proceeding wishes to appeal to the Court of Appeal, either of them can apply to the Court of Appeal for legal aid for the purposes of an appeal, either to the Summary Court or to the Court of Appeal, for the purposes of getting assistance for their appeal. Previously, the courts in granting legal aid could only do so to a party who applied to them. This amendment makes it possible for legal aid to be granted to both parties at the same time.

Clause 16(5) allows a Court of Summary Jurisdiction on the facts of the matter before it, to grant legal aid to an applicant who is entitled to it. Under this new clause, there is no requirement for a probation officer's report as to the

means of the applicant and which is normally followed by referral to the Director which took up to six to eight weeks. When there was an application, there was a great time delay and, in some cases, this resulted in grave injustice and hardship to an applicant. That person may well be in custody seeking legal aid and not be able to get that legal aid because of the length of time that the probation officer would take to do his or her report and refer it to the Director, finally, for the granting of the legal aid certificate.

There is not a difficulty because the probation officers who are already so overworked had this added duty to do a means report on an applicant and this is really outside of the scope of employment of a probation officer. So, probation officers were tied up with doing means testing of persons who applied for legal aid, instead of carrying out other functions for which they were statutorily enjoined.

This problem, obviously, contributed to clogs and delays in the system which resulted, again, in backing up of cases on the court lists. The system, which we hope will be introduced in the courts, Mr. Deputy Speaker, under the amendments we are proposing, would be similar to what is now in the Assizes, that is, a report on means is only required if the magistrates order it. I am advised that the Magistracy has already given its approval for this procedural change.

There is another provision which is quite important in making amendments to this Act. This is a new section provided under clause 14 which sets out that in emergencies, the Director of the Legal Aid Authority may, without reference to the court, have the power to issue an emergency legal aid certificate. This is exceedingly important. Because of the nature of domestic violence matters, it would be pointless to be able to grant legal aid without this provision of granting emergency certificates when there is absolute need for them.

This section would allow assistance to battered wives, to abused children, especially when read in conjunction with clause 32 which amends the First Schedule to the Act to include, for the first time, as I said before, applications under the Domestic Violence Act. This means that not only can battered wives at last get legal aid and enforce their rights under the Constitution to physical safety for themselves and their children but, also, that they will be able to get such a certificate on an emergency basis.

This provision would allow applicants to be heard before the court the next day for protection orders, instead of having to wait six to eight weeks for their applications to be means tested while they will be living in fear for their lives and in mortal danger for themselves and their children.

With this new clause, we will be making strides towards full human rights granted by the Constitution and by our commitment under the United Nations Covenants which we have adopted as our standard. This emergency certificate would last for a minimum of six weeks and a maximum of three months, but it can be extended by the Authority if it becomes necessary. So, innovative in the legislation, is that amendment to allow for the granting of emergency certificates where there is a dire need for such a certificate to be granted right away and, therefore, to cut out the waiting of time in emergency cases.

Clause 15 amends the Act by extending the time during which a person committed for trial in the High Court may apply for legal aid for the defence from 14 days to three months. This is a very sensible amendment, in my respectful view. It has been on the list of proposed amendments for almost 20 years so that we are very happy to see that it is now being introduced, that is to say, that a person committed for trial in the High Court can now apply for legal aid for his defence within three months whereas the requirement, previously, had been within 14 days of his committal.

Clause 16 amends section 18 of the Act so that an application by a convicted offender for legal aid for the purposes of an appeal to the Court of Appeal may be made to any judge of the High Court or the Court of Appeal instead of only the judge who sentenced him. The law at present is that where a judge has sentenced a person and that person seeks to get legal aid for his appeal, it is only that particular judge who can grant the appeal. What we are saying is, when the single judge is unavailable, for whatever reason it may well be, for health reasons or otherwise, the delay in being able to make an application can cause grave injustice to an individual in such matters, as I said, when that single judge is not available. It seems, really, a case of injustice rather than justice, that he must apply to the judge who sentenced him rather than any other judge of the High Court in the absence of that single judge. This amendment as proposed in clause 16 would seek to remedy or would seek to provide justice where, at present, injustice may be occurring.

One of the most sweeping amendments made which is of great interest to all the lawyers who do legal aid matters is in respect to the provisions for fees. Clause 7 of the amended Bill deletes the existing section 4(5) of the Act and substitutes a new section 4(5). What this does is to provide that the Director may determine what fee is to be paid to an attorney, giving an opinion on the grant to legal aid. Formerly, the fee had to be negotiated between the Director and the attorney.

Clauses 17 and 18 amend section 19 of the Act so that lawyers are to be paid fees as set out in the First Schedule to the Act. The Minister is given power to

subsequently alter both the level of those fees and the range of proceedings for which the legal aid may be given under section 16 of the Act. The Minister's order in respect of these schedules is subject to negative resolution of Parliament. Clause 17 was further amended so that the intent is made clearer.

When we look at the amended Bill, we would see that the fee structure has been substantially amended and this is to be found in the Schedule. This is very clear in the First Schedule to the legislation. In respect of Part II of the First Schedule, the fees for representing individuals is increased from $125 to $500. Furthermore, paragraph 2 as amended by clause 32, the fee for appearing in indictable matters is increased to $1,000 from $500.

What is to be noted is Part III (b)(ii) is further amended, based on discussions in the Senate, so that attorneys in civil cases can now be paid up to the sum of $5,000 if the presiding judge deems the case to be of unusual length or difficulty. In the case of capital matters, attorneys would now be paid up to $10,000 if, at the end of the trial, the presiding judge should deem it fit. These sums would be payable by the Director on the written authority of the presiding judge. So, there is tremendous change in that fee structure which takes into account the concerns that were raised by the lawyers who offer their services under the legal aid scheme.

Mr. Deputy Speaker, income limits have also been changed to allow more persons to benefit from the Legal Aid and Advice Act, so that clauses 23 and 24 amend sections 24 and 25 of the Act so legal aid can now be granted to persons with capital of up to $5,000; disposable income of up to $7,000. Again, the Minister has the power to amend these sums subject to negative resolution of Parliament.

What it means with these amendments with respect to income and capital limits is that for the first time, our old age pensioners would now be eligible for legal aid. In effect, any person receiving an income of $900 or less per month after tax, would now be within the legal aid limits and be entitled to legal aid. What it means then is that people living below the poverty line and were ineligible for legal aid because of restricted financial limits, such as old age pensioners, persons on disability benefits, persons on small National Insurance pensions, or any persons earning more than $500 in income but less than $900, those persons can now be given legal aid assistance under this legislation.

12.25 p.m.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, clause 25 amends the Act to clear up ambiguity which existed as to whether or not the director had to assign to an applicant an attorney of his or

her choice. The new section empowers the director to assign from the panel and to take into account the wishes of the applicant. It no longer requires the director to assign the attorney named by the applicant. In the past, the words, "a solicitor selected by the aided person" in section 29 were interpreted to mean that the aided person could insist on having the attorney of his choice. Of course, it would then mean that if such person was unwilling to serve in a matter that the director and the authority would be placed in extremely difficult position. So this ambiguity has now been cleared up where the director need not take into account the wishes of the applicant and assign an attorney to him or her for legal aid.

Mr. Speaker, clause 29(4) of the Bill forbids attorneys or any employee of the Legal Aid Authority from taking money from applicants in order to facilitate their being granted legal aid. A new subclause (5) is added to clause 29 so that any attorney or person contravening this section would be removed from the panel and would be subject to disciplinary action.

Another very important amendment which I would finally deal with is in clause 32. It is exceedingly important because it widens the categories for which legal aid may be given. By amending the First Schedule in the Act there is an increase in the range of matters for which legal aid may be granted. In summary courts, all offences now except motor vehicle offences, this means that legal aid can be obtained for all offences laid pursuant to the Summary Offences Act: praedial larceny, holding public meetings, marching without permission, resisting arrest, disorderly conduct, obstruction in the streets and other illegal vending offences. Persons are charged but they are not guilty until so proven, so in all these proceedings they can now obtain legal aid.

In addition to the proceedings under which legal aid is now available, Mr. Speaker, the proposed amendments now include proceedings under the Cohabitational Relationships Act 1998. All these changes would do much to remedy the hardships experienced by women left to raise children on their own with no financial support or where they are at the mercy of violent spouses or former spouses.

We have also now included proceedings under the Rent Restriction Dwelling Houses Act 1981; they are to be included as matters for which you can now get legal aid.

At present, persons can access legal aid for a very limited range of matters, but with the amendments the Legal Aid Authority would be able to offer assistance for domestic violence matters and petty civil court matters. These will

not include cases where a person may have suffered injury or damage and would have a claim for $15 or less in the petty civil courts. For example, a person may be injured in a car accident, at the moment that person cannot bring an action in the petty civil court and get the Legal Aid Authority to assist him or her in that. The person was already injured, and may be out of a job because of his or her injury or out of income, but under the existing law that person is not entitled to legal aid. With the amendments he or she can now seek legal aid to help recover compensation for the injury. So for all petty civil court matters an applicant is entitled to legal aid assistance, providing, of course, that he or she meets the means test.

Now, they are also entitled to legal aid for appeals where the applicant seeks to defend an appeal. Previously, only if you were the appellant, if you had brought an appeal against a decision, only then would you have been entitled to legal aid. We are now saying that where a person appeals, the defendant in that appeal would also be entitled to legal aid.

Another very important area is in respect of applying for grants of probate and letters of administration, where the value of the estate does not exceed $100,000. There are so many small estates under $100,000, where applicants are seeking probate or letters of administration. They have no money, the estate may comprise $100,000 in terms of a house where they lived, but they have no money to actually bring the application for the grant of probate or letters of administration. We are now saying that all small estates under $100,000, again, once you have satisfied the means test in terms of income and so forth, you would now be entitled to legal aid to make an application for grants of probates and letters of administration.

For all offences under summary jurisdiction persons would now be entitled to legal aid: applications under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, and the Status of Children Act. These two Acts are very interesting because under the existing law if you brought an application under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, these applications for maintenance and custody of children and so forth, even though you were destitute, separated from your husband, you are there with your children seeking maintenance and you have no income whatsoever, you would not have been entitled to legal aid because it was not contained within the statute. However, the officers in the Legal Aid and Advice Authority had taken up the practice of granting legal aid even though under this statute such persons were not entitled to legal aid under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act and the Status of Children Act. This Bill is now regularizing what has been in practice, to put these clearly as areas where one can now obtain legal aid.

What are applications under the Status of Children Act, Mr. Speaker? Again, very important, these are where a mother alleges that "Mr. X" is the father of her child, she wants to get maintenance but is unable to until she can prove the paternity of the child, so that she can bring an application under the Status of Children Act. This is the Act which abolished all distinctions between children born in or out of wedlock in our country. It is a 1981 legislation brought after the 1976 Act, so applications were not caught under the Legal Aid and Advice Act.

This is a widening and deepening of the range of matters for which persons in our country can now be entitled for legal aid. We have already talked about the increased income limits to give more persons access to legal aid. What we have also done in the amendments is make it procedurally easier and quicker to obtain legal aid certificates.

Mr. Speaker, I close by saying that legal aid is essential to enable those who are not so well off to access justice. There are many court cases that are too complex for lay people to handle without professional assistance, and I started out by saying that it is a true hallmark of a civilized, democratic society that our citizens have access to justice by having legal representation where they cannot so afford.

Mr. Speaker, I beg to move and I thank you.

Question proposed.

Mr. Speaker: I recognize the Member for Laventille East/Morvant, but we will suspend at this stage for lunch and resume at 1.45 p.m.

1**2.33 p.m.:** *Sitting suspended.*

1.47 p.m.: *Sitting resumed.*

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, as the Member for Siparia indicated in this debate, the Legal Aid and Advice legislation was put in place in 1976. When it was piloted, as the Member reminded us, the then Attorney General, Mr. Basil Pitt, pointed out that the view of the government at the time and the policy decision to put it in place had to do with our respect for—and I say “our” but it had to do with the Government's respect for and its determination to create an environment in Trinidad and Tobago that was wholly consistent with the dictates of our Constitution—I need not quote the particular section. The Member has made it clear. That in conjunction with—well it was section 4—section 5 which gives a right to legal representation of choice provided the rationale for the implementation of the legislation in 1976.

I have noted, because I followed the debate in the other place, that the Member for Siparia was careful not to politicize the debate and to make any of the usual references to any criticisms of the PNM administration, given the fact that no substantial amendments took place, really, to this legislation since that time. She mentioned it but she did not put it in any particular political context and that is admirable. However, I feel compelled to say that the government of 1976 implemented this legislation and today a government in 1999 seeks to improve it, which of course is the duty of government.

In 1971, similarly, the government of the day implemented the National Insurance Scheme to provide pensions for our citizens and other benefits as they became necessary in accordance with that legislation. The introduction of universal pensions for all, the government of the day, when that was implemented, did so. So that if one fine-tunes or improves it today in 1999 this, as I said, is admirable but we must never forget the foundations upon which these great structures were built and, more than that, the master builders who put them in place. So much for that, Mr. Speaker.

Clause 11 of this Bill empowers the Legal Aid Authority to establish programmes, according to the Minister. The Bill does not speak specifically about what these programmes are but the Minister alluded to them in piloting this legislation. She made reference to the scheme of duty officers, duty lawyers. This is not a novel concept. This is in vogue in England and, I rather suspect, in Australia, New Zealand and other parts of the Commonwealth and maybe other parts of the world all together and it is a progressive thought.

This is a situation where you would have a lawyer, for example, on call 24 hours a day and they are rostered accordingly, to police stations. So if a citizen is arrested by the police or any enforcement agency and taken to a police station, there is a duty officer who can be called to provide some preliminary legal advice and assistance in those circumstances. Because we know full well, oftentimes upon arrest, particularly with first-time arrestees or offenders, being unaware of the situation they can sometimes implicate themselves more than they ordinarily would have.

Sometimes, and I saw the Minister make reference to that in the debate in the other place, they may be, and I want to use her words, not my words, roughed up, I do not know by whom, but she spoke of that. Sometimes legal advice and assistance is critical at that point. Because oftentimes key bits of evidence, like confession statements, are elicited and in some cases voluntarily given to the police and this forms part of the evidence eventually. So that is a good thought

but, of course, it has to be noted that it is only a thought and the legislation as now amended permits the Legal Aid Authority to consider or to apply such programmes, but of course a lot of thought and work has to go into this.

This, in England for example, is coupled with a number of other elements, for example, video-recorded confessions. In England today, if a man is going to give a confession statement to the police, they have done away with the requirements for the presence of a justice of the peace or a senior police officer. They have come to learn in that jurisdiction that those protections are not enough and they have moved to the stage now of having them video-recorded and these recordings are played for the benefit of the judge and jury when the matter eventually comes to trial.

The Police and Criminal Evidence Acts, Mr. Speaker, very detailed and thorough legislation dealing with the conduct of the police as they conduct investigations and build evidence in cases, all these procedures are outlined in the Police and Criminal Evidence Act along with a body of case law that has developed arising out of that Act. So the legal aid arrangement with the duty lawyer and so forth works in conjunction with these developments. Of course, in Trinidad and Tobago we are not half as close to that kind of modern approach as we should be.

In fact, even today, notwithstanding the fact that recently the Attorney General quite rightly informed the nation that we are moving towards having a new court structure on St. Vincent Street to house the Magistrates' Court, the fact of the matter is, as I speak to you now, the Magistrates' Court in Port of Spain—I can speak authoritatively on that because I frequent there as a practitioner—is really almost totally in shambles. Many of the things that the Attorney General spoke of as he piloted various other bits of legislation have not come to be.

Only last week I was in the Magistrates' Court and I observed for myself, on the direction of a very helpful member of staff, that there might only be about three computers in use at the moment in the Registry of the Magistrates' Court. The bulk of them are locked away in a little room collecting cobwebs, out of use. Simply because they are new computers, you know, no one has taken time to hook them up. That is a reality and I saw it, I think, Thursday of last week. Things are bad. [*Interruption*] In the Port of Spain Magistrate's Court, staffing is a serious problem.

I am not criticizing the Government, I am merely saying that as progressive as the idea that has been put forward in this legislation by the Member might be, it will not stand on its own. "It will remain but a fleeting illusion to be pursued and

never attained", if I may quote Bob Marley, without law. I do not want the Member for Siparia to treat what I have just said as a criticism of her. In fact, I have applauded her and I have done so rather sincerely.

The Explanatory Note of this Bill spoke to the question of the purpose of the Bill. I want to read it. It says:

> "The purpose of this Bill is to amend the Legal Aid and Advice Act, Chap. 7:07...to make Legal Aid more readily available and accessible to citizens of Trinidad and Tobago, to provide for a more efficient system of Legal Aid and to increase the kinds of matters for which aid may be granted."

There is a real need for this and again I applaud the Member for Siparia for piloting this legislation. As a practitioner I know there is a real need and it is not to be argued in principle. It is not for us to come here and intellectualize and to say it sounds good and we should do it and we really need to do it. There is a clear need. It must be provided for in fact and not in words. It must be provided for in deed because there are many problems.

There are many people who cannot access the legal system, unless of course they are caught up by it by being arrested or so. But sometimes to defend their own rights or to assert their own rights many people are outside of the structure, as it were, and the expansion of the facility of legal aid, of course, Mr. Speaker, gives many more people access. I am satisfied, based on what I heard from the Minister today, that more access has been created and that is indeed an honourable and a worthwhile thing.

I wish to say, and I think it is trite but I must say, there is no point talking to people in our society, particularly those at the lower ends, if I may say so, who would benefit more greatly from this legislation, about the social contract. There is no point trying to tell them that they have obligations to observe and to obey law and to conduct themselves in accordance with our expectations in this social contract and, when the time comes for them to assert their rights, because of their financial inability they cannot do it.

That would be much like the criticism the court made in the case of *AG and Whiteman*, a case that is well known to constitutional lawyers and others. This is a case where it was pointed out that even the police, as are expected, must tell a citizen he or she has the right to a telephone call if held in custody, so that he or she can inform a friend or relative or a lawyer of the fact that he or she is arrested, and if they do not avail the telephone to that person, that would be making a mockery of the judge's rule that such a person should be entitled to a call. So that

to tell people they are entitled to protection of the law and all of that in a similar way, and not make legal process available to them, would be akin to that kind of mockery. I think this is an advance, and it must be respected for that.

2.00 p.m.

Mr. Speaker, as the Minister pointed out, the Bill establishes access to legal aid for an application for a grant of probate, where one has a will, of course, and wants to have it probated by the court in order to access the benefits under the will; as well as the application for Letters of Administration for the same purpose. I think this is rather useful. I see that where the estate is above $4,800 and below $100,000, the applicant would be expected to pay a sum of 0.5 per cent of the estate to the Legal Aid Authority. This is a good thing. There are many people who have very small estates which were left by some relative and they are without any ability to deal with them, and other channels that are available to them might prove to be a little trying sometimes. So that this is a step in the right direction. I am sure it would affect many of the attorneys, however, who are in service of those people, but I trust it is the price we must pay for some development in the society and I applaud that, as well.

Clause 6 of this Bill says:

> "The Act is amended by inserting immediately after section 3 the following new section:
>
> 3A. The Authority shall appoint a suitably qualified person to be its Secretary."

That clause, along with clause 10, which deals with the fact that the persons can now be seconded from the Legal Aid Authority, which was established under the Act in 1976, to the general public service and members of the public service could be seconded to the Legal Aid Authority. Clause 10 and clause 6 taken together, appear harmless, innocuous and non-threatening, on the face of it. But Mr. Speaker, our experience with this Government causes us to be very concerned, even about an apparently innocuous provision such as this.

This is a Government with a track record of interfering with established procedures; established employment arrangements in the public service. So this Bill permits the Legal Aid Authority to transfer or second people into the public service and *vice versa*. It allows the Legal Aid Authority—and this Authority falls under the Ministry of Social Development headed by the Member for Chaguanas—*[Interruption]* I stand corrected and grateful to the Member for Couva South. It now falls under the Ministry of Legal Affairs. My fears are only

marginally alleviated. The hon. Member for Siparia has demonstrated to all of us in this honourable House that she is a dignified and honourable human being. And as we insist, you cannot be a good anything unless you are first, a good person; and I am sure she would be and continue to be a good Minister of Legal Affairs. As indeed, she would have been a good Attorney General but, of course, she did not last long enough to show us.

But, at any rate, this Government with its authority and control of the Airports Authority Board, saw and oversaw the displacement of a significant number of workers in that Authority. That goes undisputed, Mr. Speaker. They put in place a voluntary separation arrangement—I am only briefly on it just to make my point—and encouraged and elbowed in some cases, I am instructed, people to accept the VSEP packages and no sooner did the people leave one door, a revolving door brought in others to do the same work on the other side. That is the record of this Government. Anytime now I see any provision in any legislation dealing with employment in the public service or in state-controlled authorities, my alarm bells go ringing loudly. It is for that reason, and that alone, that I am concerned about clauses 6 and 10 of this Bill.

All I can do is urge the Government to act honourably; act as a Government of Trinidad and Tobago should; act in the way that the PNM, when in government demonstrated that it did and do not interfere. Let the Legal Aid Authority, in accordance with the necessary arrangements, employ a secretary of its choice, based on its knowledge, experience and needs. We have seen this Government insist on the employment by contract in National Petroleum of certain other persons, and we saw the shame and dishonour that it brought to Trinidad and Tobago. All I can do is ask this Government to refrain from that kind of behaviour and let the Legal Aid Authority get on with its work and do not interfere and insist on employing, even on contract, a person or persons, as it did in NP, to the embarrassment of this country, and justified it for months!. That is all I can ask.

I want to turn our attention to clause 7 of this Bill. Clause 7 of this Bill, in part, permits the director, by way of a discretion, of course, to pay attorneys now for the investigating, reporting or at (c) giving an opinion. This is a very important development. I have had the opportunity of speaking with other attorneys and it has happened with me, where the Legal Aid Authority conduct a preliminary investigation into the fact pattern that the client would put to them. So that the client walks in to the Legal Aid Authority and he highlights to his legal officers or maybe, non-legal staff, a certain fact pattern. Having highlighted that, the Legal Aid Authority, having checked on its means and the merits of the case, will

preliminarily decide that the person is entitled to legal aid, for example, to conduct a matter by way of judicial review or a constitutional motion. I have had two of these briefs come to my desk from the Legal Aid Authority as a member of the panel. Upon looking at the fact pattern more closely, in Chambers, I found in my own professional view, that these matters were not worth proceeding with. So that I could have done one of two things: I could have taken the brief from the Legal Aid Authority; taken instructions from the client, and go to court with the constitutional matter or the application for judicial review.

In my professional opinion both would have faltered along the way; both were without real merit. But, of course, being as honourable as I am; being as honourable as the PNM has insisted that I be, I opted for another course; I then communicated with the Legal Aid Authority. *[Interruption]* There are lawyers—and it is well-known to the Member for Couva South, I am hearing him—who take bad cases knowing full well that they have no chance of succeeding and go with them. I do not want to call names. Mr. Speaker, you may have overheard the Attorney General calling names. I could call names but I will not; I want to keep this debate well above the kind of baseness into which the Attorney General is trying to drag it.

2.10 p.m.

Mr. Speaker, let me continue unperturbed. I then decided to communicate by way of writing to the Legal Aid Authority and told them of my view in the matter. Then I was asked to justify it. It meant having to write effectively a legal opinion on the facts and with the case law. I took a considerable amount of time and other resources in order to do that, but when one did, under present arrangements, there was nothing forthcoming.

So, one wrote effectively an opinion. It is the kind of opinion that would have ordinarily earned a fee of perhaps $15,000 to $17,000. Do you understand, Mr. Speaker? One is not benefitting because this Act, even with the amendment, does not permit that kind of payment. It was to be negotiated between the director and the lawyer. Now the director, on his own, by way of discretion, will decide it.

At any rate, the fee that was eventually paid to me for that very thorough and well-thought-out professional opinion was a far cry from what it ought to have been ordinarily—reasonable fees; not fees charged by some. I think that this is an advance and a wonderful thing, and it gives a lot more leeway and recognition for hard and serious work.

Mr. Speaker, I then wish to move to clause 13. I need not dwell too much on it, because the Minister did indicate that it now provides for the grant of legal aid

where one has to defend or to answer an appeal in the Court of Appeal. As it stands presently, a person will be granted legal aid to appeal a matter from the High Court or from the Magistrates' Court, but it is becoming an increasing phenomenon.

The state is now appealing magisterial decisions more regularly, and there are cases where the man does his case in the Magistrates' Court, he wins the case there, the state is dissatisfied with the Magistrate's findings and the state appeals the matter. Ordinarily, as it stands today—not the appellant, because the state will be the appellant, but the respondent in that situation would not have been entitled to legal aid to defend that appeal by the state, and this Bill makes that provision and makes that possible. I think this is a good thing. It will cost the state a lot less, because when the state loses the appeal in the Appeal Court, as often happens, costs are awarded and the costs are substantially more than the Legal Aid Authority might very well pay under this. If the person is legally aided, at least in the event it will be better for the state in the long run, but at the same time, justice will be served. For that reason, I think it is indeed a good thing.

Mr. Speaker, I see the Bill makes provision for the grant of emergency certificates at clause 14 in cases of domestic violence. I know that we have legislation in the other place on its way to this House dealing with police powers and some adjustments in the scenario of domestic violence. Everyone in this country and this world understands that this has been a serious problem and it needs serious attention. Everyone will appreciate that, largely, women have been victims of domestic violence leading in many cases to death—nasty and horrible death!

The Legal Aid Authority is now given the opportunity to grant emergency certificates by the Director in cases where it is necessary for domestic violence, and I think this is indeed a good thing, but it must be said that I hope that with the public education the Minister promised in the other place under allowing the Legal Aid Authority to implement other programmes, the very few persons who are likely to want to abuse the domestic violence legislation in general will be held well in check.

[MR. DEPUTY SPEAKER *in the Chair*]

I know of a particular case where a legal aid certificate was granted in a domestic violence matter to pursue it in the High Court for an injunction—I can say this without calling names—and every single one of the issues that was articulated in the affidavit and argued in the High Court was already in the courts at the magistrate level. So, the Legal Aid Authority, in granting the emergency certificate, would not have known that the applicant for legal aid to go for an

injunction in the High Court had already been seeking remedies under the domestic violence legislation in the Magistrates' Court, and every single one of the issues raised in the affidavit in the High Court was already before the Magistrates' Court in Port of Spain.

I consider that to be a bit of a duplication, therefore, a bit of a waste, and the Legal Aid Authority would not have been aware of that, because maybe when they spoke to the client, the client would have told them that there are matters in the Magistrates' Court, but probably they did not take time to see the proceedings in the Magistrates' Court because they may not have time for that. They do it on a very cursory basis at the legal aid office. So, there is some measure and possibility of abuse, and one would like to keep that well in check. Of course, that is the exception rather than the rule, and I maintain that by virtue of its being an exception, it should not thwart us or affect us from this very progressive development in the law. Therefore, for that reason, I will support it as well, Mr. Deputy Speaker.

Hon. Persad-Bissessar: I do not understand the scenario the Member has outlined. What is the difficulty? The Member is saying that the Authority would not know there were Magistrates' Court proceedings pending. What is the problem? He said there would be a duplication. Duplication of what?

Mr. F. Hinds: I do not want to discuss the case too much, as the Member would appreciate. There was a duplication in the proceedings in the sense that the same issues the applicant was going to the High Court for armed with a legal aid certificate, legally aided against a non-legally aided respondent in the High Court, all of the matters she was now prosecuting in the High Court were already being invoked, if you like, in the Magistrates' Court under the Domestic Violence Act. In other words, threatening language and all the usual things and seeking an exclusion order. So, really, they were being ventilated in the Magistrates' Court. That is the point I was making.

Mr. Deputy Speaker, the Law Association of Trinidad and Tobago noted some months ago that this legislation was piloted by the Member for Siparia five months ago in the other place, and before I saw it up for debate today, I said to myself, and I maintain, that this is another typically UNC ploy. Yes. I maintain that! The matter was put to debate in the other place five months ago in February, 1999. It now finds its way, without substantial amendments, for debate in the Lower House. One wonders why this grand delay. Justice delayed is justice denied!

The Law Association had been calling on the Government to improve the legal aid fees to the many lawyers who are prepared to assist for fees that are

below normal rates under the legal aid scheme. It had become a bit of an absurdity. A trial may last 10—12 days, sometimes three weeks, a capital matter for example, and the fees for the attorney would be $1,500 regardless of how long it took or how difficult the case might have been, how intricate the issues of law that may have arisen might have been.

Many of the "better" lawyers—I do not like to say that because it gives the wrong impression—refused to participate in that kind of scheme because it was unrewarding. There are those who do and there are others who refuse to, and it is quite clear to everyone that if a man is able, professionally, to earn $75,000 or $150,000 in a matter and he is on call for that matter, he will not spend his time doing it for $1,500. Mr. Deputy Speaker, this is a serious reality. This was a deterrent, if you like, for some of those lawyers to get involved in the scheme unless, of course, their heart was in the right place, as could be said of many, most even.

This Bill improves fees somewhat, and I think—

Hon. Persad-Bissessar: Plenty!

Mr. F. Hinds: Yes. It is a good thing. Where a fee, for example, in the Magistrates' Court, might have been $125, it has now gone to $500. That could put a little more gas in one's spirit! Where the fee was $500, it has now gone to $1,000 and where it was $300, it has now gone to $750. In the case of the High Court matters, what was $1,500 is now $2,500 with an optimum level of $7,500 if the judge believes that the case was sufficiently intricate and time-consuming to warrant that. So, he can, by way of certificate, order or direct the Legal Aid Authority in non-capital matters. The capital matters have now gone to $10,000, which I think is an excellent thing.

I raise the question again, Mr. Deputy Speaker, why did this legislation take as long as it did to get here? It is because as honourable and committed as the Member for Siparia is in implementing this legislation, her colleagues in the Cabinet reminded her from time to time that there is a heavy price tag to be attached to this legislation. It is for that reason that it did not come here for the last five months. Having raised this point, I can hear the Member for Siparia asking, "What then would explain why it did not come here from 1976 to 1999?" Before she says so, let me deal with her. *[Interruption]* I may not have been around, similarly, a judge is hardly ever going to be on the scene of a crime, but from the evidence he can make a reasonable finding. As a lawyer, the Member for Caroni East ought to know that.

I do not want to deal with the economy as it waned and rose in Trinidad and Tobago over the years, but any economist would say that the Government of

Trinidad and Tobago, between 1991 and 1995, could not have embarked on these social enhancement programmes because it was set with the task of rebuilding the very basic foundations of a crumbled economy.

That Government did particularly well in re-establishing those foundations, getting foreign reserves right again, getting inflation in the right direction—going south rather than north—getting unemployment going south rather than north, and so forth. Prior to that, we had the two oil booms, and it is quite common for the Member for Oropouche to talk about how $60 billion was squandered, and we recognize that so far, based on the budgetary allocations, the total amount budgeted by this Government for the last four years is $46 billion.

2.25 p.m.

Mr. Deputy Speaker, they said that we squandered $60 billion over those years of the oil boom, but we could show them the stadium, Mt. Hope Complex, the various highways in Trinidad and Tobago, massive infrastructural development, schools and that sort of thing. *[Interruption]* I know, I am indeed grateful, and the $46 billion that has been spent by this Government for the last four years, they can show precious little for it. One more year at $14 billion would take them to $60 billion, and in five years they would have done it, and we could quite easily suggest that they squandered it, nonetheless, and in another debate we will show them how, but that is not the matter for this debate.

I want to quote the Member for Siparia, because she is very sensitive to this issue. It was raised in the Upper House. She was asked in the other place, "how are you going to fund it"? She admitted that this simple piece of legislation will carry a price tag of some $9 million, or thereabout, so she was not mindless of that fact, but I noted in her contribution here, she made no mention whatsoever of that. I know she wants to turn her face away from that reality, but she will not be permitted to.

Mrs. Persad-Bissessar: Nine million dollars.

Mr. F. Hinds: She cannot because we saw recently—and I just want to make the point as a backdrop to establish the point I want to make, so bear with me—the Member for Tabaquite walked into Cabinet with certain recommendations in respect of the textbook scenario, recommendations that were consistent with the finding of the Textbook Evaluation Committee and the views of experts at the Ministry of Education, but by the time it came out of Cabinet it was no more! When he went in there with one book, out of two the books, he came back out with one book, one book, same book, and we are told that it was the Prime

Minister, who insisted that the Minister of Education, having consulted with the experts on the Textbook Evaluation Committee, demanded that it should be different.

So, I accept that the Member for Siparia, being a lawyer herself, and as kindhearted and as good natured as she is, indeed, and dignified, would want to see this implemented, but she has to get past her Prime Minister and the Minister of Finance and she has laid great stake on this legislation. She said not a word about it here.

And I am submitting, when you listen to her words in the Senate, in the other place, you will see that she has almost thrown down the gauntlet; she has said if they do not attach the price tag to make this Bill real, I may very well put my office as a Cabinet Member on the line for it. Mr. Deputy Speaker, you will judge for yourself. Let me quote her in the other place in answer to a question. She said:

"Unfortunately,…"

She was asked about the cost of the programme.

> "Unfortunately, I cannot do that at this time. Of course, it will be of tremendous added cost, but I am unable to give you a figure at this time."

That was before she decided it was $9 million.

> "That is certainly something we will have to sit and work out with the hon. Minister of Finance. We may not be able to implement all of those matters immediately but, certainly, those that we can, we will put into effect. Perhaps, you can help us with your accounting skills. You may be able to assist us in coming up with some kind of cost factor."

But that was not all she said. Oh! I see, on one hand, she says we can implement it on a piecemeal basis and, on the other hand, she criticized someone in the other place for saying that, but that is understandable—let us continue. Mr. Deputy Speaker, these are the critical lines. She says:

> "Mr. Vice-President, several concerns have been raised, and the main one, it seems to me, had to do with the issue of funding. There was a concern that we had brought no costing, and I think on the very first day, the hon. Sen. Montano raised the question about funding: where would we get the moneys for implementing? And that call was picked up and echoed throughout the Chamber by almost every Member who spoke."

She continues—

> "It is cause for concern, because we know that without money none of it would happen. It worries me too, in terms of finding the finance. But we do have the hon. Minister of Finance, who has been in this Chamber, and has heard the contributions that have been made, and who understands the importance of this piece of legislation."

The Member continues:

> "We have been looking at costing and we estimate it should be around $9 million, in order to implement this legislation."

Mr. Deputy Speaker this is the critical part:

> "Now, it seems to me that may appear to be a lot of money, but we have spent in this country, more than $9 million on very simple matters, and if it takes $9 million, I can give this House the undertaking that I will do all that I can to persuade—I cannot make the releases myself—my colleagues on the Government Benches for us to find a way to find that $9 million. So, I say to you I am determined."

Very instructive and I particularly like the line: "I am determined." This is why I said one gets the impression that she has put her political life on the line for this recognizing its importance, and if she is let down in Cabinet by the Minister of Finance and the Prime Minister, if she is let down as has been the Member for Tabaquite, when he went in there with the Textbook Evaluation Committee's recommendations, and was slapped in the face, of course, rhetorically, by the Prime Minister, she will be stronger than that Member for Tobago. She will pack up her "Georgie bundle" and walk. I know she is that kind of woman.

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

Question put and agreed to.

Mr. F. Hinds: Mr. Deputy Speaker, thank you very kindly. *[Interruption]* I am hearing some mumblings from Oropouche, but I would disregard it. I like this line as well "we have spent in this country more than $9 million on very simple matters." I am sure as she spoke those lines, she was contemplating the wild and wanton and wasteful expenditure at Chaguaramas.

Chaguaramas was famous for the Chaguaramas Declaration by Eric Williams in 1970, because it used to be an air force base—a naval base, and we marched and took it back in the interest of nationhood and nation building and now, it has been made famous by the Member for St. Joseph, who I read in an article, preened

and pricked himself around Chaguaramas. All we got in the end for it was "Mr. Universe." Nothing more! And now the Member for Siparia is having difficulty finding $9 million for an important matter to give poor people in the country access to legal aid like this. *[Desk thumping] [Laughter]*.

Mrs. Persad-Bissessar: I would like to advise the Member for Laventille East/Morvant, that I did not at any point disclose that I was having any difficulty in obtaining $9 million.

Mr. F. Hinds: That makes the point, she is confident. I told you she has put her political stakes on the line. I have little time, but I want to read further and I quote:

> "I want to make it very clear that this is not a manifesto in the sense that is a political campaign, because that point was made that this Bill is so wonderful, it is like a manifesto, full of promises, but given the implication that it would not be carried out. If it is a manifesto, I want to say very clearly that the manifesto of this Government, and of myself being in Government, is clearly to improve the quality of life of the people of this country. That is my manifesto."

She said so and I continue to quote:

> "If it is a manifesto, it is one that is committed to uplifting those in need and placing them in such a position that they can benefit from institutions of the state and this is what this Bill is about."

Mr. Deputy Speaker, you must agree with me on the evidence that the Member has placed high stakes on this matter, and we await the outcome eagerly.

We note as well, that the Bill in clause 2 takes effect upon proclamation by the President, okay? That will give this Government another opportunity, if it wishes to, and most likely it will, to dilly-dally a bit, because they will have trouble with the $9 million but we will see for the good of all, it ought to be allocated. But we must wait and see. The proof of the pudding will be in the eating.

So what happened five months ago, is that when the Government raised the issue, it was well-publicized on the television and in the newspapers and they got a tremendous amount of credit for improving legal aid, but nobody took time to look back and realize that nothing so far was done. So it got the credit, but it did not have to pay the $9 million price. They are now coming here with it.

Mr. Deputy Speaker, I imagine because they anticipate that the shift in oil prices may make a difference in the next few months, but as we heard earlier from

a very knowledgeable Member, on these intricate financial issues, maybe because of their overall management of the economy, it may not come into being and that would be so sad for Trinidad and Tobago, but we must wait and see. I am not going to be a pessimist. I am extremely optimistic and I wish you well for Trinidad and Tobago's sake.

2.35 p.m.

Mr. Deputy Speaker, it is to be noted that in clause 24 more access is created by removing from the means test in persons receipt of old age or public assistance moneys; that is to be complimented.

So, being as responsible as we have always been, being the persons who built this bridge in the first place and recognizing that today, many years later, the bridge can do with a little reinforcement, we support the Government in its effort to reinforce this bridge. We built it, we know it, we understand it, and we support the Government's efforts. If there is one little thing it could do before it demits office next year, it would be to adjust this little pillar in this big and worthwhile bridge.

We on this side support the policies espoused in this legislation. We give support and encouragement to the Member for Siparia and we will make a few suggestions as we get to the committee stage in this Bill, but in principle and on the terms of this Bill, we support it.

Mr. Deputy Speaker, I wish to thank you.

Mrs. Camille Robinson-Regis *(Arouca South):* Mr. Deputy Speaker, I join with my colleague from Laventille East/Morvant in supporting this legislation which is before the House today. Like my colleague, my concerns rest entirely with the issue of implementation of these amendments which are before the House.

We are of the view that the Parent Act has set up a very sound structure for the Legal Aid and Advice Authority and our concerns are, as has been expressed by members of the Law Association, that even though amendments may be made, the issue that continuously comes to the fore is whether or not the funding will be in place to ensure that the types of amendments which have been made do, in fact, become a reality when the Bill is passed in the Parliament of Trinidad and Tobago.

The main issue that alerts us on this side is whether the infrastructure will be established in such a way so as to ensure that these amendments become a reality.

Our concerns are borne out of the legacy which has already been established by this Government where they have developed a penchant for passing legislation, but not implementing the legislation which is passed.

Mr. Deputy Speaker, there are several instances where new legislation has been passed and these instances rest with issues like the Community Mediation Bill, the Community Service legislation and, on each occasion that these pieces of legislation were brought to the Parliament, we on this side asked the question: whether the infrastructure was set up in order for these pieces of legislation to really be implemented or whether in fact, it was just a situation of public relations for this Government? We contend that, in fact, it was merely a public relations gimmick, because to date, the community service legislation has not really been implemented, neither has the community mediation legislation.

Even in the legislation which is before the House today, where we see in clause 8, that:

> "The Director shall establish and maintain a panel of skilled mediators."

And in clause 22 where it speaks of legal aid certificate being granted by the director for mediation matters, we on this side ask the question: what is the situation in relation to the Community Mediation Act that is on the statute books of Trinidad and Tobago? We are concerned that even with the best intentions in the world, this Government has developed a history of passing legislation, but not implementing the legislation.

It reminds us on this side of the situation where the Minister of Finance indicated that there would be $25 million set aside for single mothers and nothing, to date, has been done in these circumstances. Not one cent has been allocated to assist single mothers! It also reminds us of a continuing situation where this Government has very boldly stated that it has plans and policies which it will be implementing in the social sector and, to date, nothing has come to fruition.

So, whereas we, on the face of it, say that these amendments are good, these amendments are worthwhile, our concerns are that these amendments will mean absolutely nothing to the Legal Aid and Advisory Authority if this Government continues to pass legislation and not do anything at all to implement the legislation that it passes.

We would like to remind them that there is no point in promising the people of Trinidad and Tobago, through the Parliament, that it will implement certain things and, in fact, absolutely nothing is done to make these things a reality.

Mr. Deputy Speaker, we on this side are requesting that some concrete—

Mr. Sudama: Concrete! Concrete!

Mrs. C. Robinson-Regis: You would not know about anything similar to concrete. *[Laughter]*

Mr. Sudama: How do you know?

Mrs. C. Robinson-Regis: I have heard.

Mr. Sudama: You must not go by hearsay, find out for yourself.

Mrs. C. Robinson-Regis: Mr. Deputy Speaker, we on this side are requesting concrete decisions from the Government in relation to the implementation process for this Bill which is before us, because we are very concerned, especially in circumstances where we see Acts which have been passed and have not, in fact, come to fruition in terms of being implemented in the court system being referred to in this legislation and we are concerned that nothing, in fact, will be done.

So, Mr. Deputy Speaker, we are asking that some assurances be given to ensure that, in fact, what is before us today will become a reality, will be implemented and will ensure that the improvements suggested to the 1976 legislation which—by the statements made by the Member for Siparia, was legislation which indicated development of the legal system of Trinidad and Tobago since 1976 and is legislation which exists in several of the developed countries—will, in fact, be improved and the implementation will be a reality.

Thank you, Mr. Deputy Speaker.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Deputy Speaker, I thank the hon. Members on the other side for their comments and I well understand their concern with respect to implementation. It is a piece of legislation which will require funding. As I said in the other place, we are looking at about $9 million in order to implement the provisions of this amendment.

If we look at the statistics over the years dealing with the operation of the Legal Aid Authority, we will see that there has been much activity in the types of services rendered during the period 1995—1997, for example. In 1995, the number of persons receiving advice was 6,485; in 1996, 6,722 and in 1997, 6,302. Those were persons who came into the Authority to seek legal advice. The number of applications received in 1995 was 339; in 1996, 346; and in 1997, 276. The number of applications received from persons in prison in 1995 was 507; in 1996, 1191; and in 1997, 811.

Now, in terms of money over the last three years, the Authority has spent the sum of $598,962.81 for 1996; $643,875.00 for 1997; and $744,675.00 for 1998. These numbers are quite small when we see the kind of workload that the Authority operates under. The Members for Arouca South and Laventille East/Morvant are well aware of the burdens placed on the Authority. So these are the figures that would have been spent over the last three years. The terms of the budget for the year 1998/1999 would not have included any moneys for implementation of what is now contained within the legislation.

So I am saying, I share the concern and I repeat what the hon. Member for Laventille East/Morvant quoted me as sayiing in the Senate: I am determined to use whatever influence I may or do have, to see that the moneys are allocated for funding the implementation of the legislation. I do this quite sincerely. I made the point in the Senate and I say it again: I do not make the releases, none of us make the releases, what we can do collectively as a body, as a Cabinet, as a Government, is to seek to put priorities into areas which we consider to be important.

Now, the hon. Member for Laventille East/Morvant was really "brassfaced"—if that is the word—to say that we had delayed for five months, from February, 1999 when we passed this Bill in the Senate; to bring it five months later, in the House of Representatives. He said that we had delayed and he could not understand the reason for the delay.

[MR. SPEAKER *in the Chair*]

And yet in the same breath he was saying it was admirable that this Member had indicated that from 1976—1999, for a period of 23 years, Mr. Speaker, that his government during whatever number of years they had spent in office had brought absolutely no amendments whatsoever. So that a paltry five-month period of delay is really nothing much to talk about, and the Member well knows it.

2.50 p.m.

I think we are all happy that there are tremendous improvements being made with respect to the legislation, and our concern is to improve the quality of life and I repeat, to try to improve the quality of life of citizens in Trinidad and Tobago. We cannot have justice in this country if we do not have access to justice by the ordinary citizens of this land. That is what the amendments are about and as I say, I am determined to use all the influence I can to see that moneys are allocated.

There is just one other issue which was raised by the Member for Laventille East/Morvant which had to deal with clause 10. I do not know how he made the

connection where in clause 10 we were seeking to have an easy movement of persons from the Legal Aid and Advisory Authority to the public service and the Member felt this would lead to abuse and he mentioned the Airports Authority.

I believe the Member did not fully understand the purport of this clause. What we have at present, is persons are seconded from the public service to the Legal Aid and Advice Authority. They are seconded there and their rights are preserved. The amendment seeks to allow employees of the Authority to now go to the public service. At present, the kind of abuse about which the Member is speaking can take place without any recourse or relief by those employees of the Authority. What the amendment seeks to do is to allow members of the Authority to be seconded to the public service. This indeed, would be a benefit for those employees, because at the moment there is no measure to allow them to enter the public service freely. They may serve together with persons seconded from the public service, but they do not have the benefit of being transferred into the public service.

So those fears, in my respectful view, are groundless and I do not see how this provision—which is aimed at benefiting the employees of the Authority—is going to prejudice the employees in the manner in which he spoke. I can only see that they would benefit.

The Member also spoke about duplication of procedures and I did try to get him to answer me what did he mean by saying there were duplicating proceedings in the Magistrates' Court and in the High Court? I still fail to understand the difficulty, because if the Member understands fully what takes place in the Magistrates' Court and what takes place in the High Court, then there would be no difficulty in terms of that duplication of which he spoke, because what a person goes to the High Court for is immediate emergency relief for an injunction. If you go to the Magistrates' Court under the domestic violence legislation, what you are doing is going through the normal process. There is no emergency relief, so I do not see the difficulty. If those issues were being dealt with in the Magistrates' Court, but the person sought to get a legal aid certificate to which that person is entitled, now goes to the High Court for an injunction where the life is threatened, where she is being abused and so forth, what is the difficulty?

He was saying that the Legal Aid Authority would not be aware that they have proceedings in the Magistrates' Court. Even if the authority is aware that there are proceedings in the Magistrates' Court, that does not preclude the authority from granting an emergency certificate to get relief in an emergency situation through the High Court by way of an injunction. So that problem which the Member raised does not apply in this particular situation.

Mr. Speaker, I can only thank the Member for his kind words. I did not see that he had any major difficulty with the provisions. I did not see any major difficulty from either of the Members, except the Member talked about this Government having a history of passing legislation and not implementing it**.** I say I share the concerns on implementation, but I want to go a little further because there is nothing that is further from the truth when you say that this Government has a history of passing legislation and not implementing that legislation.

I remember when we came into office in November, 1995, I came to this House and the Attorney General had just brought me my own contribution to the House as the then Attorney General and Minister of Legal Affairs on December 1, 1995. I remember this quite well because when we came we met—*[Interruption]* I want you to remember this as well. We found 21 pieces of legislation that had been passed by the PNM government during the period prior to 1995, 21 pieces of legislation had gone through every legislative stage in both Houses of this Parliament, had been enacted onto the statute books but had never—far less from being implemented—they never proclaimed them, so they could not even become law of the land. The 21 pieces of legislation went back to things like the Bahamas and Leeward Islands Light News Order, 1934, Workmen's Compensation Act, 1960, Investment Disputes Award, Plans Protection Act, Motor Vehicles, and we can go on.

Mr. Speaker, the further issue in the four years we have been in office, out of these 21 pieces of legislation, we have either removed them completely off the statute books or proclaimed those that were worthy of being proclaimed. So to say this Government has a history of passing legislation and not implementing it is to speak of what the previous government did and we can go back to several pieces of legislation.

Up to today there are on our statute books 1981 legislation, an entire package of legislation: The Condominiums Act; the Trustees Act; all the land laws, the entire package of land laws. They have tied up the land laws in this country, passed by that government in 1981 and up to today, it is not implemented. It was done only for election purposes. An entire package of legislation, in 1981. Every practising lawyer in this country knows of that package of legislation that has tied up the land law in this country, not proclaimed, never dealt with. This Government has now laid in Parliament a new package of land law legislation which we have put out for public comment. So from 1981, right down to 1999, land law in this country has been moribund because of what they did in 1981.

Mrs. Robinson-Regis: Mr. Speaker, on a point of clarification. I thank the Member for Siparia for giving way. I am sure the Member will recall that there were several objections to that package of legislation.

Hon. K. Persad-Bissessar: But we did not pass it, you passed it.

Mrs. Robinson-Regis: Yes, and because of the objections we decided not to proclaim that legislation until it was further researched. Contrary to what you are saying, it did not just sit there, but because there were objections by the lawyers and those who had to work with that legislation, it was not proclaimed. What we are saying on this side is that whether there are objections or not to the legislation that you have placed on the statute books, you have not been implementing the legislation.

Hon. K. Persad-Bissessar: Mr. Speaker, whilst I sympathize with the Member for her explanation of it, if she is saying that they did not proclaim it because there were objections, why did they pass it in the first place? *[Interruption]*

Mr. Speaker: Order please.

Hon. K. Persad-Bissessar: If there are objections, take the objections first, deal with the objections prior—

Mr. Speaker: Order please.

Hon. K. Persad-Bissessar: You deal with the objections before you pass the legislation, first problem. Having done the wrong thing to begin with, you passed it, then you say, there are objections, and you cannot proclaim it. *[Interruption]* You had your say. Then you say okay, we will now research it, before we proclaim it. We came into office in November, 1995, they were still researching it. From 1981—1995 and still researching it.

Mr. Speaker: I appeal to the Member for Laventille East/Morvant and the Member for Arouca South who both had their say, that this is not the way to do it. If you feel that the Member is saying something that you would like to correct, you may get up please and ask her whether she would give way, but to be shouting from your side of the House and shouting down is not the way it should be done.

Please proceed.

Hon. K. Persad-Bissessar: I am saying, you said you would research it, up to when we came into office you were still researching it.

Mr. Speaker, I wonder if they were also researching the Workmen's Compensation Act of 1996. Were they still researching that after it was passed? The Plan Protection Act, 1975 after they passed it, were they researching it? When we came in 1995 it was still not proclaimed. The Motor Vehicles and Road

Traffic (Amdt.) No. 4 Act of 1978, when we came in 1995 it was still being researched. So whilst the Member has said they were researching the land law package what about all of these? Were you also researching all these? So it is totally untrue to say that this UNC Government has a history of passing legislation that it did not implement. I am saying that is true of the PHM government and we have demonstrated it, and the evidence is very clear. Up to today I am saying that there is legislation which they have passed that we cannot proclaim because of the difficulties they had encountered with it, they passed it nonetheless.

Mr. Speaker, if we are speaking now about the Legal Aid and Advice Authority Act and the amendments to it, I thank Members for their concern. With respect to implementation, we will have to seek the funding. We have estimated the cost to be about $9 million.

Before I close I want to place on the record our gratitude to Ms. Judith Jones the Director of the Legal Aid Authority. It is through her work and efforts that we have seen many of the amendments. She has been working on this tirelessly, together with the Ministry of Social Development where the Legal Aid Authority was before it came into the Ministry of Legal Affairs, and the Law Commission. I thank them for the efforts they have placed in bringing the improvements to this Act before this honourable House.

One of the probation officers is here and he has pointed out to me that they are looking forward to the amendment which now takes the probation officer away from having to do means testing for applicants in the criminal courts. Previously, the system was that the probation officer would have to do a means test to determine whether that person should get aid or not. In the amendment, it now removes the probation officer. He has pointed out to me that 20 per cent of their work is taken up with doing means testing for the purposes of legal aid so that again, I had said in my opening contribution this was not part of their duties, but they had started to do this work so that now, that means test is no longer required for those purposes in criminal matters.

Mr. Speaker, I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 34 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

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

House resumed.

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

3.05 p.m.

FORESTS (AMDT.) (NO.2) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [February 19, 1999]:

That the Bill be now read a second time.

Question again proposed.

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Reeza Mohammed): Thank you very much, Mr. Speaker. It was agreed that we would take both Bills together, that is the Forests (Amdt.) Bill and the Sawmills (Amdt.) Bill together, so that I will continue my note on that.

On the last occasion certain concerns were expressed by Members on the opposite side. Mr. Speaker, in keeping with the governance, further consultation was held with the private sector stakeholders in the industry. This has resulted in further amendments to the previous amendments to both the Forests and the Sawmills (Amdt.) Bills.

I would like to inform Members before this honourable House today, is a list of these amendments which include revised penalties for offences against the Forests and Sawmills Act. I also want to reiterate that these changes have come about mainly as a result of comments made by Members of this honourable House and Members in another place and also because of the recent stringent application by the court of penalties for offences under these Acts.

In particular, Mr. Speaker, the Appeal Court, comprising Justices Mustapha Ibrahim and Margot Warner, expressed earlier this year their support for more severe penalties for persons caught stealing teak. This was covered in articles appearing on page 10 of the *Express* newspaper, dated February 26, 1999 and page 16 of the *Newsday* of the same date.

These comments were made while dismissing the magisterial appeal of a man who was ordered to pay a maximum fine of $1,000 or serve six months' hard labour for illegally transporting 17 teak logs. The sentence was appealed on the ground that it was too severe.

The judges were very concerned about the impact on the environment caused by illegal logging, in that, it results in flooding as well as its impact on the reduced revenues by way of royalties to the government. Justice Ibrahim indicated that the laws of this country should be amended to provide a term of imprisonment of not less than 10 years' hard labour.

The list of further amendments before us today, Mr. Speaker, seeks to therefore further increase all fines and penalties, in accordance with the severity and the nature of the offence.

The proposed revised fines and penalties under the Forests Act. Chap. 66:01 are as follows:

Section 7(1):

Prohibition of the felling of trees—from $10,000 to $20,000

Section 7(A)(5):

For not having a removal permit—from $10,000 to $20,000

Section 7(B):

Fine for false declarations—from $10,000 and one year imprisonment to $50,000 and imprisonment for two years.

Section 8:

Other Forest Offences—from $20,000 and imprisonment for one year to $50,000 and imprisonment for two years.

Section 14(1):

Compensation for each tree in addition to the penalty—from $40 to $500

Section 18 of the Amendment Bill:

Penalty for assaulting or obstructing Forest Officers—from $20,000 or imprisonment for two years, to $100,000 and imprisonment for five years.

Section 21(1):

Compounding of forest offences—this section is amended to allow for only the Director of Forestry under the direction of the Minister, to compound a

matter, and the fine is changed from $1,000 to not more than $25,000 but not less than $500.

The proposed revised fines and penalties under the Sawmills Act, Chap. 66:02 are as follows:

Section 4A(6):

Offence of not having a log hauling permit—from $10,000 or imprisonment for six months, to $20,000 and/or imprisonment for one year.

3.15 p.m.

Section 5, Mr. Speaker, penalty for operating sawmill without a licence, to move from $3,000 or imprisonment for six months, to $1,000 or imprisonment for 5 years.

Illegal sawmilling presents a problem of significant proportions to the effort to manage our nation's forest resources. The operation of a furniture factory provides increased opportunities for this breach of the law. Thus, while the general provision prohibiting operation of a sawmill without a licence remains, it was necessary to include section 3(a)(ii) which specifically prohibits furniture shops from converting logs into dimensional stock or otherwise operating as a sawmill without a sawmillers' licence.

Other amendments being made today are as follows: The Member for Arouca North, in his contribution, commented on the continued use of the term "Conservator of Forests". It is now proposed in clause 3 of the Forests (Amdt.) Bill, in keeping with this concern, to use the term "Director of Forestry" in all enactments where the terms "Conservator" or "Conservator of Forests" are used.

Members of the Opposition and, in particular, Members for Toco/Manzanilla and Arouca North, questioned the need for the proposed section 7D in light of section 23(a) of the existing Act. A new clause 7D which actually gives the grounds for the refusal of a permit is now being proposed. These grounds include:

"(a) prior revocation of any permit granted under this Act;

(b) conviction of a forest offence; or

(c) any other ground..."

—which may be prescribed from time to time.

Also, a clearer definition of "trees" is included now by an amendment to the Second Schedule of the Forests Act to incorporate the species listed thereunder. In

order to prevent further destruction of our forests by the indiscriminate use of heavy equipment in the process of the extraction of logs, section 4A of the Sawmills (Amdt.) Bill has been included which requires a log haulage permit for the extraction of logs from inside the forest to the road side and which prohibits the use of any equipment, other than those listed in the Second Schedule in the amendment Bill, in the extraction process.

We have also received and considered comments from members of the sawmillers and agricultural communities, including representations from the Sawmillers Co-operative Society Limited, the St. Andrew/St. David County Agricultural Consultative Committee and the Landowners, Sawmillers, Woodworkers organizations. I would like to address some of these concerns.

The Landowners, Sawmillers, Woodworkers organizations took issue with the Sawmills (Amdt.) Bill on the grounds that it discriminates against joiners by making them liable to pay an annual licence to establish a workshop. The Sawmills (Amdt.) Bill quite simply regulates the licensing of sawmills and furniture shops and other places where wooden products are manufactured. It does not single out members of the joinery trade for taxation, and in seeking to balance the interest of the individual sawmiller or furniture manufacturer against the wider national interest of forest conservation, it has become necessary to regulate those members of our society involved in the sawmilling industry and the use of lumber.

Mr. Speaker, the Landowners, Sawmillers, Woodworkers organizations and the St. Andrew/St. David County Agricultural Consultative Committee raised the issue of the proposed sections 7(3) and 7A of the Forests (Amdt.) Bill possibly infringing on the constitutional right of enjoyment of property. These provisions require landowners to obtain licences for the felling and removal from their land of certain trees growing thereon. As I have indicated before to this honourable House, amendments were made in the other place to ensure that due process of law is guaranteed in the mechanism for granting such licences.

The Sawmillers Co-operative Society Limited expressed concerns as to whether the provisions of the amended Bill would be sufficient to prevent deforestation. Let me assure this honourable House that the Forests Act in its amended form is intended to deal adequately with this matter. The existing section 8, as amended, will make it an offence to fell a tree on all state lands, including forest reserves, whilst the proposed section 7(3) makes it an offence to fell certain trees on any land without a permit. The state is thus given the authority to regulate the felling of trees, thereby providing a mechanism for preventing deforestation of this country.

Mr. Speaker, before I beg to move, because these are the amendments presented before this Parliament today, I think it is necessary for me to make some corrections to the record vis-à-vis a contribution made during the course of this debate in this honourable House by the Member for Diego Martin West, and it is a bit unfortunate that he is not present with us here this afternoon so that he could actually hear firsthand what I have to say but, since he will have the *Hansard* record, I expect the hon. Member, in due course, will be able to access what I am saying here this afternoon.

On the last occasion, Mr. Speaker, the hon. Member for Diego Martin West read into the *Hansard* record a letter in response to his letter to Tanteak, dated June 3, 1996 captioned "Indebtedness to Tanteak".

"We refer to your letter dated 3rd June 1996 and wish to respond as follows.

(i) as at 31st May 1996, your indebtedness to Tanteak was zero.

(ii) as at 9th February 1999, indebtedness recorded in the books of Tanteak had been $1,803.50.

My investigations have revealed that the amount of $1,803.50 had been erroneously charged to your account rather than the account of the National Quarries Limited."

I wish to repeat that:

"My investigations have revealed that the amount of $1,803.50 had been erroneously charged to your account rather than the account of the National Quarries Limited."

Further investigations have also revealed that in February 1996, the said amount ($1,803.50) had been written off, as the National Quarries Limited was no longer in existence.

We hope the above information clarifies your account with Tanteak.

s/ Ancil Bowen,

Financial Controller."

Now, Mr. Speaker, I also have in my possession a letter from the National Quarries Company Limited dated February 25, 1999. It refers to "Purchases from Tanteak Limited" and reads as follows:

"This letter is to advise that based on a review of our records from 1990 to the present, we have not purchased teak or any other materials..."

Mrs. Robinson-Regis: Mr. Speaker, on a point of order.

Mr. Speaker: Which Standing Order is it?

Mrs. Robinson-Regis: Standing Order 35(6). It says:

"No Member..."

Mr. Speaker: No. It is all right.

Mrs. Robinson-Regis: The Member is not here to defend himself.

Mr. Speaker: No. Well, the whole point is that a Member could talk about another Member who is not here. If even the Member were excused as the Member for Diego Martin West is not, from today's sitting, one could, in fact, do that. There is nothing in the Standing Orders that prevents one from talking about a Member because he is not here, but 36(5):

> "No Member should impute improper motives to any other Member of either Chamber."

I am not satisfied that one is imputing anything; one is reading something into the record, which is in response to something which has been said. Please proceed, Minister. [*Desk thumping*]

Dr. The Hon. R. Mohammed: Thank you, Mr. Speaker. I remind my colleague there that the Member for Diego Martin West did not solicit the leave of the Speaker to be absent from today's sitting, that is beside the point.

Let me go back to what I was reading into the record. This letter is from the National Quarries Company Limited and is dated February 25, 1999. It speaks to "Purchases from Tanteak Limited":

> "This letter is to advise that based on a review of our records from 1990 to the present, we have not purchased teak or any other materials from Tanteak Limited."

This is signed by the Chief Executive Officer of the National Quarries Company Limited.

It is very, very unfortunate, Mr. Speaker, that our Standing Orders do not provide for Members on this side of the House to ask "Questions for Oral Answers" from former ministers of government now sitting on that side of the House.

Mr. Hart: You could change it. You could lock them up.

Dr. The Hon. R. Mohammed: Because if that were the case, I would have asked the hon. Member for Diego Martin West, who was the former Minister of

Agriculture, Land and Marine Resources, and under whose watch fell the institution referred to as Tanteak, to provide this House with an explanation with respect to the conflicting information that he read into the *Hansard* record, his reply from Tanteak, and the information which I have in my possession from the National Quarries Company Limited.

But, if I may offer an explanation as to what happened, Mr. Speaker, when we started looking through the duplicate receipts of sales at Tanteak when this Government came into office during the exercise of the audits, we discovered that in several of the duplicate receipt books of sales, several of the pages of those books were removed by burning. Unfortunately, those which carried the duplicate accounts of the then Minister, Minister Keith Rowley, were not destroyed.

Now, I do not know if instructions were given to the then board of Tanteak who were appointed by the former government. I do not know. I cannot say. But, what is interesting is this, as soon as we began to look at the accounts of Tanteak with a view to doing the audit, we began to find out that there was an attempt by senior management of the company to destroy the information by selectively burning pages in the receipt books. That is what we discovered.

And for the Member for Diego Martin West who was the former Minister of Agriculture, Land and Marine Resources, and under whose watch Tanteak fell, to come to this House and read a letter of this nature, it is very clear to me that something is amiss here, because the former Chief Executive Officer who resigned on October 31, 1996 was a very good friend of the former Minister of Agriculture, Land and Marine Resources.

As a matter of fact, some of us remember having seen his photograph playing tennis with the former Minister of Agriculture, Land and Marine Resources. It was during that period of time when this Government came into office and the departure of the former Chief Executive Officer of Tanteak, that we discovered that the duplicate receipt books were tampered with.

So, for the Member for Diego Martin West to come into this honourable House and try to mislead the population at large with respect to his indebtedness to Tanteak is, I would say, more than disgusting; it is deceitful. That Member has tried on many occasions to prove, and he has still not proven, that this Minister of Agriculture, Land and Marine Resources has lied to the public of this nation through this Parliament.

3.30 p.m.

Mr. Speaker, here it is I have evidence in my possession with respect to an issue relating to the Member for Diego Martin West who, in his capacity as

former Minister of Agriculture, Land and Marine Resources has come here and misled the Parliament. He has misled the public through the eyes of the Parliament by lying to the Parliament, and I have the proof today! [*Interruption*]

Mrs. Robinson-Regis: Mr. Speaker, on a point of order, Standing Order 36(5) again.

Mr. Speaker: I do not think he is in contravention of the Standing Order.

Dr. The Hon. R. Mohammed: Mr. Speaker, my concerns have been expressed at this point in time, as I said, mainly for the purpose of putting the record straight, and secondly, to point out to the people of this nation, through the eyes of this Parliament, who are the real liars, the real perpetrators— [*Interruption*]

Mrs. Robinson-Regis: Mr. Speaker, Standing Order 36(4).

Mr. Speaker: In the circumstances I rule against it.

Dr. The Hon. R. Mohammed: Mr. Speaker, I beg to move.

Mr. Speaker: Hon. Members, what we have done is discuss two Bills at the same time, but it would be necessary to put one first and then the other. The first one to be put would be the Forests (Amdt.) (No. 2) Bill, and when we are through with that we will deal with the other, notwithstanding that the debate took place on both Bills at the same time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

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

Clause 3.

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

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

"Delete clause 3 and substitute the following clause:

'Section 2 amended 3. Section 2 of the Act is amended by—

(a) inserting after the word ‘2’ at the commencement of this section the word ‘(1)’;

(b) deleting the definition of the word ‘timber’ and substituting the following definition—

(a) all species of trees listed in the Second Schedule whether standing, fallen, living or dead;

(b) lumber, bucked or pealed;

(c) logs; and

(d) all wood whether cut up or fashioned for a purpose or not.’.

(c) deleting the definition ‘tree’ and substituting the following definition:

‘tree includes—

(a) all species of trees listed in the Second Schedule; and

(b) bamboo, palms and brushwood found growing on State lands.’

(d) inserting the following subsection:—

(2) In this Act, and in any other written law, a reference to the term ‘Conservator’ or ‘conservator of Forests’ shall be read and construed as a reference to the term ‘Director’ or ‘Director of Forestry.’.”

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

Clause 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Dr. Mohammed: Mr. Chairman, I beg to move that clause 5 be amended as follows:

Delete this clause and substitute the following:—

5. Section 7 of the Act is repealed and the following section is substituted—

"Prohibition of the felling of trees

7.(1) A person who fells any—

(a) tree listed in the Second Schedule;

(b) tree on a slope of over thirty degrees, within a minimum of one hectare of land,

without a Felling Permit granted in accordance with subsection (2), commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

(2) An owner or occupier of such land or a person authorised by the owner or occupier of land who desires to fell any tree listed in the Second Schedule shall apply to the authorised officer of the district for a permit to do so, and subject to section 7D, the authorised officer may grant such permit on such terms and conditions as may be necessary in all the circumstances.

(3) The Minister may by Order amend the Second Schedule.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

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

Dr. Mohammed: Mr. Chairman, I beg to move that clause 6 be amended as follows:

the proposed section 7A(2)	Delete the words "private lands" and substitute the words "such lands.".

the proposed section 7A(5)	Delete the word "three" occurring in line four and substitute the word "twenty"; and
the proposed section 7B	Delete the words "three" and "six months" occurring in lines 4, 5 and 6 and substitute the words "fifty" and "two years" respectively.
the proposed section 7C(1)	Delete the word "seven" occurring in line 3 and substitute the word "thirty".
the proposed subsections 7C(2) and 7C(3)	Delete these subsections and substitute the following— "(2) Where a permit has been granted under this Act the holder of the permit may apply to the Director for an extension, prior to the expiry of such permit; and (3) The Director shall grant an extension of the permit for a period not exceeding two weeks and the fee payable shall be ten dollars per week."
the proposed section 7D	Delete and substitute the following— "7D. The grounds for the refusal of a permit shall be— (a) prior revocation of any permit granted under this Act; (b) conviction for a forest offence; or (c) any other ground prescribed by the Minister from time to time."
the proposed section 7F(1)	Delete the words "ten cubic metres (350 cubic feet)" and substitute the words "fifteen cubic metres (416 hoppers cubic feet)".
the proposed section 7F(3)	A Insert after the word "the" at the commencement of line 2 the words "Removal Permit and the".; and

	B Delete the word "mark." and substitute the words "and removal mark prior to the grant of such permit.".
the proposed section 7F(4)	Delete the word "three" occurring in line 3 and substitute the word "ten".

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

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

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

A Delete in paragraph (a) the word "five" and substitute the word "twenty".

B Delete the words "one thousand dollars" and substitute the words "fifty thousand dollars and imprisonment for two years'."

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

Clause 8.

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

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

Delete the words "five" and "six months" occurring in lines 4 and 5, and substitute the words "fifty" and "two years" respectively.

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

New clause 9.

Question proposed, That new clause 9 stand part of the Bill.

Dr. Mohammed: Mr. Chairman, I beg to move that a new clause 9 be inserted and that subsequent clauses be renumbered:

"9. Section 14(1) of the Act is amended by—

(a) deleting the words "felling" and "removing"; and

(b) deleting the word "forty" in line 6 and substituting the words "five hundred".

New clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

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

Dr. Mohammed: Mr. Chairman, I beg to move that clause 10 be amended as follows:

Delete the words "ten" and "two years" and substitute the words "one hundred" and "five years" respectively.

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

Clause 11.

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

Dr. Mohammed: Mr. Chairman, I beg to move that clause 11 be amended as follows:

Delete clause 11 and substitute the following:

11. Section 21(1) of the Act is amended:

(a) by deleting the words "a Forest Officer" and substituting the words "the Director of Forestry"; and

(b) in paragraph (a), by deleting the words 'not exceeding four hundred dollars' and substituting the words "not less than five hundred dollars but not more than twenty five thousand dollars.'"

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

Clause 12.

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

Dr. Mohammed: Mr. Chairman, I beg to move that clause 10 be amended as follows:

"New clause 12

Inserted	Second Schedule Repealed and replaced	12. The Act is amended by repealing the Second schedule and substituting the following new Schedule:

Second Schedule
Species of Trees

Common Name	**Botanical Name**
1. Acacia	Acacia mangium
2. Acoma	Mastichodendron foetidissimum
3. Acruel	Trichilia smithii
4. Angelin	Andira inermis
5. Balata	Manilkara bidentata
6. Balsam	Copaifera officinalis
7. Blackheart	Clathrotropis brachypetala
8. Black Mangrove	Avicennia germinans
9. bloodwood	Pterocarpus rohrii
10. Bois d'orme	Guazuma ulmifolia
11. Bois Lissette	Mouriri marshalii
12. Bois mulatre	Pentachlethra macroloba
13. Bosoo	Fagara trinitensis
14. Cajuca	Virola surinamensis
15. Caribbean Pine	Pinus caribaea
16. Cedar	Cedrela maxicana
17. Chenet	Melicoccus bijugatus
18. Crappo	Carapa guianensis
19. Cypre	Cordia aalliodora
20. Faustic	Chlorophora tinctoria
21. Fiddlewood	Vitex sp.
22. Figuier	Fiscus sp.
23. Galba	Calophyllum lucidum
24. Gommier	Protium and Tapirira so.

Common Name	**Botanical Name**
25. Guatecare	Eschweilera subglandulosa
26. Hogplum	Spondias mombin
27. Mahogany	Swietenia sp.
28. Immortelle	Erythrina sp.
29. Jereton	Didymopanax morototoni
30. Jiggerwood	Bravaisia integerrima
31. Juniper	Pisonia cuspidata
32. Lagoon Cedar	Licania sp.
33. Laurier Cannelle	Aniba firmula
34. Laurier Cypre	Nectandra martinicensis
35. Laurier Mattack	Ocotea eggersiana
36. Laurier Zaboca	Ocotea glomerata
37. L'epinet	Zanrhoxylum sp.
38. Locust	Hymenaea courbaril
39. Mahoe	Sterculia caribaea
40. Marouba	Simarouba amara
41. Milkwood	Sapium glandulosum
42. Mora	Mora excelsa
43. Moussara	Brosimum alicastrum
44. Olivier	Terminalia sp.
45. Olivier Yellow	Buchenavia capitata (Yellow Sanders)
46. Pink Poui	Tabebuia pentaphylla
47. Pois doux	Inga sp.
48. Puni	Pithecellobium jupunba
49. Purpleheart	Peltogyne porphyrocardia
50. Red Mangrove	Rhizophora mangle

Common Name	**Botanical Name**
51. Redwood	Guarea guara
52. Roble	Platymiscium trinitatis
53. Ryania	Ryania speciosa
54. Samaan	Samanea saman
55. Sandbox	Hura crepitans
56. Sardine	Laetia procera
57. Serrette	Brysonima spicata
58. Silk Cotton	Ceiba pentandra
59. Tantakayo	Albizzia caribaea
60. Tapana	Hieronyma caribaea
61. Teak	Tectona grandis
62. Toporite	Hernandia sonora
63. White Mangrove	Languncularia racemosa
64. Yellow Mangue	Symphonia globulifera
65. Yellow Poui	Tabebuia seratifolia

3.45 p.m.

Hon. R. L. Maharaj: Mr. Chairman, the New clause 12 is amended to include the new Schedule.

Second Schedule ordered to stand part of the Bill.

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

House resumed.

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

SAWMILLS (AMDT.) BILL

Order read for resuming adjourned debate on question [February 19, 1999]:

That the Bill be now read a second time.

Question again proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, there is a new list of amendments now being circulated which, I am advised, will incorporate an amendment to clause 2.

Mr. Maharaj: It will be the same list except for clause 2.

Mr. Chairman: I take it that everybody now has the list of amendments that has been circulated.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Dr. Mohammed: Mr. Chairman, I beg to move that clause 2 be amended in terms of the circulated draft as follows:

A. Insert the following new paragraph—

(a) deleting the definition of "conservator" and substituting the following

"A reference to the words 'Conservator' or 'Conservator of Forests' shall be construed as a reference to the term 'Director' or 'Director of Forestry'

B. Delete paragraph (a) of the definition of the word "sawmill" and substitute the following:—

"(a) 'sawmill' means every breakdown saw or mill designed and used to break down and convert logs into boards, planks or scantlings or to re-saw the boards, planks or scantlings into boards, planks or scantlings of small dimensions; and"

(c) Delete this paragraph.

Question put and agreed to.

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

Clause 3 ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

New clause 4.

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

"Insert after clause 3 the following new clause 4.

Section 3A Inserted		The Act is amended by inserting the following clause 3A

‘Permit for Furniture Shop	3A(1) No person shall operate a furniture shop without a permit issued by the Minister in accordance with section 3B.
	(2) No person who operates a furniture shop shall convert logs into dimensional stock without a sawmill licence granted under section 4.
	(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of $100,000.00 and imprisonment for one year;
Application for permit	3B (1) In furtherance of section 3A, for permit the owner or operator of a furniture shop shall apply to the Director for a permit to so operate and shall pay a fee of $500.00 or such other fee as the Minister may prescribe by Order, and shall be subject to negative resolution of Parliament.
	(2) Where on the coming into force of this Act, a furniture shop is already in operation, the owner or operator shall be entitled to a permit, subject to such conditions as the Conservator sees fit.
Meaning of furniture shop	3C. For the purposes of sections 3A and 3B ‘furniture shop’ means a place where wooden products are manufactured for sale, or where wood is used in the manufacture of products for sale.”

New clause 4 read the first time.

Question proposed, That the new clause 4 be read a second time.

Mr. Imbert: In the manufacturing process where wood is used in the manufacture of products for sale it is very wide. It could include a back-yard operation with one or two people. Why is the fee of $500.00 being applied to every possible interpretation of a furniture shop including a one-man operation?

Dr. Mohammed: I think the idea behind this amendment and inclusion of this concept is so that we can now be able to monitor the furniture shops, hon. Member.

Mr. Imbert: I understand, but there are large furniture shops, there are small furniture shops. Why such a large fee for small-time operators?

Mr. Mohammed: Originally we had $2,000.00. We have now reduced it, in keeping with further consultation, to $500.00. The thing about it is in the past what we discovered is that some of the operators of furniture shops in this country were managing their affairs in such a manner where the state's teak fields were being removed illegally and brought into their shops. Now one of the ways we hope to reduce the incidence of that kind of practice is to enable us to have a proper monitoring mechanism in place and we feel that this is the machinery we need to put in place to have that measure of surveillance on the operators of furniture shops. That is why it is included.

Mr. Imbert: I follow that but there would be quite a large number of persons who would not fall into that category and who have very small operations and I find $500.00 is punitive. Perhaps you can have a graduated fee based on the scale of their operations.

Dr. Mohammed: With all due respect, Sir, a furniture manufacturer has to sell only one teak chair and he makes about $1,000.00. Let us be reasonable here. You have to have mechanisms in place to monitor these shops. This is what we feel should be done.

Mr. Imbert: I find it is punitive and I think you should really look at it. I think you are going to get many objections to this.

Dr. Mohammed: No, I know, but we consulted with these people. The original fee that we had put in as the amendment, they were very disturbed about, so we went back and consulted with them. It is unfortunate that you were not here when I made my presentation.

Mr. Imbert: I understand, but we are not just talking about people who are manufacturing furniture and selling it. The definition is "wood products". This could be somebody making kitchen cupboards, for example, a small-time operator; broom handles, things like that.

Dr. Mohammed: The thing is as long as you are converting dimensional stock into some other form which falls under that purview of furniture, be it cupboard making or otherwise—the joiners make cupboards. They are considered furniture manufacturers as well.

Mr. Maharaj: Mr. Chairman may I? I would like to remind the hon. Member for Diego Martin Central that when this Bill came—it came a few months ago—because of what was stated the Government looked again at some of these measures and brought in again all the stakeholders. As a result of extensive consultation we have had a consensus in respect of these matters. So it is not to say that we are pulling this figure out of a hat. As a matter of fact, it has come really from them in order to make the Bill work because they recognize that you had to have some form of monitoring mechanism.

Mr. Imbert: I follow that with a furniture shop but not with someone using wood in the manufacture of products for sale.

Dr. Mohammed: [*Inaudible*]

Mr. Imbert: No, it is no problem, but I am telling you, you will have a lot of trouble with this, a lot of outcry.

Question put and agreed to.

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

Question put and agreed to.

New clause 4 added to the Bill.

Renumbered Clause 5.

Question proposed, That renumbered clause 5 stand part of the Bill.

Dr. Mohammed: Mr. Chairman, I propose that clause 5 as renumbered in the circulated draft stand part of the Bill to read as follows:

"A. Delete subclause 4A(1) and substitute the following:

'Log Haulage permit

4A (1) No person may—

(a) extract, carry or transport logs by means of vehicle, animal or otherwise; or

(b) use a vehicle or equipment listed in the Second Schedule for the extraction or haulage of logs within forest located in

State lands or Forest reserves without a valid permit issued by the Director of Forestry.'

B. Delete the proposed section 4B."

Question proposed.

Mr. Imbert: Mr. Chairman, the reason for—[*Inaudible*]—is that under clause [*Inaudible*]—

Dr. Mohammed: I have been guided by some comments. Again, as I said during my wind-up you were absent but the concerns were expressed by the judiciary on the fees and the penalties that were enshrined in the Act which we are now amending and through discussions—discussions were held and it was felt that we needed to increase the penalties and this is one such penalty where we found it necessary to increase the fines.

Mr. Imbert: So if a guy makes one teak chair and he sells it without a permit, he could be fined $100,000.00?

Mr. Mohammed: I think that would be left up to the discretion of the magistrate.

Mr. Imbert: I am sorry, I cannot see the logic behind this. But do whatever you want to do.

Question put and agreed to.

Clause 5, as renumbered, ordered to stand part of the Bill.

New clause 6.

Dr. Mohammed: Mr. Chairman, I propose a new clause 6 which reads as follows:

"Section 5 amended

6. The Act is amended in section 5 by deleting all the words beginning with the words 'three thousand dollars' and substituting the words 'one hundred thousand dollars or to imprisonment for five years and in the case of a continuing offence to a further penalty of five thousand dollars for each day during which the offence continues.".'"

New clause 6 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 6 added to the Bill.

New clause 7.

Dr. Mohammed: Mr. Chairman, I propose a new clause 7 which reads as follows:

"'Section 8 amended	7. Section 8 of the Act is amended in subsection (2) by inserting after the word 'sawmill' occurring in line 2 the words 'or the holder of a permit for a furniture shop'."."

New clause 7 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 7 added to the Bill.

Question proposed, That existing clauses 5 and 6 be renumbered as clauses 8 and 10 respectively.

Question put and agreed to.

Existing clauses 5 and 6 renumbered as clauses 8 and 10.

4.00 p.m.

New Clause 9.

Dr. Mohammed: Mr. Chairman, I propose a new clause 9 which reads as follows:

Section 10 of the Act is amended by deleting all the words beginning with the words ‘three thousand dollars’ and substituting the words ‘thirty thousand dollars or to imprisonment for two years.’.”

New clause 9 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 9 added to the Bill.

Schedule II

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

Dr. Mohammed: Mr. Chairman, I wish to amend Schedule II as follows:

“Replace the word, ‘truck’ with ‘track’ in front of ‘tractors’.

Question put and agreed to.

Schedule II, as amended, ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendment.

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

The House divided: Ayes 17 Noes 8

AYES

Maharaj, Hon. R. L.

Mohammed, Dr. The Hon. R.

Panday, Hon. B.

Lasse, Dr.The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Persad-Bissessar, Hon. K.

Khan, Dr. F.

Assam, The Hon. M.

Job, Dr. M.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Rafeeq, Dr. The Hon. H.

Singh, Hon. D.

Singh, Hon. G.

Sharma, C.

NOES

Valley, K.

Imbert, C.

Robinson-Regis, Mrs. C.

Narine, J.

Hart, E.

James, Mrs. E.

Joseph, M.

Hinds, F.

Question agreed to.

Bill accordingly read the third time and passed.

TRINIDAD AND TOBAGO NATIONAL STEEL ORCHESTRA

Order for second reading read.

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. Speaker, I beg to move,

That a Bill to establish the Trinidad and Tobago National Steel Orchestra and for matters related thereto, be now read a second time.

The purpose of the Bill is to establish an orchestra to be known as the Trinidad and Tobago National Steel Orchestra and a body corporate to be known as the Trinidad and Tobago National Steel Orchestra Board, to manage and direct the affairs of the orchestra and for matters related thereto.

The reason for setting up the orchestra: By Cabinet Minute No. 1527, confirmed on June 26, 1997, the Government of Trinidad and Tobago agreed to the establishment of the Trinidad and Tobago National Steel Orchestra, based on its commitment to developing and promoting the culture of Trinidad and Tobago. Government is of the view that every effort should be made to promote the recognition of the steelpan as a national instrument of Trinidad and Tobago and in doing so, contribute to the development of the steelpan itself as an instrument, and to the players of this.

The attributes envisaged for the national steel orchestra: The steel orchestra is supposed to be national in scope; it is supposed to represent the cultural mosaic of Trinidad and Tobago; its members, as far as possible, are to be drawn from all areas of Trinidad and Tobago; it would consist of the best talents available in the field of pan composition, performance, tuning, arranging and conducting. In relation to the best talents available, we are aware that many of our very brilliant players of this country, who have excelled over many years in pan playing are not necessarily available to the national steel orchestra because of some of the criteria; one being, they must be available for full-time engagement. This, of course, is part of the reality of those arrangements.

The orchestra is required to have a varied repertoire of renditions, tailored to the various national, religious and cultural occasions of Trinidad and Tobago. It is expected to entertain at locally held seminars and conferences, particularly those which have international participation. It is expected to perform at all national celebrations and governmental functions, as well as at international concerts, where the Government and the people of Trinidad and Tobago are to be represented overseas. In this regard, Mr. Speaker, it is not expected that the National Steel Orchestra would threaten, in any way, the opportunities of other bands because their terms of engagement are specific to national events, representing the Government of Trinidad and Tobago; and they are not to engage in competition with the other bands.

I now go to a little history of the formation of a national steel orchestra in Trinidad and Tobago. We are very much aware that this is not the first time that

such an orchestra has been attempted in Trinidad and Tobago. Indeed, the first National Steel Orchestra was started in 1951. That orchestra was called the Trinidad All Steel Percussion Orchestra, or TASPO, and it was formed to demonstrate the talent of Trinidad and Tobago at the Festival of Britain which took place in England in 1951. TASPO, was composed of 12 members who were mainly from Port of Spain and it environs, as well as from San Fernando.

4.10 p.m.

There were several notable players in that first initiative. Some of the names I have been able to gain are Anthony Williams, Sonny Roach, Ellie Mannette, Philmore Davidson, Theo Stevens, Kenny Hart and Sterling Betancourt. That band had its base at the Princess Building grounds in Port of Spain. Funding was provided through contributions from private enterprises, as well as from members of the public and from government. The Trinidad All Steel Percussion Orchestra (TASPO) was really short lived, since by 1952, most of its members had migrated to England following their tour in 1951. Those members, of course, were some of the very best that we had in the country at the time.

There was yet a second attempt at the creation of a national steel orchestra, and this took place in 1960. That band was called the National Association of Trinidad and Tobago Steelbandsmen which became the forerunner of the present Pan Trinbago. That orchestra was based at Wrightson Road in Port of Spain at the site where the Cruise Ship Complex now stands. It consisted of 40 players, and again there were some very prominent names, such as Lennox Mohammed, Lennox Riley, Morrison Romeo, Glenford Sobers and Dave LeBarrie. These are just a few of the prominent pan players who comprised that band. Government provided funding for the purchase of the initial set of instruments while the annual maintenance costs were met both through Government and corporate sponsorship.

The National Association of Trinidad and Tobago Steelbandsmen represented this country at the Expo ‘67 in Canada and at the Moral Rearmament Convention in the United States in 1969. That national steel orchestra also did not survive after 1969. Again, most of its members migrated either to Canada or to the United States, and eventually, by 1969, the existence of the band was terminated. Since 1969, there is no evidence that a further attempt was made to bring a national steel orchestra.

Mr. Speaker, while we do understand the motives of those who migrated out of this experience of forming the national steel orchestra, in this attempt in visioning and planning for the national steel orchestra this time, we draw on the

experiences of the past to create an orchestra that would be characterized by the longevity of the institution. It would be also characterized by its viability, as well as by a high degree of training of its members.

Again, let me emphasize that by training, we are talking about various aspects of formal training, and in this sense, no way being critical of the attempts of the earlier players who may not have been exposed to this. We are looking at developmental issues in terms of the creation of this orchestra, and it is in this context that we are looking at training. We wish to create an entity that will have long life and will be world renowned eventually. This is why we are preparing to legitimize the status of this national steel orchestra through an Act of Parliament. The orchestra is supposed to be fully financed initially by the state; members are to be paid a salary, and there is to be emphasis on training, both in music literacy as well as in a range of exposures which lead to a comprehensive educational programme.

We have built on the experience of the earlier attempts by putting these various mechanisms in place—firstly, by an Act of Parliament; secondly, they are to be full-time salaried employees of the state, and we are emphasizing training: music literacy, and so forth.

Just a bit of the recent history of the present attempt. Prospective members of the Trinidad and Tobago National Steel Orchestra were presented to the public on August 31, 1998. The orchestra now comprises of 30 members: 24 men and 6 women. This number was decided by the Cabinet, but the sex composition of the orchestra came about as a result of the process of selection. They were selected on the basis of pre-arranged criteria, and I shall outline those in a while. They have been full-time since September 1, 1998 through an offer of services arrangement with the Ministry of Culture and Gender Affairs. They are, at present, managed by an interim management team of the Ministry of Culture and Gender Affairs.

Mr. Speaker, a bit about the selection process. Potential members of the orchestra were selected through a process which involved the advertisement of positions in the press in November 1997, as well as the offer of selection by Pan Trinbago of those bands which were registered with Pan Trinbago, of at least two members of each registered band. All applicants, those who came through the press and advertisements, or those who were selected by the steelbands, were required to be interviewed by a panel comprising two members of Pan Trinbago, two members of the Ministry of Culture and Gender Affairs, and two members of the UWI Creative Arts Centre. The team interviewed all applicants and they were short-listed during the period July 1 to 22, 1998. Those who scored the highest on the interview were then auditioned by the Creative Arts Centre.

Only 24 of these members were presented to the public on August 31, 1998 and six others were later added to the orchestra, having gone through the identical selection and testing procedures to attain the stipulated 30 prospective members which comprise the initial orchestra. The members of the national steel orchestra and the body itself are not expected to enter into competition with other local steelbands or to threaten the opportunities of other bands for international engagements.

Again, it is very clear that the members of the national steel orchestra are to engage in specific functions and items which would not threaten other bands. They will not enter Panorama or other competitions and they do not play for fees. The orchestra would function to serve clear national interests and would develop a varied repertoire, as we said, appropriate to the several cultural, historical, religious and other calendar festivals of our country.

The state is responsible for all aspects of the steelband. In addition to provision for salaries for members of the orchestra, the state is expected to provide for instruments, accommodation and transportation. In terms of instruments, the orchestra has already attained its full set of instruments and accessories.

In terms of accommodation, temporary accommodation has been obtained until an appropriate building can be identified. A building has been identified but, at present, we are going through the process of making it appropriate to the national steel orchestra, such as soundproofing in some areas, air-conditioning, and so forth.

All the formal transportation needs of the national steel orchestra are being paid for by the Ministry of Culture and Gender Affairs. The orchestra is to be supplied with its own vehicle, but that is still in the process of being negotiated.

In terms of performances, what have the prospective members been doing? Following its initial presentation on August 31, 1998, the orchestra has been performing for various state functions, at international conferences; it performed for the opening of the new parliamentary term in 1998; it did perform, as well, for the visit of several foreign dignitaries, including the Prime Minister of India and, recently, for the visiting Heads of Government of Caricom.

One important aspect of the arrangements for the national steel orchestra, Mr. Speaker, is that of training. The objectives of the training programme are to develop a cadre of members who are literate in music, knowledgeable in the history and development of Trinidad and Tobago and the development of the steel

pan, self-confident in promoting Trinidad and Tobago and the steel pan locally and internationally, and aware of the principles of diplomacy, social graces and other objectives in presenting themselves both at home and abroad.

In the area of music literacy, which I must again emphasize was not a prerequisite for selection, members were exposed to training in the theory of music to prepare them to sit the Royal School of Music examinations which they did sit and pass in November 1998.

4.25 p.m.

Several members have sat from grades I to III, and all who sat exams have passed. Only seven members did not sit theory examinations, because some of them already had these examinations from grades I to III.

Practical music examinations were co-ordinated by Dr. Ann Marie Osbourne, of the University of the West Indies, Creative Arts Centre and was assisted by Mr. Harold Headley and Mr. Satanan Sharma, both of the University of the West Indies. Practical exams were also sat and passed by all members who took those exams. The members of the National Steel Orchestra are now preparing for their second set of exams in music literacy.

In relation, and continuing the training, there is a comprehensive training programme to which the members are now being exposed. The training programme consists of several areas including some of the following:

(a) History of Trinidad and Tobago;

(b) History of the steelband;

(c) Ethno-musicology;

(d) Heritage studies;

(e) Music appreciation;

(f) Protocol;

(g) Communication Skills;

(h) Physical and health education; and

(i) Gender issues.

Mr. Speaker, the programme that we have put in place reflects the Ministry's and the Government's vision for the National Steel Orchestra, as a highly motivated, fully trained group of young men and women well prepared to

represent our country, both locally and internationally and to contribute to the creation of an orchestra of which we will all be proud.

We are very well aware that our musicians and pan players have already made us very proud in the world, and we want to maintain that tradition by preparing a group of young men and women, who will even excel the performances that we have come to be known for across the world. These are the main understandings and provisions that we have put in place so far for the National Steel Orchestra.

If we turn to the Bill, it outlines the parameters within which the board and the orchestra are to exist and function. Again, I say the purpose of the Bill is to establish a Trinidad and Tobago National Steel Orchestra Board. The Board will manage the affairs of the Trinidad and Tobago National Steel Orchestra, so both the Board and the orchestra are to be established by the Bill.

The board under clause (4) of the Bill is to be a body corporate. It is to be known as "The Trinidad and Tobago National Steel Orchestra Board" and it is to be comprised of seven persons; two nominated by Pan Trinbago and four others with qualifications and experience in music, arts, international music business, the history and development of the steelband and commercial and marketing aspects of culture, commerce and carnival.

Mr. Speaker, there were one or two amendments made to this Bill in the Upper House, and we will deal with them when we are winding up.

Selection of members of the board is to be guided by emphasis on qualifications, experience and business acumen. One member of the board is also to be a representative of the Ministry with responsibility for culture. All persons however, must have displayed empathy for indigenous music and must hold initial appointments for a period of three years.

Clause 5(2) to (8) of the Bill, details the conditions under which the President may terminate the appointment of a member of the board or those under which a member may resign, vacate office or be replaced.

Clause (6) of the Bill makes it lawful for the President to determine the remuneration and allowances of the board members.

Clause (7) empowers the Minister to determine the maximum limits of remuneration for staff. This staff is supposed to be appointed by the board.

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

4.30 p.m.: *Sitting suspended.*

5.01 p.m.: *Sitting resumed.*

Sen. Dr. The Hon. D. Phillips: Mr. Speaker, please forgive my tardiness.

We were going through the Bill itself. We were looking at the provisions of the Bill in relation to the appointment of members of the board. One of the amendments agreed to in the other place is that of the inclusion of a musical director or conductor as an *ex officio* member of the board.

In relation to the appointment of members of the orchestra, clause 22 indicates that the composition, qualifications and selection criteria of members are to be determined by the board with the approval of the Minister.

Clause 23 refers to the responsibilities of the orchestra to maintain a varied and relevant repertoire suitable to a range of events and functions.

Clause 9 authorizes the board to keep a seal in the custody of the chairman which is to be used on all relevant documents to be signed by the chairman and/or members authorized by the board and/or the secretary.

Clause 11 outlines the procedures and meetings of the board.

Clause 5 determines that four members will constitute a quorum.

Clause 12 allows the Minister general direction of the board.

Clause 17 permits the orchestra to own real or personal property, and clause 18 makes the board responsible for the management and control of such property and for the assets of the orchestra.

In relation to the orchestra itself, clause 21 establishes the orchestra as an entity and clause 22 indicates that the composition, qualifications and criteria are to be determined by the board with the approval of the Minister.

Clause 23(2) lists functions of the orchestra which shall be to perform at:

> "(a) local seminars and conferences which have international participation;
>
> (b) national celebrations and State functions as well as regional and international concerts; and
>
> (c) overseas events at which the country is to be officially represented."

According to clause 24, members of the orchestra are to be paid remunerations and allowances as approved by the board and the Minister.

There are some responsibilities relating to finance and monitoring of the orchestra. In these, both the Ministries of Finance and Culture and Gender Affairs are responsible. In relation to finance, clause 13 allows for the creation of a steel orchestra fund and subsection (2) of this lists sources from which sums of money for the fund are to be drawn. These include: appropriation by Parliament; sources approved by the Minister with responsibility for Finance; those funds arising out of grants; those funds arising out of receipts from royalties; and loans approved by the board, among others.

Clause 14(1) to (4) outlines the purposes for which the fund may be applied, including investment, which itself must be approved by the Minister with responsibility for Finance.

Among the accounting and monitoring responsibilities and functions, clause 15 outlines procedures for accounting and auditing of finances, reporting to the Minister with responsibility for Culture to Parliament.

The Bill will also allow the Minister with responsibility for Finance to write off bad debts.

Clause 16 requires the annual report to be submitted by the board at the end of its financial year to the Minister with responsibility for Culture, who will submit same to Parliament. Clause 18 requires the board to submit a budget and financial statements to the Minister with responsibility for Finance who will lay the same before Parliament; and both reports are for stipulated time periods.

According to clause 19, borrowing of money for meeting obligations or discharging functions can only be done with the approval of the Minister with responsibility for Finance, whose approval must also be sought in general or limited ways for particular transactions.

Clause 25 empowers the Minister with responsibility for Culture to make such regulations as may be necessary for putting into effect the provisions of the Bill. It also empowers the board, with the approval of the Minister with responsibility for Finance, to make regulations for controlling the financial operations of the orchestra.

Mr. Speaker, these are the general provisions of the Bill with respect to the creation and the operation of the Trinidad and Tobago National Steel Orchestra and the Trinidad and Tobago National Steel Orchestra Board. These provisions provide for the institutionalization of an aspect of our culture which is truly native to our country. We hope that this Bill would contribute to the development and progress of the steel orchestra in Trinidad and Tobago.

Mr. Speaker, I beg to move.

Question proposed.

Mrs. Eulalie James *(Laventille West):* Thank you, Mr. Speaker, for the opportunity to make a contribution on the Trinidad and Tobago National Steel Orchestra. In my contribution to the proposed legislation, I first want to focus on the following fundamental questions: Who in Trinidad and Tobago is qualified to identify the best pannist in this Republic? Secondly, who in Trinidad and Tobago is qualified to interview, select and train pannists in this Republic? And thirdly, who in Trinidad and Tobago has the responsibility to promote the development of the steelband movement and the steelband as an indigenous cultural art form in this Republic?

Mr. Speaker, very few, if any of the Members on the other side, have any idea whatever of the origin, history and development of the steelband movement. Against this background, I feel it is imperative that I share with the Members of this honourable House information as it relates to the history, origin and development of the steelband movement.

The Parliament of Trinidad and Tobago found it necessary to assent to an Act to incorporate Pan Trinbago on March 14, 1986. An action which the PNM government recognized as instrumental in placing the steelband movement on the path to assume its rightful place as the world governing body for steelband, steelband music and steelpan instruments.

Mr. Speaker, one cannot gainsay the fact that the steelband movement has evolved over the years. I crave your indulgence to go into the history a little as it is always good to know where one came from, where one is now, and where one intends to go.

Mr. Speaker, the Camboulay was born out of the commemoration of the freedom of the slaves in 1838. A new ordinance in 1884 restricted the size of the Camboulay bands and outlawed the use of African drums. This gave rise to the use of the Tamboo Bamboo and later in the 1900s and 1930s, to the steelband. For example, Merry Boys Tamboo Bamboo band became Bar Twenty when they used biscuit tins and so on, and later to Casablanca. Then you had the Mafumba Tamboo Bamboo band of George Street taking on the identity of the steelband known as Hell Yard, today it is All Stars. Destination Tokyo is known today as Carib Tokyo. It was in the 1940s that tremendous development of the instrument took place with the use of oil drums and the many innovations that followed.

5.15 p.m.

Mr. Speaker, people like Bertie Marshall, Anthony Williams, Rudolph Charles and others would be remembered for the part they played in the 1960s in

the creation of pans like the high-tenor pan, the spider-web pan and the tenor-bass and so forth.

We know too that Sunday, February 17, 1963 marked the start of the steelband panorama. There is so much to be told of the history of the steelband, one of the few genuinely novel acoustic instruments invented in the 20th Century. Many would think it is the only instrument invented in the 20th Century.

Mr. Speaker, the first attempt at forming a National Steel Orchestra was done in 1951 with the coming together of the Trinidad All Stars Percussion Orchestra known as TASPO. These 11 or 12 persons were selected to play for the festival in Britain and they thrilled many an audience out there. To quote Fedo Blake from his book "Trinidad and Tobago Steelpan History and Evolution" it was said:

> "Jaws dropped and eyes widened as the first sweet notes were struck and the band swung into Mambo Jambo. By the time the story of TASPO's performance reached the newspapers, the writing enthusing over the performance in an article liberally sprinkled with such phrases as 'first class', 'wonderfully skilled playing' and 'virtuoso jazz'. The ice had been broken."

This is what Fedo Blake had to say, so in fact, they fulfilled the purpose for which they were selected and did Trinidad and Tobago proud.

When we look at what is happening today in the steelband movement following the evolution—I am moved to use the term "world class"—you have bands such as Renegades, All Stars, and many others touring the world and doing Trinidad and Tobago proud. They are true ambassadors of this lovely island of ours. The present panorama winners, a band dear to my heart, Desperadoes, in 1981 went to London and visited 15 cities. They played in Carnegie Hall, they played their festival piece in New York with the New York Pop Orchestra. They played at Apollo, and in San Francisco at the Oval Cultural Centre. They played in Barbados not too long ago with Pavarotti.

Mr. Speaker, we have made our mark among some of the best percussionists in the world. We have put Trinidad and Tobago on the map through the steelband a long time ago. We have produced many greats, to mention a few: Prof. Philmore, Len Boogsie Sharpe, Robert Greenidge, Dane Gulston, Clive Telemaque, Liam Teague, Jit Samaroo and many others. Today, you have many persons internationally playing the steelpan who were taught by our pannists. One such person who benefited is Andy Narrell and he is able to come back here to arrange for one of our steelbands. Of this we are very proud.

Mr. Speaker, it is abundantly clear that the responsibility for identification, selection and training of pannists for a National Steel Orchestra, whether senior or junior, rests with the steelband movement, the body that we know as Pan Trinbago and no one else. This movement has developed and administered the Panorama competition, "Pan is Beautiful" concert, and several other programmes of this nature, both domestically and internationally in an environment where the world looked to Pan Trinbago, and indeed to Trinidad and Tobago for direction on all matters relating to the steelband.

We on this side of the House would have expected that this Government would understand its role and function as it relates to the steelband movement as creating a climate to facilitate the following: an increased involvement of the University of the West Indies in research, development of the steelband and its music; an increased incentive to the financial institutions to provide funding for the effective operation of the steelband, in addition to funding for research, development and international marketing, and an increased role of TIDCO as it relates to international marketing—all these being encouraged by Government in its role of facilitating and the continued development of the steelband movement of the country which is Pan Trinbago.

Mr. Speaker, if this Government is not careful, the action that it seeks to undertake in the guise of its perceived responsibility for steelband may lead to yet another invention in this country—that of a new nuclear bomb—waiting to explode in Trinidad and Tobago. That is simply because of this Government's short-sightedness that will have the effect of depriving long-standing steelband players in this country of earning the type of revenue truly due to pannists, as they are encouraged to take their rightful place as foreign currency earners in the economy of Trinidad and Tobago.

Mr. Speaker, in relation to the Bill before us, arguments are put forward in the other place in support of a National Youth Orchestra, and whilst we on this side are in agreement, it must be done in full consultation with Pan Trinbago. In fact, it should be the responsibility of that body, facilitated by the Government.

Under the PNM government, there was a project called "Pan in Schools" it was a pilot project and some schools had pans delivered to them. The Creative Arts Centre was approached in order to get trained teachers who were graduating in music with a view to putting them in different schools with the possibility of one teacher controlling more than one school. There was also to be the establishment of pan theatres throughout the country. This was a proposal that we were not able to realize because of the shortness of time. You all know we lost the election.

Training of panmen in welding, screen printing, and other things that would benefit them in their steelband movement. All these efforts were mainly to supplement what Pan Trinbago had been doing and at no time did a PNM government dictate or usurp the authority of that body. *[Desk thumping]*

Mr. Speaker, look at what is taking place today. Even though early discussions were held with Pan Trinbago in relation to the formation of the National Steel Orchestra, Pan Trinbago was sidelined and was not involved in the interview process.

The Government put together hurriedly these 24 persons at first, and in fact, a call to Pan Trinbago went like this: "You have a pen? Take these 24 names." That is a gross insult to Pan Trinbago. They put these 24 and they subsequently added six to make it 30 in Exodus pan yard. They had no instruments for them at that point, they were using the instruments of Exodus. They had no kind of structure. At that point in time, they should have thought about putting the necessary structure in place, but instead, they went along and hurriedly organized to put the band together in place for the launch on August 31, 1998. Instead of putting that proper structure, the board and everything else, probably an instructor or whatever, it was like putting the cart before the horse.

In Antigua, the National Steel Orchestra there has 60 members with 10 stand-bys; in St. Thomas, there are 150 members; in Trinidad and Tobago, we have 30. We are the land of the steelband; we invented the steelband. The steelband is the national instrument of Trinidad and Tobago and we have 30 persons in an orchestra.

Mr. Sudama: Under PNM you had none.

Mrs. E. James: I am not bothering with you, you are not paying attention to what I am saying.

Mr. Speaker, in the composition of the board, the Bill in clause 5(a) tells us that two persons are to be nominated by Pan Trinbago. Up to today, no proper communication has been passed on to Pan Trinbago in this matter. That is really bad, that is a gross insult to the steelband body which has the authority to do anything in relation to the steelband of this country. The Government continues with its dictatorial tendencies as demonstrated in the school textbook fiasco, but we are reliably informed that Pan Trinbago would have none of this.

Mr. Speaker, Pan Trinbago is a responsible body with full authority to undertake steelband matters, and it is clear that this Government is setting up another arm of the steelband which, most likely, would lead to the erosion of the

confidence placed in Pan Trinbago. I want to reiterate that panmen all over Trinidad and Tobago are worried about their survival financially. They have been speaking to me and I am hearing them, and they are hurting. They feel threatened as they wonder whether they would be faced with competition for jobs by this National Steel Orchestra; clause 13(1)(d) of the Bill says: "revenue from performances;". What do they mean by that? That is why the panmen have to be concerned. Are they going out there to compete for money? We want to know because the panmen are asking questions. Nothing is spelt out in the establishment of the orchestra as to the duration of employment for its members, and further, to indicate whether other talented players would be given the opportunity to perform in this orchestra.

5.30 p.m.

Mr. Speaker, the question left to be asked is: "What is the role of the legal policy-making body of the steelband; Pan Trinbago? In all of this we are left to conclude that powers invested in that body will be taken away and given to some unknown body of people. This Government should tread carefully on this issue, and we hope that its grandiose plan will not seek to divide instead of unifying the steelband movement.

Culture is being destroyed in Trinidad and Tobago, and it is apparent that the Minister is not in control of her ministry. The best move would be to set up a national youth orchestra under the authority of Pan Trinbago. It is worth considering.

Remember the young people are the human resource of the future. Indeed, they are the nation's future, and their talents, in every aspect, should be developed. We are asking the Government to reconsider setting up this body in the way that they are going about it, and perhaps it is wise to look at the young people instead so that they will grow up in the right way, knowing the music and all that goes with it—all the things that the Minister spoke about and so forth—and they would not depart from it because you are molding them from young.

Mr. Speaker, it is worth looking at and we hope that some consideration would be given to what I have said today.

Thank you. [*Desk thumping*]

The Minister in the Ministry of Planning and Development with responsibility for the Environment (Dr. The Hon. Vincent Lasse): Mr. Speaker, I merely stand here this afternoon to make some very brief remarks on a bill to establish the Trinidad and Tobago National Steel Orchestra and matters incidental thereto.

Mr. Speaker, I did not intend to speak because I thought that this Bill before this honourable House was so straightforward. When I saw the Member for Laventille West get up to speak, I thought that she would only stand to support this measure, because, it is already in song "Where the pan and the panmen reach." If it is that this Government sees it fit to put together a national steel orchestra, I think it is a step in the right direction and the Minister responsible and the Government should be applauded for such an act. [*Desk thumping*]

I heard the Member for Laventille West question who is qualified to choose, who is responsible to promote and then went on to throw aspersions: that those of us on this side do not know anything about steelpan. I want to advise her that I left here to go to the United States as a member of the Tropical Harmony Steel Orchestra [*Desk thumping*] and I went through University playing pan. The leader of the band was Allan Gervais—as you would know, the Maestro—and Earl Rodney was part of that steelband. At least you ought to be educated along these lines.

I am wondering, at what stage in the life of the Member for Laventille West did she discover the steelpan in Trinidad and Tobago? That is the first question I would ask because the way she put it, it seems to me that she is not knowledgeable about pan. Apparently she lives in an area where a lot of pan has been played and many panmen came to the front. I also want to state that when she decided to give her list of panmen she left out many notable persons who did make a serious mark. For this reason I would like to add to her list the name of Allan Gervais and also Earl Rodney.

Mr. Speaker, it is time that we in Parliament recognize things for what they are and not try to make political mileage out of every bill that comes before this honourable House. The Minister was very clear in elaborating: why a national steel orchestra, how it came into being and, also the fact that a board would be set up to manage the steel orchestra. She also made it clear the role of the national steelband body, which I think she would elaborate, because apparently the Member for Laventille West may have missed most of what was said.

Steelpan and steelbandsmen—whenever a band leaves Trinidad as a band to go away, invariably the band comes to an end there: members would leave and find themselves in some type of employment. That comes to the end of the band. That is why when the Minister mentioned that the first attempt to put—what we could consider a national steel orchestra—together, TASPO in 1951 with guys like Sterling Bethelco and so forth—that band came to an end very shortly, because

persons saw an opportunity of making a living overseas and some did not return. That was the end of the band.

If the Member had listened carefully to what the Minister was saying: she was stating that this band would be comprised of persons who will be gainfully employed. And their functions would be, basically, to perform at all national functions and even internationally where a function relates to Trinidad and Tobago. I think if there is a cadre of persons doing just that, there would be no competition, I feel, with other bands, because other bands would continue to do what they are supposed to do.

Another very important aspect of this national steel orchestra would be training. That is very important, because most of our steelbandsmen are persons who are not trained in music. What you find, if you have travelled, is that the players of steelband orchestras overseas, are trained in music. The time may well come—not that those who are trained in music can play better pan than the panmen here, because I believe pan is something instinctive, and sometimes by musical training certain persons may lose some of their talent. However, this orchestra would have a component which would give training, preparing persons who would now go on to arranging in music and so forth. I think that is a step in the right direction.

I also think the time would come when we, in Trinidad and Tobago—based on the fact that we have a national steel orchestra—would start looking into the avenue of spending more time on a proper steelpan factory. Today, one of the best steelpan factory we have, not in Trinidad, is in Coventry where a guy from down south has a steelpan factory. He is so advanced in steelpan that one of the best—the Member talked about the spider web and things like that—one of the best pan today is the bore pan. He has been far ahead in that. Incidentally, only about three years ago, he tuned pans to bring back to Point Fortin for Dunlop Tornadoes.

What I am saying is that the step that is being taken today is a step in the right direction. We are putting a steel orchestra together. We are providing training in music, training in diplomacy, training in self-presentation and also very important, training in the history of the pan. Because if we had it well documented, I believe the Member for Laventille West may have gone to that document and really see or read how pan came into being and how far pan has reached and, therefore, her contribution would have been of paramount importance to this debate.

I said, Mr. Speaker, I just intend to make a few remarks. With these few words, I think we have reached a stage where we have an important Bill before

us: a Bill that the Government should be complimented on. It has been said: "Where the pan and the panmen reached." I think this Government has done something to advance the steelpan.

I thank you very much.

5.40 p.m.

Mr. Edward Hart (*Tunapuna*): Mr. Speaker, I rise to make a brief contribution to the Bill before us. I want to address a few things which the Member for Point Fortin raised just now. He spoke about when bands go abroad, members do not come back; in other words, they look for other opportunities when they are abroad.

Hon. Member: TASPO.

Mr. E. Hart: Yes. But if it happened with the Trinidad All Steel Percussion Orchestra (TASPO) in those days, there are bands and bands. We cannot brand all bands like that. Bands have made diverse trips abroad and everybody came right back home. I just wanted to clear the record; not every band will do that. Most steelbandsmen now have relatives abroad. This is not "long time", as in the days of TASPO. Everybody has an aunt or an uncle living in New York and other places. Whether someone feels to stay abroad or come back, he or she does not have to go with a steelband to stay abroad. That is "long time" thing.

The Member spoke about this being a step in the right direction, but I say we must do the correct things. I pointed out in this House, when Sen. Mark, or somebody else, hinted that there was going to be the formation of this National Steel Orchestra, that it was a complex situation because of the fact that we had the experience with TASPO, and then we had that band when George Goddard was the President. We know of the experiences.

We are looking for something national and, of course, we are looking for the best. When we talk about pannists in Trinidad, we are talking about Jit Samaroo, "Boogsie" Sharpe, Robbie Greenidge and so forth. You cannot dig at those "fellas" because the "fellas" making their trips abroad and trying to earn their livelihood.

As I say that, I want to commend the Tobago House of Assembly for giving "Boogsie" a house for his contribution to the steelpan. [*Desk thumping*] I feel that is a worthwhile thing. I know it did not come from the Member for Tobago East; however, I am glad that Mr. Sharpe got the house over in Tobago.

To come back to what we were saying. You are talking about national, if you have a national football team, you want your best footballers on that team. I am glad for the young persons who got a break because they will get a change. But from what I have seen, from the time the band was launched—to be forewarned is to be forearmed—I asked in this honourable House: How are they going to get the instruments? Who is going to tune the instruments? Who will decide whether the best tenors are tuned by Bertie Marshall, or Lincoln Noel, as the case might be? They said that will be taken care of.

My information is that the Ministry contacted Pan Trinbago—they started off well, having dialogue and so forth, which is how it should be. They asked Pan Trinbago to supply them with some pans and then they gave them a deadline. Now, this deadline was in the last quarter of the year. Mr. Speaker, you see, in the last quarter of the year, in Trinidad, all the top tuners, whether it is Lloyd Gay, or Coker, or whoever, they have to see about bands for the Panorama upcoming in the following year and they always have to see about pans to send abroad, so they are in demand. It is a tight thing.

Lo and behold, when Pan Trinbago went to the Ministry, prepared to give them the instruments, they already went to Lincoln Enterprises and took some instruments, because they were under pressure using Exodus pans in Exodus panyard. They did not have a home. They are national; they are living nowhere; they are squatting; they are using Exodus pans; they are practising in Exodus panyard. They went behind Pan Trinbago's back and took instruments from Lincoln Enterprises. This is not the way we should go. I mean, you want the best, the finest sounding instruments. That is what you are looking to have. You are looking for the best conductor; the man to score your music. I understand they took Mr. Urban Wiltshire. I have nothing against Urban. It is not a year yet; they changed that. I think it is Mr. Clifford Archie now. There is no kind of continuity.

So, it is sounding good standing there speaking about terms of reference, talking in terms of clause 22, to play at seminars, foreign conferences and so forth. What was the National Steel Orchestra doing playing in Toco in a wedding? [*Laughter*] Why? I would like the Minister to answer that. Minister, you must know what is going on in your Ministry. The National Steel Orchestra! That is a disgrace. The days done for playing for a little food and all that sort of thing. Panmen and calypsonians gone past that stage a long time! We do not expect to see a National Steel Orchestra playing at a private wedding in Toco, but it happened! This is not for humour or anything; this is a serious thing and I am concerned about these developments.

When my colleagues spoke in the other place, they were able to point out some flaws in this whole structure and the policy affecting the orchestra. Mr. Speaker, if I could take you back to 1986 when Pan Trinbago became incorporated by an Act of Parliament, the particular Act gave to Pan Trinbago the instrument for total representation of the views of the steelband movement. This is what Pan Trinbago is about. This Government, in its usual high-handed way, just paid scant disregard to the Pan Trinbago people.

The Minister just told us and it is on *Hansard* now, that two members of Pan Trinbago were there seeing about the recruitment of the band and so forth. Pan Trinbago was left out completely and the Minister should know that. That is not right. We must do things correctly, as I am saying. The Act gave Pan Trinbago the right to be consulted and, even so, to be part of any steelband activity.

Pan Trinbago recommended that we should have a national steelband with 60 players with stand-by players so when the band was on tour, those players would be trained as replacements and so forth. They went ahead and cut it in half to 30. If you are looking for a band that could give a nice repertoire with all the symphonies and all the different types of music; we want to play everything; we are multi-cultural; we are rich in diversity with all kinds of music; so you want to have a nice range of instruments so you get the best sound. They went and slashed it to 30; they went against the advice of Pan Trinbago and these are the people who know. No sort of consultation took place. You have people like Oscar Pyle; you have the past Presidents, Arnim Smith and these "fellas"; talk to them and find out what is best for this National Steel Orchestra about which you are speaking.

Pan Trinbago also sought to ensure that the National Steel Orchestra got off the ground on the basis of respectability but, unfortunately, there was surprising opposition from the Ministry of Culture and Gender Affairs. I really wonder: Why?

Firstly, Pan Trinbago felt that the emphasis should be placed on youth participation with a few senior experts in the field included so as to have the orchestra "performance ready" over a short period, which is understandable. You have your experienced people there with the young pannists to bring them along.

I hasten to point out that Pan Trinbago participated fully—listen to this, Mr. Speaker—in the interviewing of aspiring members to the National Steel Orchestra. Messrs. Melvin Bryan and Richard Foto represented Pan Trinbago at the interviews. [*Interruption*] You are talking about the auditions; I am talking about the interviews.

They interviewed their own people from the respective bands, but when you went to select people, Urban Richards did his stuff. He took the 24, called the

Secretary, Mr. Foto, "Take these names for me, please." My colleague said that because it is a fact. "Take these 24 names and you will get six after." That is what went on. Pan Trinbago was not part of it. After they interviewed all the people and felt they knew the best people to make recommendations to you all, you did not listen to them.

Secondly, the Ministry of Culture and Gender Affairs unilaterally selected candidates for the auditions. That is what I am speaking about: high-handedness. That was done at the Creative Arts Centre—true UNC style. "Is we time now; we doing we 'ting'; we picking this National Steel Orchestra; we want it for political expediency; we want to launch it for Independence in a big way; we have a National Steel Orchestra." That is how they went about it.

Dr. Griffith: That is not true.

Mr. E. Hart: That is not true? The audition had to have representatives from Pan Trinbago. Lo and behold, this was not done and I want to emphasize that. This is serious business here.

Thirdly, Pan Trinbago had recommended to the Ministry of Culture and Gender Affairs that the National Steel Orchestra should comprise 60 people. Pan Trinbago's recommendations were put aside and Cabinet decided that the National Steel Orchestra would comprise 30 members, and when my colleague spoke about some people on the other side, saying that they really do not care about pan, I heard many moans and groans. It is a fact.

Yes, the Member for Point Fortin played pan and played mas; he likes that. I know that for a fact. I cannot say that for most people on the other side. I cannot say that because of the treatment meted out to the steelbands all the time. All the time, we have to come here and argue about money for the steelbands and that sort of thing. [*Interruption*] You behind there, it is just nuisance value, you know about tassa and all kind of stupidness. I have made the point over and over for the edification of the Member for Fyzabad that the steelpan is the national instrument of Trinidad and Tobago, whether he likes it or not, so his grumbling there is just nuisance value.

I would like to ask a few questions here and I hope the Minister will throw some light on them. I would like to know:

1. What would be the role of the National Steel Orchestra in the context of government to government cultural activity?
2. What will happen to these members of the National Steel Orchestra who have served their tour of duty?

3. What is Pan Trinbago's role in the scheme of things?

Please tell us.

4. What budgetary provisions have been made for the National Steel Orchestra?

5. Where will the National Steel Orchestra be housed?

I heard the Minister mention just now that, "We got a place and we are looking to have it sound-proofed and air-conditioned." We want to know where they will be housed because they must have a home in order to perform. Well, this is national, when the foreigners come here, it is the home of the steelpan; they want to see a proper home; they want to go to a place where there are concerts, archives, the history of the steelband and so forth, where there could be entertainment with limbo dancers, *et cetera*—a nice cultural package. So, I would like to hear about these things.

It is my sincere hope that Government does not proceed in such an arrogant manner as to exclude the body that represents steelbands at home and abroad. This is a frightening thing. As far as I am concerned, Mr. Arnold and his people must be treated with respect. You cannot say one thing to Pan Trinbago and then say something else. This is what is happening, similar to the poor Member for Tabaquite. He went with Sen. Prof. Ramchand and agreed on one thing; when he went to the Prime Minister, it was vetoed; it is another thing. Do not allow that to happen to you, Madam Minister. It is your Ministry; take charge of things in your Ministry; represent the views of the pan stand from Pan Trinbago. [*Desk thumping*]

I am simply saying, as I have said before, instruments are crucial because without instruments, you have no band. I am saying your instruments should come from the leading tuners in this island. You have Birch Kellman. You heard your colleague from Point Fortin mention Allan Gervais; he was one of the greatest and he has left some of his protégés. He has left Leo Coker and Lloyd Gay.

Now, there are people who tune good tenor pans, high sounding tenors, but they might not be so prolific in tuning the basses. You have people like Kelvin St. Louis and others; contact people and talk to them so you could get the best out of everybody.

Then, who is to score the music? You have "fellas" like Uncle Jemmott and others who have proven themselves throughout the years, these past masters. I think Mr. Anthony Prospect is sick in the United States. These people—it sounds nice. Yes, it is nice to train them to make their music literate and so forth, but

people have been doing that for a long time. Like Miss Louise Mc Intosh—they are going to honour her next week. Merle Albino-De Couteau; Pat Bishop is doing good now. Many people are becoming music literate which is a nice thing, but as the Member for Point Fortin said, it is also a beautiful thing when people, not music literate could stay for 15 or 18 minutes and play the 1812 Overture without a score. Foreigners marvel at that sort of thing, the young people. So, we have to look at that, also.

Because, all the music literate they are, if the police band were playing now and a strong breeze blew and the score sheets gone, men in trouble, you know. [*Laughter*] Music stop, you know. Not so with the steelband. Light, no light, down the road we jamming. Marriage of Figaro, Gypsy Londo, all kinds of things in the night. People jumping; no score; that is a great thing. We have to think about that.

So, having said that, Madam Minister, I am asking you, please, do not follow some of your colleagues; do not stay on any high horse; Pan Trinbago is the Government. I was the Chairman of the Northern Region of steelband for about two terms; I am still a practising steelbandsman and I am saying it is not too late.

It might be too late for other things the way you all are sliding over there, but you could just get back to Pan Trinbago, please, Madam Minister. Listen to their recommendations; sift them; weigh them and so forth; and, in the interest of Trinidad and Tobago, the steelband is a great thing and, going into the year 2000, the new millennium, it is going to be greater, because right now, we have about 80 Carnivals all over the world. Right now, the steelband is in all the prestigious concert halls. In Switzerland, there are 100 steelbands and that sort of thing, thanks to Trinidad and Tobago.

Having said that, I hope you will listen to the few things I have said and see how best we can get things moving.

Thank you very much, Mr. Speaker.

5.55 p.m.

The Minister of Tobago Affairs (Dr. The Hon. Morgan Job): Mr. Speaker, a brief intervention for a peculiar and particular didactic purpose. It is not true that nobody on this side knows anything about pan, and if even this was so, I think the Opposition has misinterpreted the fundamental role of Cabinet and Government in this matter.

This is a national steel orchestra, there is a government here. The Government in bringing Bills, do so in the national interest. This is not a particular and

peculiar ethnic thing. Steelpan in Trinidad and Tobago does not belong to any one particular group. I find it rather offensive that the lead speaker on the Opposition side should have started with these questions about who and so forth, as if to imply that there is no legitimacy on this side in terms of intervening in this question of pan. Then the contradiction is compounded by the last speaker who proceeded to tell us that in Switzerland, France, Japan, Canada, and all over the world, there are steelbands.

Mr. Speaker, there is an instrument called a saxophone—I use this as an example—it was invented in Belgium, I think, by a man called Sax, and they blow saxophones all over the world. I have not heard anybody protest, from Belgium or anywhere else, that only Belgian people should blow saxophones. Right now as I speak, Mr. Speaker, some of the best concert guitars you can buy, are being made in Japan and no longer in Spain.

What I am pointing the mind to is that, contrary to what the Opposition is telling us, the steelpan is now an instrument belonging to mankind, and if you do not understand that you have missed it. Andy Narell, Jeff Narell, Anise Hadeed, Jit Samaroo and all these people are symbols of what has become of the steelpan. For these people to come here this afternoon with that kind of peculiar, antiquarian idea, is to say that they are not relevant to the purpose of setting up this national steel orchestra.

Mr. Speaker, this is a copy of the Constitution of Trinidad and Tobago, and it says in Part I(c):

> "the right of the individual to equality of treatment from any public authority in the exercise of any functions;"

This Government, in respecting the Constitution as the highest law, cannot permit a situation to evolve where, if you do not belong to Pan Trinbago, you cannot become part of the National Steel Orchestra. That is absurd, this is the highest law in the land, and what they are trying to suggest is that this Government must contravene and subvert the integrity, purpose and meaning of this Constitution. That is not permissible! I am not going to stand in this Parliament or be here, and allow these kinds of contrary ideas as PNM propaganda to go out to children in this country; I have had enough of that. For the time that I am here, I am going to get up every time—I did not plan to talk this afternoon, but I am not going to allow them to get away with that.

This National Steel Orchestra is indeed a monument to the incompetence and inefficiency, and the way the PNM kept promising and never delivered. "I will do;

I coulda do; if I did have three more years." The Member from Laventille West said, "Well, you know we lost the election so that is why we did not get pan in schools." They announced that pan is the national instrument and that they were going to put a pan in every school. It is true that Mr. Sat Maharaj objected, but if I understand him well he was not saying that he did not want pan in all the schools, but he wanted the harmonica too. That aside, the fact is, who stopped them from putting pan in schools? Nobody did, they called an election and lost it, but they are now coming to complain saying that if they did not lose the election, there would be pan in schools. [*Crosstalk*] This thing is so annoying and frustrating.

Mr. Speaker, I just wanted to make those few points to ensure rather that the national community understands—

Mr. Hart: Thank you for giving way. The Member for Tobago East, I think probably has his wires a bit crossed, because what my colleague said was that we had pan in schools, and not that we were about to do it. I was responsible for that programme, we already have it there. It started at Carapichaima in a primary school there, so it is not a matter that we were going to do it, we already have pan in schools. I just wanted that to be clarified. Thank you.

Dr. The Hon. M. Job: Mr. Speaker, whatever she said and whatever he is trying to correct, I know that in the schools of Trinidad and Tobago, if you find 10 pans you might find many pans. There has been no pan-in-school programme equal to the purpose that the then Prime Minister, Mr. Patrick Manning, and all his supporters had suggested. I do believe that all the schoolchildren in this country should be into some music programme from early. I have been saying that for about 30 years.

While I was saying that the PNM was there listening to me and telling people that I do not like pan and I am against pan, so they are coming now to make a correction when the fact is, the *de facto* situation is, there are no set of steelpans in schools, not even in the catchment area that they have as their captive Bantu stand; it is not the case. We need to have this pan-in-school programme, and music programmes. We also need to have a national steel orchestra which is the flagship and emblem of the achievements of Trinidad and Tobago with respect to making the possibility of pan as a universal instrument, to have it domiciled here to show the recognition of the Government and the people of Trinidad and Tobago. And they are opposing it because they did not do it; nobody stopped them!

The question that I raise here, is to emphasize that whatever we do, every Bill we pass, must be consistent with the Constitution of Trinidad and Tobago. No

responsible government ought to even think or even to suggest that it can pass a bill that gives people a monopoly which will injure the interest of some little Dookie from Carapichaima who is not a member of Pan Trinbago, but who can beat pan better than all of them, so he cannot be part of the National Steel Orchestra.

Thank you.

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, like the Member for Tobago East, it was not my intention to participate in this debate, but clearly we need to correct a misconception.

I did not hear, neither from the Member for Laventille West nor the Member for Tunapuna, in raising some questions as they relate to the whole establishment of this national steel orchestra, anything that said members must belong to Pan Trinbago. What was said, however, was that Pan Trinbago being the organization established to look after the whole interest of pan, one would have expected that they would have been genuinely consulted. [*Desk thumping*]

I will make this point: this Government has established a kind of behaviour which says that I say one thing and I do something else. It is the same thing with respect to the Local Government and what is the role of the Minister of Local Government as it relates to the councils. All we are saying is that pan Trinbago is a legitimate organization and it needed to be consulted. We never said that one had to belong to Pan Trinbago, and my colleague from Laventille West in making her contribution raised certain issues.

Mr. Speaker, a democracy functions with Government and Opposition. The Opposition has a responsibility to ask questions! [*Desk thumping*] They on that side behave as if we are not entitled to ask any questions. You are not entitled to determine what direction the Government is deciding to take this country, that is our legitimate responsibility! When my colleague asked what was the selection process, "Oh, we have no right to find out about the selection process!" Nothing could be more absurd! What is the selection process? She asked three questions.

We are not saying who is authorized, we wanted to find out what was the selection process. That is a legitimate question, because this is a Government that talks about transparency, and we know how they do things. We know how they go about making selections; it is not what is written. They write one thing and then do something completely opposite, and as a result we have a responsibility to ask questions. What was the selection process? What was the role of Pan Trinbago? She also asked about the size of the orchestra. She gave reference to what size an

orchestra should be. In order for it to really function in an effective and efficient way it should be a certain size. They decided to cut it by half, Cabinet takes a decision.

Mr. Speaker, what we are saying here is that we have a legitimate responsibility. We have a responsibility, if legislation comes here, to raise questions as they relate to the legislation. At the end of the day, the Government can use its majority to pass whatever legislation, but as long as we are here, which is a very short space of time, notwithstanding that, [*Interruption*] we are going to raise the necessary questions and continue to carry out the role that we are here to carry out: to make sure the Government governs in the best interest of all of Trinidad and Tobago.

Thank you. [*Desk thumping*]

Mrs. James: Well put!

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Thank you, Mr. Speaker, and I certainly wish to thank all those who contributed to the debate in the very spirited manner in which they did.

It seems to me that there are, perhaps, two major issues, if I could generalize on the contributions, particularly from the Opposition. One is that whole issue of the involvement or lack of it, of Pan Trinbago in these issues and decisions and, indeed, their participation, on the whole, in this whole matter about the creation of a national steel orchestra. Let me deal with that one and then I would go on to some of the others.

The decision of Cabinet was taken on June 26, 1997. Prior to that, Pan Trinbago sat with this Ministry, this Minister and other members of the Ministry of Culture and Gender Affairs, in 1997, and worked out the criteria and the arrangements. The concept was worked out with Pan Trinbago then taken to Cabinet. Pan Trinbago was involved from the initial suggestion from the Ministry that the National Steel Orchestra be formed. It was also involved in the decision about the selection criteria, indeed, it was Pan Trinbago's suggestion that steelbands should be allowed two members, to identify two of their best players, and the Ministry agreed with that. The Ministry also advertised in order to catch those persons who may not have belonged to a band or a band registered with Pan Trinbago, in order to make it fair and open.

Pan Trinbago's involvement was established very early. It was also involved in the interview panel, and I have the names of the gentlemen: Mr. Richard Forteau and Mr. Melvyn Brian were members from the executive of Pan Trinbago

who were with us on the interviewing team. It is certainly not truthful to say that Pan Trinbago was not involved; they were involved from the start and were involved in all the processes. There was some resistance at some time from Pan Trinbago, but they continued to be involved.

6.10 p.m.

On the whole matter, Mr. Speaker, of the size of the band, the Member for Tunapuna said that Pan Trinbago recommended 60 players but the Cabinet slashed it just so without reference, and so forth. Mr. Speaker, the decision of Cabinet was that 30 members would initially comprise the orchestra. This, of course, has budgetary consequences. The first year budget for the National Steel Orchestra was somewhere in the region of $2.5 million. Additionally, these members are paid a salary. They have been paid since September 1, 1998 and the cost factor is one which we have to take into account and which, over time, given finances and given the resources, the size of the orchestra of course would be improved. So that matter of Pan Trinbago not being involved is absolutely untrue and it comes from Pan Trinbago members themselves. They say they have been involved: they helped us to create the criteria, they made certain suggestions which we took on board and took to Cabinet and those were approved. So it is totally erroneous to say that Pan Trinbago was not involved.

There were one or two other questions which I want to raise and one relates to the matter of where these people are playing. As a national instrument the Member from Tunapuna said that the band is playing in Toco and the Minister does not know about it. I want to inform this House that several of the members of this proposed National Steel Orchestra are themselves members of other bands, again, on the recommendation of Pan Trinbago. They are among the best players in their own bands.

If these same individuals are seen playing anywhere it does not say that the National Steel Orchestra is playing somewhere. They are playing as members of bands and they are allowed, Mr. Speaker, to play in their own bands once it is not falling within the period of the normal working day or under their normal working hours. So the National Steel Orchestra does not play at weddings, fetes and similar such activities. They play clearly for the national activities. They play clearly as outlined in the Act. Pan Trinbago was not left out completely.

One of the questions raised was, “What is Pan Trinbago's role?”. As very clearly stated in the Act, Pan Trinbago contributes two members to the board and, therefore, continues to make decisions on the board in the direction of whatever is

happening in the National Steel Orchestra. Another question was, "What is the budget?". At the present time it is somewhere around $2.5 million.

On that matter of music literacy, Mr. Speaker, we have found that foreigners come to Trinidad and Tobago around carnival time, listen to the music, put the music down in score and then take it back, reproduce the music and make money out of it in foreign countries. We know that. That is not a secret. If our players have that facility, that ability to put down the music in score form, then that facilitates the growth of the orchestra. That adds to the orchestra. That adds to the viability and the skill of the orchestra. It does not take away.

I have not heard anywhere that training—in fact, training in pan is now conducted in several places of the world at the university and indeed, as we speak, right here this Ministry of Culture and Gender Affairs in 1997 started a scholarship programme. Scholarships have been awarded through this Government to four members to do their degree in music concentrating on pan at the University of the West Indies. Training does not ever take away from people; it certainly adds to their native talent and ability. Therefore, the emphasis on literacy in music and other forms of training is only to enhance the ability of members of the National Steel Orchestra and certainly, if the wind blows away their sheets, or whatever, would not take away from them.

Another matter again was raised by the Member for Tunapuna on the need for archives for the pan. I have said it, and I would like to say again, that this Government took the decision to create an institution we call the Carnival Institute which is to be launched on August 13, 1999 and which is going to be the repository for all carnival related artifacts and archives—calypso, pan, mas—as well as training for our carnival arts including, of course, the pan and this is only one avenue for that kind of training.

The whole question of political expediency and high-handedness, I would not deal with that too seriously, because I am sure that what we have done here clearly indicates that we have had consultation right from the start. Before we went to Cabinet we took into account the recommendations of the pan body, we made them part of the criteria, et cetera, and this is why we have the kind of body we have now. The 30 members who now comprise this body are, indeed, selected with the collaboration and co-operation of Pan Trinbago as well as the University of the West Indies which we think has a role in this, being our institute of higher learning in Trinidad and Tobago. I do not have any excuses or regrets in terms of that.

So, Mr. Speaker, the dialogue we have had with the emphasis on training, we have no regrets about that. The budget we have spoken about and the involvement

of Pan Trinbago is very clearly there. In relation to what happens to the members of the orchestra after their tour of duty—the decisions about employment, length of contract, re-employment, *et cetera*—have been left to the board. We have left the board to make those decisions but we also know that, at the end of their training, there would be a cadre of young men and women able to contribute further, if they have to leave the National Steel Orchestra, to some other institutions.

For example, we talked about the pan in school and, indeed, one of the reasons why that project has not advanced as it should, is because of the dearth or lack of trained teachers to teach music. The fact that most of the panmen are not literate was discussed, and in the school programme you are teaching music, you are using the pan as the instrument through which you teach the music, so therefore there are few persons who are able to carry that programme through the school system. We are now working with a group of teachers from TTUTA who have formed pan groups in school to try to carry out that programme.

Mr. Speaker, these are the provisions. I hope I have addressed the concerns and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 13 ordered to stand part of the Bill.

Clause 14.

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

Dr. Phillips. Mr. Chairman, I beg to move, that the amendment to clause 14(4), as circulated, be considered. It reads as follows:

"Delete the words 'funds of the Orchestra' and substitute the words 'monies of the Fund'."

Question put and agreed to.

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

Clause 15.

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

Dr. Phillips. Mr. Chairman, I beg to move that clause 15 be amended as circulated. It reads as follows:

"Delete the word 'Orchestra' in line four and substitute the word 'Fund'."

Question put and agreed to.

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

Clauses 16 to 19 ordered to stand part of the Bill.

Clause 20.

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

Dr. Phillips. Mr. Chairman, I beg to move that the amendment circulated to clause 20 be considered. It reads as follows:

"Delete the word 'Orchestra' and substitute the word 'Board'."

Question put and agreed to.

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

Clauses 21 to 25 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

House resumed.

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

6.25 p.m.

DOMESTIC VIOLENCE BILL

Order for second reading read.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move,

That a Bill to provide greater protection for victims of domestic violence be now read a second time.

This Bill has been the subject of much debate in the other place and was accepted by all except one Member of the Senate who abstained, so that we were able to obtain in the Senate, the support of all the Opposition Senators and 99 per cent of the Independent Senators plus all Members of the Government.

The history of this Bill, which is now the subject of debate, goes back to 1991 when the then NAR administration enacted the Domestic Violence Act No. 10 of 1991 in furtherance of its commitment to the principle of social justice and the elimination of lingering discrimination against women. At the time of its enactment, it was seen then as model legislation but, over the years, several shortcomings have become obvious, and the review of its provisions have become necessary. In spite of that 1991 Act, there was no ebb in the wave of domestic violence against women and children in Trinidad and Tobago.

Indeed, the number of reported incidents increased steadily. Between 1991 and 1993, there were—and these are only reported cases—1,670 reported domestic violence cases in Trinidad and Tobago. Between August, 1991 and April, 1994 there was a total of 8,297 applications for protection orders, and out of those, 3,248 orders were granted. Mr. Speaker, again, these refer only to applications made under the statute. There would have been many other instances of domestic violence that did not reach the courts; and may not have been reported.

The number of women, men and children murdered as a result of domestic violence in the past several years, in fact, since the legislation—if we look at the numbers then we would see from a report on Gender Violence in Trinidad and Tobago which was prepared by Rhoda Reddock and Rosalie Barclay in 1999, it cited the following numbers:

Year	Women Murdered	Children Murdered	Total
1990	4	3	7
1991	3	4	7
1992	12	6	18
1993	3	12	15
1994	4	5	9
1995	10	8	18
1996	5	1	6
TOTAL	41	39	79

So that from the period 1990 to 1996 the statistics that they have compiled showed that there were a total of 41 women murdered; a total of 39 children murdered bringing a grand total of 79 persons murdered in domestic violence situations.

When we look at the statistics in terms of the number of applications for protection orders in Trinidad and Tobago, in the St. George West area the numbers are as follows:

Year	**Applications By Women Against Men**	**Applications By Men Against Women**
1994	943	82
1995	977	93
1996	1008	96
1997	1060	100
1998	932	85

And contrary to the view that this legislation is only to protect women, it also protects men. There have been many applications made by men against women in the court under the domestic violence legislation in Trinidad and Tobago.

In Tunapuna, 314 applications were made for protection orders in 1998. There have been 215 applications to date in 1999. When we look at the figures for San Fernando, for the number of protection orders, we see that the total number of applications made were:

Year	Total No. of Applications	Final Orders
1994	525	39
1995	574	63
1996	601	86
1997	743	77
1998	713	212
1999	304	101

These figures only reflect the domestic violence incidents which are reported to the police and, therefore, these numbers do not accurately reflect the true picture of the incidents of domestic violence in Trinidad and Tobago. We all know that there are many incidents which go unreported despite the level of violence and injury to women and innocent children; often some of these children are not even the offspring of the aggressor, in those cases.

Mr. Speaker, I have here some background statistics in terms of the applications that have been made over the years since Act No. 10 of 1991 became law in Trinidad and Tobago. What we would notice from these, is that even though there appear to be a large number of applications, when we look at the actual granting of orders we would see that the final orders actually granted by the courts were very, very small in relation to the number of applications made.

Again, there are those who are of the view that domestic violence legislation encourages persons to abuse it for all kinds of strange reasons; it is really abused by them to be vindictive towards spouses and so forth. But the courts are the final arbiters to determine whether the application is justly brought or not. So that when we look, for example, at 1999, there were 304 applications in San Fernando and out of those only 101 final orders were made; in 1998, there were 713 applicants and only 212 orders granted; if you look at 1994, for example, 525 applications, only 39 of which final orders were made. The figures reflect similarly for all the years, the number of applications in relation to the number of orders actually made; the final orders are very few.

6.35 p.m.

What became obvious between 1991 and 1996 is that there were many loopholes in the existing legislation and far from filling the needs, there were far greater needs that were not being met by the existing law. For example, the category of persons protected under the 1991 Act was very limited. It was limited to persons who were in a family relationship such as a spouse, and again, "spouse" has a very limited meaning in the existing legislation. It was limited to a *de facto* spouse: a person who shares a child in common; to a child, a dependant and parental relationships. These were the categories of persons who could have made an application under the Domestic Violence Act, 1991 for orders under that law. As we shall see, we have widened the categories to include more persons to seek protection under the legislation.

Further, under the 1991 Act, the jurisdiction of the court is very limited in terms of the orders which the court can actually make. There is no jurisdiction in the court under the 1991 legislation to prevent the disposal of property or to direct the police in terms of helping and assisting victims. Under the existing law, further, there is a shortcoming in that the court cannot grant compensation to victims of domestic violence. This is another area in which, in my respectful view, we have improved the legislation.

Further, the police could not enter private premises to assist victims of domestic violence, and these limits on the Act did not help the police to become

proactive in situations clearly where they are required to be proactive in order to save lives and prevent injury.

Mr. Speaker, if we look at the history of the Bill before us, all of these loopholes were considered, and if we remember some of the horrific examples of domestic violence, murders within recent years, we will see that these prompted the Government to try to close loopholes and to try to widen and deepen the legislation.

There was a very brutal domestic violence murder which occurred in May of 1997 which I found to be very shocking and which, really, illustrates why we must amend the law. The victim was a mother of eight children. She was living as the common-law wife of a man she had met a few months before the murder. She did not have any children with the aggressor, but her two youngest children were for another person. Her other six children were with another person who had committed suicide in 1991.

Here was this lady who had six children with one gentleman who committed suicide, she had two other children and was now the mother of eight, and she was living in a common-law relationship for several months with a person who turned out to be her aggressor. On at least three occasions in the weeks preceding her murder, another man with whom she had lived until December 1996 came to the premises looking for her.

So, Mr. Speaker, this person was, in fact, a former cohabitee of the lady. He had come looking for her. On each occasion she was out and could not be harmed. On the last occasion, he gained entry to the house at 7.40 a.m. while she was still in bed. He gained entry and slaughtered her by repeatedly stabbing her. She died. He was later apprehended in Arima.

[MR. DEPUTY SPEAKER *in the Chair*]

What was very shocking about this particular incident was the reporting of the incident and the headline which read:

"3 to 1 is Murder

Mother of 8 killed by ex-lover."

What the *Express* article of May 15, 1997 attempted to insinuate was that because she had three lovers, she deserved to die. That was what was being implied in the story.

We have recently seen the very gory case, Mr. Deputy Speaker; the Percy Grant matter which was recently concluded where the woman's eyes were gouged

out by her aggressor. All of this was taking place in the few years since we came into office. In August of 1996, there was a spate of domestic violence murders similar to these. Within five days in August of that year, three women and two children were brutally slaughtered as a result of domestic violence.

In September of 1996, Cabinet appointed a committee which I chaired, and the terms of reference of that committee were to consider the legal environment as it promotes relief to victims of domestic violence, and to make recommendations for amendment to the law as it impacts upon domestic violence, particularly the Domestic Violence Act, 1991.

Mr. Speaker, I would like to place on record our gratitude to the members of that Committee who prepared a report on the Domestic Violence Act, 1991, and prepared a report which we took for public consultations and, thereafter, a draft Bill which we submitted to the Law Review Committee to meet a Bill that had been drafted in an atmosphere of activity by the Law Commission which had been asked by the Attorney General to look at the Domestic Violence Act with a view to reform of that Act.

Following the report of the ad hoc committee, the honourable Attorney General gave instructions to the Law Commission to consider both Bills and to come up with what is now the Domestic Violence Bill, 1999. Mr. Deputy Speaker, with your leave, I would like to place on record our gratitude to:

Mr. Donald Berment	Member of Men Against Violence Against Women
Mr. Dennis Bryan	Probation Officer, Ministry of Social Development
Ms. Cleo Crawford	Attorney-at-Law, Economist & Representative of the Business and Professional Women's Club (South)
Ms. Stephanie Daly	Attorney-at-Law & President of the Law Association of Trinidad and Tobago
Ms. Carla Herbert	Legal Drafter & Law Reform Advisor, Ministry of Public Administration and Information
Ms. Judith A. D. Jones	Attorney-at-Law & Director/Chairman of the Legal Aid and Advisory Authority
Sen. Diana Mahabir-Wyatt	Chairperson of Trinidad and Tobago Coalition Against Domestic Violence
Mr. Jawara Mobota	Attorney-at-Law

Ms. Sadie Robarts	Legal Advisor, Ministry of Legal Affairs
Ms. Lynn Roy	Sergeant of Police, Trinidad and Tobago Police Service
Ms. Dana Seetahal	Attorney-at-Law & President of the Assembly of Southern Lawyers
Mr. Hendrickson R. M. Seunath	Attorney-at-Law & President of the Assembly of Southern Lawyers
Ms. Hermian Smart	Women's Affairs Division, Ministry of Community Development, Culture and Women's Affairs
Mr. Everald Snaggs	Assistant Commissioner of Police, Trinidad and Tobago Police Service
Mrs. Hazel Thompson Ahye	Attorney-at-Law & Director, Legal Aid Clinic, Hugh Wooding Law School
Ms. Arlene J. Valere	Attorney-at-Law, Legal Officer, Ministry of Legal Affairs
Ms. Kathleen Weekes	Assistant Superintendent of Police, Trinidad and Tobago Police Service
Ms. Halcyon Yorke-Young	Legal Advisor, Ministry of Social Development

Mr. Deputy Speaker, I thank all of these members for all the work they did on a voluntary basis, produced the report which went out for, as I said, public consultations throughout Trinidad and Tobago and, on the basis of that report from this very learned body of persons and the public consultations—

Mr. Valley: Could we have a copy of the report of the committee?

Hon. K. Persad-Bissessar: Sure.

Mr. Valley: Thank you.

Hon. K. Persad-Bissessar: That is not a problem at all. We will get a copy to you. Somehow I remember that we may have already circulated it but certainly, I will let you have a copy. We will make it available to you. *[Interruption]*

Mr. Deputy Speaker: Order!

Hon. K. Persad-Bissessar: This report was printed as a supplement and circulated in the *Sunday Guardian* of November 9, 1997. We will let the Member

have it, but I am just saying that on the basis of that we had many written comments. Basically, there were oral consultations on it.

Mr. Deputy Speaker, what we have done, as I say, was held wide consultation on the committee's report. Some of the matters on which the committee made recommendations were further discussed in those consultations, some of them we have done away with and some we have accepted. Others were brought forward by the Law Commission. Again, discussions were held, especially with the police through the Attorney General's office. Further discussions were held with the police with respect to certain provisions as they affect the powers of the police under the new legislation.

What we have here, in my respectful view, is a Bill that has taken cognizance of those who practise in the field of law, for those NGOs and other women's groups who confront and deal with issues of domestic violence and, of course, as I said, law enforcement officers, lawyers, the Law Commission and law revision have all been involved in it.

Mr. Deputy Speaker, the objectives of the Bill are very clearly stated in the explanatory note, which is to offer victims of domestic violence greater protection by increasing the power and jurisdiction of the court; by enlarging the scope and ambit of the protection order; providing harsher penalties and giving the police greater powers with respect to their ability to intervene in domestic violence situations. The Bill seeks to repeal the Domestic Violence Act, 1991 and introduce comprehensive domestic violence legislation in Trinidad and Tobago which is on par with international standards on the sanctioning of domestic violence legislation as specified by the United Nations Commission on human rights. The Bill proposes to create a wider range of speedy and flexible remedies aimed at discouraging incidents of domestic violence.

Mr. Deputy Speaker, the objectives of the Bill which, as I said, are stated in the explanatory note, do indicate that we are seeking to repeal Act 10 of 1991. We first thought of amending the 1991 Act by inserting the new provisions, but because there were so many innovative provisions that were being brought forward, we felt it would be more user-friendly if we repealed the entire legislation and brought the new Act forward so that all of it would be caught in one piece of legislation—we decided that it would be more convenient to repeal the entire 1991 Act, to keep the good parts, bringing all the new provisions to create an entirely new Bill. This is what we seek to do. To repeal the Parent Act completely and bring a new piece of legislation which would be holistic and comprehensive, within one piece of legislation, rather than amend the 1991 Bill.

Mr. Deputy Speaker, the explanatory note mentions the compliance with international standards, and if we look at the United Nations Declaration on the Elimination of all Forms of Violence Against Women, a convention which Trinidad and Tobago ratified in 1990, it says that violence against women shall be understood to encompass but not to be limited to physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women; non-spousal violence and violence related to exploitation. I submit that this new Bill meets the international criteria and it could possibly serve as a model for other nations who are signatories to the convention, those who have not yet enacted similar law.

If we look at the provisions of the Bill, we will see that the interpretation clause, clause 3, has made some major changes, and one of the most major changes is to actually give, for the first time, a definition of domestic violence. It is interesting that in 1991 when the legislation was first passed, there was no clear definition of what constituted domestic violence. This led to tremendous injustice in the courts, because even those who were practising were not able to fully or comprehensively define what was domestic violence. This opened the gateway, in a sense, for injustice for those who came before the courts.

The committee, when it met, heard representations to the structure of the 1991 Act defining conduct and relationships to which the Act would apply. It was very ambiguous and very convoluting. By section 4(1) of that Act, Mr. Deputy Speaker, before granting the protection order, the court needed to be satisfied, on a balance of probabilities, that the conduct complained of constitutes a domestic violence offence or that there is a threat to engage in conduct that would constitute a domestic violence offence or that the respondent has engaged in conduct of an offensive or harassing nature.

6.50 p.m.

Mr. Deputy Speaker, to fully appreciate the meaning of domestic violence offence in the present Act, the definition of "domestic violence" offence and something call a "prescribed offence" had to be read together. It was very convoluted when one looks at the existing Act 10 of 1991. So that you had to read several different definitions, to try to arrive at what it is that you will grant a protection order for. So that domestic violence offence in the 1991 Act, specified a "prescribed offence" which is something call an indictable offence, committed in circumstances that indicate that there was a relationship; and then you had to go and look at what is a prescribed offence. The definition of "prescribed offence" says:

> "A basic limitation to the effectiveness of the protection order is that it is only available where the offence is essentially an indictable offence."

But nowhere within the legislation did it set out what all these offences are. For the first time, all in one place in the first schedule is listed all the offences for which we can look to as constituting a domestic violence offence.

Schedule I sets out the Summery Offences Act—all the offences there—the Malicious Damage Act, Offences Against the Persons Act, Offences under the Children Act and Sexual Offences Act. So there were several of these, so that a person dealing with this Act 10 of 1991, a lawyer in practice, an applicant, even the Magistrate sitting on the bench had the tremendous difficulty of trying to decide what was a prescribed offence, which one of the indictable offences could be looked at, or where these could be found. We have comprehensively identified all of these within one piece of legislation, making it simpler for anyone in the practice in this area of law, to be able to identify these prescribed offences.

Mr. Deputy Speaker, further, the present definition of "domestic violence offence", is conditioned by relationships, in that it defines the activity by the behaviour of certain persons, in other words, a domestic violence offence means:

> "a prescribed offence committed by a person against the spouse of that person, a child of the person or the spouse of the person or parent which is defined to include grand parent."

Mr. Deputy Speaker, there were two problems with the definition of "domestic violence" offence. There was lack of details in the definition and the fact that prescribed offence is defined by reference to offences contained in the Offences Against Persons Act, among others, but it did not include offences under the Summary Offences Act. The offences are referred to by section numbers only, of the Offences Against the Persons Act, the Sexual Offences Act and the Children Act. So to understand the definition in the existing law, it was necessary to refer to other Acts—and certainly this was not really user-friendly at all.

There was also doubt whether the list that currently exists under the rubric, "prescribed offences" in the existing law, whether that was sufficiently comprehensive, to deal with the reality of domestic violence in all its manifestations. So that what we recommended was that the definitions of "prescribed offence" and "domestic violence" offence as contained in the existing law be merged, so that there will be a single and simple definition of "domestic violence" which would list the behaviour for which a person could apply for a protection order.

The committee then considered that a definition of "domestic violence" should be inserted in the legislation to ensure that range of conduct covered is clear. So when we look at clause (3) under the rubric "domestic violence" we will see that there is a comprehensive definition that encompasses all the ugly faces of the demon, which we call "domestic violence".

The Bill defines "domestic violence" to include physical, sexual, emotional, physiological or financial abuse committed by a person against a spouse, child or any other person who is a member of the household or dependant. It goes further than what is in the existing 1991 Act, to include the persistent telephoning, and this again is very novel, because one of the ways in which you can suffer domestic harassment of this kind is where somebody telephones you persistently. So we have included an amendment here for harassment by way of persistent telephoning of a person at home or at work and intimidation of a child or elderly relative of the person. *[Laughter]*.

Many times perpetrators of domestic violence—*[Interruption]* you cannot persistently telephone them—extend their list of victims to include relatives and children. It is important to note that there is a definition now of "spouse" in the Bill. We have also extended the definition of "spouse" to take into account, changes we have made in the law under the Cohabitational Relationships Act, so that in addition to husband and wife, it would include those engaged in a cohabitational relationship.

I am saying that we now have in the proposals that are before this House, a more comprehensive definition of "domestic violence", and we have extended the categories of matters for which one can obtain an order, to include persistent telephoning. This was an amendment in fact, that was put forward in the Senate. I cannot find it at this point in time.

> "persistent telephoning of the person at the person's place of residence or work
>
> making unwelcome and repeated intimidatory contact with a child or elderly relative of a person."

There is also a new provision to extend and widen the category of persons, who can apply for a protection order under the Domestic Violence legislation.

Clause 4 (b) sets out the category of persons which now includes:

> "a member of the household of the spouse or respondent, either on his own behalf or on behalf of any other member of the household;"

Previously, the persons who could apply for a protection order under the Domestic Violence legislation, the spouse of the respondent, a child, a dependant, a parent and a person who has a child in common with the respondent and, we have now added:

> "a member of the household of the spouse or respondent, either on his own behalf or on behalf of any other member of the household;"

So that once you are living in the same household, and there is cause for fear in a domestic violence situation, you will be entitled to benefit from the legislation.

In addition, we have another category of persons who can apply and this is exceedingly important, because it now adds:

> "a person who is or has been in a visiting relationship with a person of the opposite sex for a period exceeding twelve months."

Mr. Deputy Speaker, this will address domestic violence situations where persons are not living together, but may be in this visiting relationship or may have been—in the past tense—for the past 12 months, in a visiting relationship. So that this will send a very clear message, in our respectful view, because there are many examples of domestic violence incidents occurring by ex-lovers in Trinidad and Tobago.

In fact, in the case of Joan Sydney Valentine who lost her life at the hands of a jealous ex-lover reported in the *Express* newspaper, of October, 7 1988, in an article entitled "Firebomb mother of ten dies".

> "A mother of ten who received severe burns after her home was firebombed by a jilted lover over a week ago died yesterday. She was sleeping with her common-law husband at his home, when the incident occurred."

Another on January 3, 1999: Susan Coward, the 29 year old woman who was savagely chopped about her body on New Year's Day by her former lover, has related a tale of endless abuse, spanning a period of five years and she was constantly beaten, slapped, kicked and so on.

7.00 p.m.

There are several of these cases which are very clear. I quote here from the *Trinidad Guardian* Editorial, dated August 12, 1996, captioned, "Tabanca murderers".

> "In a free and open community it may seem impossible, but ways must be found, either by stricter laws, greater institutional support or more personal

assistance from friends and family, to provide more effective protection for women whose lives and those of their children become imperiled by ex-husbands and lovers who, bent on domination, are transformed into murderous beasts when the relationship disintegrates."

Under the existing law an individual is not entitled to protection of domestic violence legislation where a relationship has ceased and they are not living together, but under the new legislation, once they have a visiting relationship, once that relationship has terminated within the past 12 months, then they would be entitled to the protection of the law.

Mr. Deputy Speaker, clause 6 is also very innovative in that it extends the court's jurisdiction in granting orders as follows: conferring property remedies on a court of summary jurisdiction. Now, a respondent can be prohibited from taking possession of, damaging, converting or otherwise dealing with property that the applicant may have an interest in, or is reasonably used by the applicant, as the case may be. This provision will address the situation where the court makes an order allowing the victim to have the use of the matrimonial home or perhaps a vehicle, but the respondent circumvents the court's order by disposing of the property or destroying it in some other way. So that, those provisions dealing with property protection are very serious.

With regard to victim compensation in clause 6—

Mr. Valley: *[Inaudible]*

Hon. K. Persad-Bissessar: It does not include same sex spouses, hon. Member, it does not.

Mr. Valley: How do you know that? How come it does not say that?

Hon. K. Persad-Bissessar: It does not, because "spouse", in law, does not include same sex. One does not have a spouse who is the same sex. There is nothing in our law in the definition of "spouse". But we do have "cohabitants" under the Cohabitational Relationships Bill, and again, not same sex. So it does not make provision for same gender relationships. That discussion did come up in the Senate and it was made very clear. There is an amendment out of the Senate list of amendments. So that is quite clear.

With respect to victim compensation, clause 6(1)(c) says that a Protection Order may:

"(c) direct that the respondent—

(i) pay compensation for monetary loss incurred by an applicant as a direct result of conduct that amounted to domestic violence.

The award will not include damages for physical injury but will, according to clause 6(4), include compensation for—

"(a) loss of earnings;

(b) medical and dental expenses;

(c) moving and accommodation expenses;

(d) reasonable legal costs, including the cost of an application pursuant to the Act."

In the Senate, an amendment was added to clause 6(5) that reads:

"The Court shall have jurisdiction to award compensation not exceeding fifteen thousand dollars and the payment of such compensation shall be received by the Court on behalf of the applicant."

Mr. Deputy Speaker, this provision emanates from the concept of abuser accountability which has been viewed as one of the ways of imposing very swift, consistent and meaningful sanctions against abusive behaviour. It is a provision which has found its way in other statutes around the world: Canada, United States and Singapore.

This very said June Grant/Percy Grant case I mentioned earlier, if we can revisit that for a while, we will see that the point of victim compensation takes on the importance it deserves. When the court announced its sentence on Percy Grant, it signalled the end to one aspect of the nightmare for June Grant. During an interview, Mrs. Grant lamented, and I quote:

"That man has deprived me of everything I could have done for myself and my children. I can no longer cook a meal for them. They have to wash their own clothes.

Further, Mrs. Grant says that she has not been able to sleep since the incident in 1997 and her mental and emotional stability have been affected."

This is the lady whose eyes were gouged out, quoted in the *Express* of July 1, 1999.

Mr. Deputy Speaker, clearly, we can appreciate the need for victim compensation in domestic violence so that similar plights to those of June Grant would be addressed. The new clause 6(5) would provide some redress and some

consolation for the irreparable harm that victims of domestic violence suffer. So clause 6, I am saying again, is very innovative to the Domestic Violence legislation, but it does exist in statutes elsewhere.

Clause 6, for the first time in domestic violence legislation in Trinidad and Tobago, also makes a provision for the applicant and/or any minor child of the family. Clause 6(7) will enable the court when making a protection order, to make an order under section 25 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act. Now, this allows for the court to make an order for financial provision for the applicant and/or any minor child of the family. This is very important. Here it is we have a case of domestic violence, we have a mother and children. The court makes a protection order, but the court cannot, at the same time, make an order for maintenance for the mother or for the children. So it is an exceedingly important provision.

What obtains at present under the law is that where a mother is seeking a protection order for abuse, of course the child's father in such a case may decide that he is not spending any money for maintenance, the existing law means that she would have to bring the application for the protection order under the domestic violence legislation and, in addition, has to bring another application for maintenance under another piece of legislation. So that she would have two matters in the court, two matters to be served upon this respondent, and most times one cannot find them when one needs to serve the summons for them to attend court. So, once one has the respondent or the aggressor before the courts on one application, one can deal with the issue of compensation and one can also deal with the issue of maintenance for the victim and/or the victim's children. So this is a very important provision that is now to become part of the law.

Also in clause 6, another innovation in the law and that is, the court now, when making a protection order could direct that the respondent or the applicant or both receive professional counselling or therapy from any person or agency or from a programme which is approved by the Minister in writing. This is exceedingly important because it means that not only will the court be making these orders, the court will be saying one also has to go for counselling or one must attend such programmes to be approved by the Minister of Social Development or attend such agency where one can receive help to deal with problems within the family. So the provision for counselling, as I said, is also very necessary and useful.

I remember when the committee was meeting we dealt with changes that we should make to the law, and the whole issue of counselling played a very

important role. There was the view that in many of these domestic violence cases that counselling could, perhaps, solve parts of the problem, we do not have to resort to actually having exclusion orders, putting people out of homes and so forth, but if there was adequate counselling they would be able to bring the family unit, spouses and the children together. So that we have made provision that include mandatory counselling to the parties.

In addition, clause 20, which deals with non-compliance with counselling, sets out penal provisions, so if the parties fail to go to the counselling sessions, they can be fined not exceeding $3,000. So there is a people provision within the legislation.

Mr. Deputy Speaker, as I endorse this need for counselling, again, we look at the saga of SRP George of this year. Here was this local hero who dedicated his life to a war against drugs in our communities. This was only one part of his life. Subsequent facts revealed that he was a man who desperately needed and was seeking help. It was reported in the *Express* of March 16, 1999, "SRP GEORGE'S LAST CRY: I NEED HELP".

> "Mere hours before shooting his wife and then himself in a tragic murder/suicide, SRP Eric George contacted a TSTT operator, telling her: Mih head! Mih head! I need help!"

So the whole issue of counselling, if it is made available, perhaps we can help to save or prevent some lives from injury.

Mr. Valley: *[Inaudible]*

Hon. K. Persad-Bissessar: All the reported ones in the newspaper are men beating up women. Unfortunately, I gave in the applications of men brought against women, but the reported examples are men beating women.

Mr. Deputy Speaker, clause 6 also has something called revocation of firearms. Many of us think there are too many firearms in the country. In the hands of a man prone to violent rather than reasonable solutions, guns are indeed very deadly weapons. For the first time, this legislation now empowers the court to direct that a respondent must relinquish to the police any firearm licence, firearm or other weapon which he may have in his possession or control and which may or may not have been used. This is very important because persons who have demonstrated violent behaviour or such potential should not have the option of using a firearm. Again, in the case of SRP George, if we reflect briefly on this tragedy again, we can see the necessity for the revocation of a firearm immediately as the matter comes to the court.

Again, I quote from the editorial in the *Newsday* of March 17, 1999, headed "GEORGE'S DOUBLE LIFE".

> "About a week ago she (Tara George) was forced to abandon their Claxton Bay home again after another serious battering from George, an incident which she reported to the Police…Senior officers of the division, we understand, had remonstrated with George about his behaviour and threatened to relieve him of his service revolver if he continued. But they never did. Our view is that it is most reprehensible for any policeman to beat his wife and since Tara had established a pattern of violence by George his firearm should have been taken away and he should have been disciplined."

Mr. Deputy Speaker, this provision allowing revocation is not limited to police officers, it is applicable to all persons having possession or control of a firearm.

This is innovative and new for Trinidad and Tobago, but it is interesting to note that in New Zealand, under their domestic violence legislation, there is an automatic revocation of a firearm licence. In other words, the provision in our Bill appears to be generous since we give the court the discretion. In New Zealand's legislation, it means that there is an automatic revocation of a firearm in these matters.

7.15 p.m.

With respect to the duration of protection orders, this has now been increased under clause 6(9). Protection orders may be made for a maximum of three years, under the existing law, the maximum was one year. What this does is to prevent a person from coming repeatedly back to the court. In serious cases the court would have the discretion to have the order last for three years. Interim orders can now last for 14 days, or a period of 21 days and can be extended for a further period. In the former Act, it was a 14-day period, there is now a 21-day period for an interim order to last.

The procedure in the Bill is again, in our respectful view, simplified, in respect of an application for a protection order. I would just deal with one or two of these before I close.

Clause 17 deals with the whole issue of substituted service. A protection order is generally served personally on respondents; however, where this method of service is not possible, the court may order substituted service.

What had happened in the 1991 Act, it had said there could be substituted service, but it did not outline the procedure at all, so that persons were at a

disadvantage in terms of the substituted service. Once respondents knew that the court had made an order against them, they disappeared, you could not find them to serve the order and if you did not serve the order on them, the order would not take effect, so the whole issue of substituted service is now clearly defined within the legislation. It outlines the procedure. For example, you can send the order by registered post to the last known address of the respondent. You can leave the document at the last known address of the respondent, you can have service by advertisement in the newspaper, or you can have substituted service in such manner as the court would direct.

Clause 18 is a safeguard to ensure that the respondent has proper notice of the proceedings. He is not bound by any order if he was not present at the time of making an order. Very important principles in terms of natural justice and the right to be heard, so the orders must be made in the presence of the other party.

Clause 19 provision enables the applicant to apply to the court for an Order varying or revoking the original Order. It is important because there might have been Orders that may have been made in the absence of the respondent. He can now apply to have these varied.

Mr. Deputy Speaker, one of the most controversial parts of the legislation is the police powers to be granted under the legislation and clause 23 deals with that. First of all, if we look at Part VI we see the powers and the duties of the police in domestic violence matters.

Clause 21(2) says:

> "It shall be the duty of a police officer responding to a domestic violence complaint to complete a domestic violence report which shall form part of a National Domestic Violence Register to be maintained by the Commissioner of Police."

This is most commendable because for the first time we would be able to get statistics or recording of matters in this regard—the workings of the Act, the frequency of acts of domestic violence and so forth. This type of provision is encouraged by the United Nations report and we have included it in our legislation.

Clause 23 is perhaps, in my respectful view, the most revolutionary provision and because of that it has also been the most controversial of the clauses in this Bill. It seeks to grant to the police, powers of entry and arrest without a warrant. It states that the power to enter premises for the purposes of arresting someone either by the invitation of a person apparently resident in those premises in a domestic violence situation.

(2) Where a police officer has been refused entry on to premises and has reasonable cause to believe that a person is engaging in or threatening to engage in conduct which amounts to domestic violence and failure to act immediately may result in physical injury or death, the police officer may enter those premises without a warrant..."

to give assistance to ensure the welfare or safety of a child or prevent another breach of the law.

This has caused much debate in the other place and, of course, throughout the newspapers. Under the legislation then, what we see is really a balancing of rights and we are attempting to balance rights. This is a source of eternal conflict for us as legislators. On the one hand, we seek to guarantee the individual's constitutional rights to due process and so forth, and on the other hand, there are the victim's rights not to be brutally battered or murdered, the rights of children not to have their lives snuffed out. How do we balance that? It was in this way we felt that we needed this provision to give the police powers of entry and arrest, where they would be required to enter premises to give assistance to effect an arrest to ensure the welfare and safety of a child to prevent another breach of the law.

In South Australia, under section 8 of the Domestic Violence Act what we see is that it is possible over the telephone to get a warrant and protection orders. We have no similar arrangement in Trinidad and Tobago. At present, if a woman is being beaten to a pulp by her husband or her mate—even her former husband, or ex-mate in Icacos or Toco—unless the magistrate is on call 24 hours in that area, the time spent to obtain a warrant may very well make the difference between the life and death of that woman or a child.

That woman is either a mother, our sister, our daughter, our friend and she deserves our protection. It is all well and good to say to go and get the warrant, but if a police officer is standing outside the door and he or she is of the view that a crime is being committed, should that officer leave the premises to go to get a warrant to come back to enter the premises? It is ridiculous to think that that officer would be required to go get a warrant. By the time the officer comes back, the person is dead. It has happened before, the person would be dead. This is what I am saying. The provision sought is to balance the rights of the individual to due process and the rights of the victim not to be battered, not to be murdered while the police officer is seeking to get a warrant.

There was tremendous amount of debate about this in the Senate and our existing law in this country—and I do not know if that point was made at all—is

where an officer has reasonable cause to believe that an offence is being committed that officer can arrest without a warrant. That is the law at this point in time. So what is so different from what is being proposed in this legislation? I go further, Mr. Deputy Speaker, the police powers of entry under clause 23 which we are proposing have received the support of the Coalition Against Domestic Violence and this is reported in an article in the *Trinidad Express* of July 1, 1999 on page 3, "Coalition defends Domestic Violence Bill". It says:

> "The Coalition said it believed that it would be heartless and cruel to insist that a police officer goes in search of a magistrate in the middle of the night to get a warrant before taking action that might well save a woman's life...this was a time when magistrates were seldom available, but when many acts of domestic violence took place.
>
> It added that under the Domestic Violence Act, if a police officer entered premises without a warrant in order to protect someone in a domestic violence case, he or she would have to document this fact in a domestic violence register, along with his reasons for so doing.
>
> If these reasons turned out to be spurious, or the power was abused, a report would be made to the DPP's office and the officer could be disciplined by the Police Service Commission to any extent, including dismissal. The Coalition said such provisions and safeguards did not exist in any other law allowing police to enter without a warrant."

So we have given the police that power, but we have placed within the legislation safeguards and checks to prevent the kind of abuse that was feared by some Members speaking in the Senate on this particular part of the Bill.

Mr. Deputy Speaker, again, in the June Grant case, Mrs. Grant might still have had her eyesight if the police had powers of entry. On that fateful day, the police had intervened in a dispute advising both the husband and the wife to shake hands and make up. It was shortly after midday when Grant waved a knife at June and told her this is her last day. It is reported in the *Newsday* of June 23, 1999. "Cops Search for Eyeballs as...Man Digs out his Wife's Eyes"

Mr. Deputy Speaker, the increased powers which are imposed in Part VI of the Bill will ensure that police officers treat domestic violence matters with the urgency they require, rather than adhering to the nonchalant approach that it is a "husband and wife thing", they would kiss and make up. Perhaps, if on February 5 of 1997, the police had stuck around to ensure that all was well before leaving June Grant to deal with Percy Grant, the police would have been able to arrest Mr.

Grant, since waving a knife at his wife with a threat that it would be her last day would more than likely give rise to reasonable cause that he was engaging, or threatening to engage in conduct that would amount to domestic violence.

What is so distressing in this case is that several neighbours, one of whom gave evidence to the prosecution, stood silently by in the street as June Grant lay on her back in the roadside drain screaming for help while her eyes were being gouged out. Perhaps Members would weigh this in considering a person's constitutional rights in the process to be arrested without a warrant and the victim's right to be saved.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, what is significant in the case of this Bill and the milestone in the history of domestic violence legislation, is that the police actually asked for this provision to ensure that they could properly enforce the laws. When we had drafted the legislation, I had said that we held further consultation with representatives of the police force and they have asked for this to assist them in their fight against domestic violence, I am so advised.

Mr. Speaker, there are safeguards against abuse of these powers that we propose to give and much of these safeguards were placed in the Senate by Senators there who were also concerned about this provision, but felt that the provision was necessary to provide that certain checks and balances were placed in. We did that, we included several amendments to give the safeguards against abuse of police powers, so that now the officer who would so act without a warrant would have to do a report and send it in to the Director of Public Prosecutions. He would then have to submit that report to the Commissioner of Police within seven days of receiving the report. So the officer sends it to the commissioner and the commissioner then sends it to the Director of Public Prosecutions where a complaint is made against a police officer resident in premises alleging that the officer's entry on to the premises under subclause 23(2) was unwarranted. The Police Complaints Authority shall investigate the complaint and submit a copy of its report to the Commissioner of Police and the Director of Public Prosecutions within 14 days of the complaint having been made. So where there is a complaint that the powers have been abused, these then would go further.

Where the investigation of the Police Complaints Authority finds that entry under subclause 23(2) was unwarranted, the Police Complaints Authority should also submit the report to the Police Service Commission and such report may

form the basis of disciplinary action against the police officer. These safeguards would ensure prompt action against officers who may seek to abuse the powers of entry in domestic violence cases. These checks and balances would minimize the risk of any abuse of power by the police.

Mr. Speaker, it is interesting to know that in Barbados where there is similar legislation, they have proposed additional safeguards that we have placed in our legislation in Trinidad and Tobago, and Barbados has not included those. They have gone no further than the Barbados provision to safeguard against abuse of police powers under this clause. The Barbadian provision is identical to our provisions prior to these amendments that were put forward in the Senate and which we have now included in the legislation.

All indications are that the police powers have been successfully and fairly administered by the Barbadian police force and Barbados has not regressed to a police state by virtue of having such a provision like ours without the safeguards that we have included. I believe that the fears which have been expressed can be alleviated in light of the additional safeguards that have been accepted by Government and included in the Bill. As I said, the existing criminal law to apply in clause 25:

> "...where a person is arrested under section 22 or 23, the person shall be charged in accordance with the relevant provisions of the criminal law..."

There are some other provisions, but I would like to close by saying that I trust that we would get the full support of this honourable House for this very important piece of legislation. We have had the full support of the entire Senate with the exception of one Independent Senator who abstained. *[Interruption]* Yes, I am repeating for the benefit of colleagues in this House. I look forward to their comments on this. I would say that in passing legislation, we must attempt to balance the constitutional rights of the individual to due process, but at the same time, the right of every individual to safety and protection of the law, and so we must attempt to ensure that no person has his or her eyes gouged out; no child has to witness a mother or a father chopped to pieces by a jealous lover; or that a 5-year-old has to be orphaned after his father batters his mother to death.

7.30 p.m.

Mr. Speaker, there is no denying that there is a tremendous amount of work that needs to be done. This legislation on its own will not stop domestic violence incidents from occurring, but it is our respectful view that the provisions of this Bill will go a long way in assisting, together with the other measures that have

been adopted by Government. The Ministry of Culture and Gender Affairs has put forward quite a number of other areas to assist in the fight against domestic violence, for example the Ministry has established—*[Interruption]* I can name them for you. Do we have time? Yes.

The Government has adopted a very holistic approach to dealing with the war against domestic violence. Therefore, there are support programmes that have been implemented by the Ministry of Culture and Gender Affairs and by the Ministry of Social Development. One of the first things we did when there was a spate of domestic violence murders, was the setting up of the 800-SAVE hotline in 1996.

In 1998, the Ministers reported that there were 2,611 calls. Out of these, 84 per cent were from women and 16 per cent were from men. A breakdown of the figures showed that the majority of female callers, that is approximately 70 per cent, said they were in unions (legal or common law), 17 per cent were single; 3 per cent divorced; 10 per cent separated. The largest number of calls came from County St. George, followed by County Caroni, Victoria and St. Patrick.

Further, the Ministry of Culture and Gender Affairs has established a Domestic Violence Unit on April 29, 1998. That Ministry has also launched a public awareness campaign by way of advertisements in newspapers, radio advertisements, flyers and other literature.

One of the most important measures adopted by that ministry was the drop-in centres. That programme was launched by the Domestic Violence Unit. There are 22 drop-in centres established in Trinidad and Tobago in community centres throughout the country to effectively address the needs of victims and perpetrators of domestic violence.

Each centre is to be operational for a period of eight hours per week. The day when the particular centre is open a social worker will be present for eight hours. The date of the opening will be advertised. This programme was temporarily out of operation but has commenced during the month of July 1999 where eight centres resumed operation. These are some of the measures that have been undertaken by the Ministry of Culture and Gender Affairs.

In addition, there have been seminars with members of the protective services. Some seminars have been held in a bid to sensitize the police officers. The community police have spent a lot of time, as well, in these matters. They have been sensitized to be more proactive in dealing with domestic violence matters.

There is one other measure that we have only today passed in this House. The Legal Aid and Advice Authority Act has been amended, as you know, to allow for applications under the Domestic Violence Act to access legal aid. In this legislation now there is a provision for mandating the Director of the Legal Aid Authority to grant emergency certificates for matters under the Domestic Violence Act.

Mr. Speaker, I thank you and, I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*)**:** Mr. Speaker, let me state at the outset that we are generally supportive of this legislation except for one or two clauses with which we have great difficulty. This legislation is long overdue and one hopes, when it is passed in its amended form, that it will be properly enforced so that the kind of abuse we have been hearing about will, at least, be restrained. I hope that the measures the Minster spoke about: the 800 line, call-in centres and so forth, will be extended to all parts of the country, especially Williamsville.

I think there are some things in this Bill—yes Williamsville, Sisters Road if you want to be more specific. There are some issues in this Bill which really undermine the constitutional rights of persons, and for the protection of persons—including Members of this House—so we have to object to certain clauses in this Bill. There are some definitions which we would really like the Government to look at very carefully: "financial abuse", for example, means—if the Minister would pay attention. Under this legislation, "financial abuse" means:

> "behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person's access to financial resources so as to ensure financial dependence."

What exactly does that mean? Does that mean that a husband could tell his wife: "I would prefer that you do not engage in gainful employment and that you stay home and look after the children." Is that what coercive control, limiting a person's access to financial resources could be? I think we have to look at cultural norms in Trinidad and Tobago when we are passing legislation of this kind. Really, we have to determine whether some of these provisions are relevant in the Trinidad and Tobago setting, such as this thing about telephoning. Persistent telephoning of a person is domestic violence? What is that? What does that mean? Is that two telephone calls, three telephone calls, telephone calls in the middle of the night? Also:

> "making unwelcome and repeated or intimidatory contact with a child or an elderly relative of the person."

Who determines whether it is unwelcome: the person, the child or the relative? Suppose someone has been involved in a relationship with another person and the relationship goes sour, but there is an effort on the part of one of the parties to repair the damage you go to the father or the mother of the person and ask him or her to intercede on your behalf, is this now going to be domestic violence? Because this is how it reads.

> "making unwelcome and repeated or intimidatory contact with a child or an elderly relative of the person."

What does this mean? Who determines whether it is unwelcome or not?

More importantly, the Bill does not appear to be drafted sensibly. If one looks at the definition of "abuse" in the First Schedule—if I go to page four of the Bill:

> "'physical abuse' means any act or omission which causes physical injury and includes the commission of or an attempt to commit any of the offences listed in the First Schedule;"

If one goes to the First Schedule, how could misuse of telephone facilities be deemed to be physical abuse? This is in the First Schedule, Summary Offences Act. They have to hit you with the telephone? There are some provisions here which you really need to look at. It seems to me these offences were just stuck in without looking, really, at the application.

> "'sexual abuse' includes sexual contact of any kind...and the commission of or an attempt to commit any of the offences listed in the First Schedule;"

How could attempting to destroy buildings with gunpowder, which is listed in the First Schedule, be sexual abuse? I would ask the Minister of Legal Affairs to take a good look—

Hon. K. Persad-Bissessar: That particular one, I myself spotted that today. I must admit I am also at a loss to see how it could constitute sexual abuse. I think what we need to do is to refer to the Sexual Offences Act in the First Schedule. That amendment will clarify.

Mr. C. Imbert: Fine. Because I mean, there were all sorts of things here:

"Drivers of vehicles injuring person by furious driving"

How could that be sexual abuse? I am glad the Minister has looked at it and would clean up the First Schedule as it refers to these crimes.

7.40 p.m.

Another very important issue is the question of penalties. Earlier today, we made a law allowing a little cabinet maker, making a swizzle stick without a licence, to be subject to a fine of $100,000. That was in the Sawmills Act. But, Mr. Speaker, in this legislation, which is very, very serious legislation, if we go to Part V, the penalty for contravening an order is only $9,000 or imprisonment for three months—absolutely ridiculous.

I mean, who on the Government side determines penalties? How, in one Bill, for making without a licence, a mortar and pestle, or a swizzle stick, or a "sapat", or anything manufactured with wood for sale, there is a fine of $100,000 and jail for five years, but on the same day, if you contravene an order, your fine is only $9,000. I mean, come on, let us get serious in this Parliament. This is Part V, Enforcement of Orders, clause 20:

"Subject to subsection (2) a person against whom an Order has been made and who—

(b) contravenes any provision of the Order...

commits an offence and is liable—

(i) on a first conviction to a fine not exceeding nine thousand dollars..."

It shows how thoroughly and how seriously this Cabinet looks at legislation. That $100,000 was absurd and this $9,000 is equally absurd, because if assault and battery and setting fire to buildings are offences—I mean, these are serious crimes and—

Mrs. Persad-Bissessar: How much would you suggest?

Mr. C. Imbert: I would say $25,000 as a minimum, but I would like you to think about it—you have asked me to pull a figure and I said $25,000—and when you come back, say it is $25,000. Because, the other thing is, I would hope that when a person commits assault and battery that he or she would also be charged for that offence. I would hope that it is not to be restricted just to breach or contravention of a protection order. But I understand the whole point of the protection order is to take immediate action, because the other matters may have a long gestation period through the courts. So, I would like you to look at it. I am just saying $25,000; perhaps you should look at it and deal with that.

Mr. Speaker, the clause with which we have the greatest difficulty is clause 23. Now, in this land ruled by the UNC, with its record of abuse of human rights, clause 23(1) says:

> "Where a police officer has been invited onto premises by a person apparently resident in those premises..."

"apparently resident"; they do not have to be resident; they just have to be "apparently resident".

> "for the purpose of giving assistance..."

I know Members on this side do not agree with this clause; I am hearing it over there.

> "for the purpose of giving assistance to that person or another who has suffered or is in imminent danger of suffering physical injury at the hands of another person in a situation amounting to domestic violence the police officer may, without a warrant, enter the premises...and shall take such action as is reasonable to prevent the commission or repetition of the violence complained of."

Let me give a hypothetical situation. A man and a woman are in a co-habital relationship. The relationship goes sour, or the woman has an outside man. The outside man is a policeman—and this is not unusual in Trinidad and Tobago.

Hon. Member: That the outside man is a policeman.

Mr. C. Imbert: No, it is not unusual. This is why I say one has to look at cultural norms in Trinidad and Tobago when passing legislation like this. So, the woman has an outside man who is a policeman. She calls up the police station—[*Interruption*] I say this is not unusual—calls her outside man and says, "My husband is beating me! Come!" That constitutes invitation; gives the policeman reasonable cause to believe that the woman is going to suffer violence. He enters the premises; nothing is happening; the poor man is peacefully sitting watching television; but it is a set-up. She may wish to get his property; she may wish for him to be murdered. So, the policeman comes in, shoots him dead and then says, "He was choking the woman when I came in and I could not get him away." Or, "He was about to stab her with a knife, so I shot him." Who are the witnesses to this crime? The woman and the outside man. These are real life situations and in passing legislation, one must not be flippant.

I am very reluctant to allow police officers the right to enter a home just because someone allegedly lives there, because it says "apparently resident". The person does not even have to be living in the house. It could be mistaken identity, because it is "apparently resident".

Mr. D. Singh: Propose a solution.

Mr. C. Imbert: I do not agree with that at all. The existing law says, as the Minister of Legal Affairs said, if the police has reasonable cause to believe that a crime is being committed, they can enter without a warrant. That is existing law. But, the onus is on the police to prove that they had reasonable cause and that is the difficulty; that is where the problem lies.

The question of a set-up is going to be much more difficult when the onus is on the police to prove that they had reasonable cause, but the way this is written, a police officer has been invited—which means it is just a telephone call—by someone "apparently resident"—which means they just have to believe that the person is there—for the purpose of giving assistance. It is much too wide and it is open to too much abuse in this country, because we are passing laws for Trinidad and Tobago. These laws may work in the United States of America; they may work in Canada; they may work in England.

Mrs. Persad-Bissessar: Barbados.

Mr. C. Imbert: They may even work in Barbados. Barbados may be a completely different society. Just because it is an island in the Caribbean does not mean it has our history and our experiences.

Mr. D. Singh: It has our experience and our history.

Mr. C. Imbert: No. Barbados may be totally different from Trinidad and Tobago. It does not have our ethnic mix, for example. It does not have our traditions. It is a different country. So, this law may work in Barbados; it may not work in Trinidad and Tobago.

Mr. D. Singh: You want something now?

Mr. C. Imbert: So that, we reluctantly have to say that we cannot support clause 23. We believe the existing provision in the law where police have reasonable cause and can enter without a warrant, should be used to deal with this. This is very, very powerful legislation. Forget clause 23. If one looks at the rest of this Bill, what we are doing is landmark legislation; even if we delete clause 23, this is landmark legislation. We are making a vast improvement to existing law. I think we need to be careful.

Mr. D. Singh: Well, tell us what to do.

Mr. C. Imbert: I do not think we are ready for clause 23. I propose that you take it out, monitor the situation and, if necessary, come back. But, I really do not think, at this stage in our history, that this can work. I think we need some sort of precedent; we need some sort of experience with this domestic violence

legislation. It is the first time that all these actions will be offences—let me read them for you, under the domestic violence legislation.

PROCEDURAL MOTION

The Minister of Public Utilities (Hon. Gangar Singh): Mr. Speaker, in accordance with Standing Order 10, I beg to move that this House continue to sit until the completion of the matter being debated.

Mr. Valley: What?

Mr. Speaker: Completion of?

Hon. G. Singh: Until the completion of the Member's contribution.

Question put and agreed to.

DOMESTIC VIOLENCE BILL

Mr. C. Imbert: Mr. Speaker, if one looks at the definition of "domestic violence", it says:

> "...physical, sexual, emotional or psychological or financial abuse committed by a person against a spouse, child, any other person who is a member of the household or dependant;"

Let us go on now:

> "'emotional or psychological abuse' means a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a person including—
>
> (a) persistent intimidation by the use of abusive or threatening language;"

What does that mean? That means if a person goes home and uses obscene language against his spouse, that is domestic violence. I mean, I am not saying it should not be, but consider what we are trying to enact in this House today.

> "(b) persistent following of the person from place to place;"

So, if a man has a "tabanca" and he is following a woman around, that is domestic violence. No, serious.

> "(d) the watching or besetting of the place where the person resides, works, carries on business or happens to be;"

I mean, plenty Members on that side would be in trouble—watching of the place where the person resides. [*Laughter*] You stand up outside the house and watch and that is domestic violence. Some of the things I can understand.

"(f) the forced confinement of a person;"

That I can understand. That is a criminal offence.

"(e) interfering with or damaging the property of the person;"

A criminal offence, I can understand that; but, these new crimes—watching the place where the person works or lives; limiting a person's access to financial resources; following a person from place to place.

Mr. D. Singh: Eddie Hart needs to watch himself.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. C. Imbert: So that we need to be very, very careful and we need to walk before we can run. We need to see how the court deals with all these offences because some of them are very subjective and very ambiguous.

On that basis, while we support all the clauses in the legislation with the exception of clause 23 and, possibly, clause 24; we cannot agree with clauses 23 and 24. We need proper definitions of these new offences and, therefore, we reluctantly say that while we support the intent and principle of the Bill, we cannot support clause 23.

I thank you, Mr. Deputy Speaker. [*Desk thumping*]

ADJOURNMENT

The Minister of Public Utilities (Hon. Gangar Singh): Mr. Deputy Speaker, I beg to move that this honourable House do now adjourn to Thursday, July 29, 1999 at 10.00 a.m. Mr. Deputy Speaker, by mutual agreement, the Motion on the Adjournment by the Member for Tunapuna has been deferred to Thursday, July 29, 1999.

Mr. Valley: Before you go, what are we doing on Thursday?

Hon. G. Singh: On Thursday 29, 1999 we will continue debate on the Domestic Violence Bill; we will also deal with the Criminal Injuries Compensation Bill, the Orisha Marriage Bill, the Land Acquisition Motion and the Motor Vehicles and Road Traffic (Amdt.) Regulations, not necessarily in that order, Mr. Deputy Speaker.

We will deal with the Motion of the Member for Laventille East today.

Mr. Deputy Speaker: Hon. Members, before we take the question of the Adjournment, the Member for Laventille East has a matter to be raised.

7.55 p.m.

Primary School Textbooks (Crisis)

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Thank you very kindly, Mr. Deputy Speaker. I am grateful for your leave, in accordance with Standing Order 11, to deal with the Motion regarding the taking of preventative action to avert a crisis and further crisis, as a result of the selection of primary school textbooks by the Ministry of Education for the new school term beginning September 1999. [*Desk thumping*] The issues involved here, one would agree, have been well-ventilated across the country by way of the various media forms over the past two or three weeks. But we have a duty in this Parliament to cause these issues to be on the parliamentary record and, therefore, a permanent record.

The history of this matter is painful to contemplate. We in this country had, for many years, existing textbook evaluation committees from time to time. It is admitted that they operated very vague concepts of acceptability for school books and, as a result, certain malpractices were possible. Mr. Deputy Speaker, the Government—initiated, in particular, by the Prime Minister—caused there to be a task force to study approved primary school book list, and this was headed by Mr. Clive Pantin. It is important to note immediately that in the report, which was laid in this House, the chairman of that task force said:

> "A major source of conflict was the interpretation of the word 'standardisation'. Cabinet's instruction, as conveyed by the Minister of Education, that one book only at each level in each subject should be used in all schools was at odds with the opinion of the Textbook Committee, Ministry officials, Principals and Publishers."

That was quite clear—Mr. Pantin found so—as early as January 13, 1998; not 1999, but 1998.

Mr. Deputy Speaker, more than that, the Tasks Force report at Appendix 8 states:

> "Standardization must not be taken to mean the use of only one textbook in a subject, or in an element of that subject throughout the system at any particular level. That is, there should be no stipulation that the same text in a subject should be used in the same class in every school in the country."

That was quite clear. The Prime Minister initiated, presumably through the Member for Tabaquite, a situation where the old textbook evaluation committee

was made defunct and a new one was established under the chairmanship of Prof. Kenneth Ramchand, an intellectual, an academist, a man respected by one and all in this country.

That committee of 14 members, took time, public resources and moneys and studied the issue in great detail, in *minutiae*. Having come up with recommendations similar to what I have just read by the Clive Pantin task force, it was quite clear that at all times the Government, the Prime Minister, in particular—and I will demonstrate why I say so—never intended to apply the views of the majority and those who knew what existed in education, but was prepared, from the start, to proceed with the one-book/same-book philosophy. So that even though he went through the charade of appointing a new textbook evaluation committee, headed by Prof. Ramchand, he knew in advance that he would never accept its recommendation because Mr. Panday and company were bent on having their way, with the same book philosophy.

What creates the crisis, Mr. Deputy Speaker, is this: as it stands today, one publisher has the right to publish all the books in mathematics from standard one through standards two, three, four, and five, in the primary schools. The same exists in respect of language and science. So that what the Prime Minister said is quite true, that the extent of this issue is a very serious one, not only in academic and social terms, but also in economic terms, because the task force discovered in 1997 that the primary school text book industry runs in the realm of $200 million. Therefore, when today in the face of recommendations of the Textbook Evaluation Committee headed by a man who knows or, at least, ought to know, the Prime Minister insists on having his own way, one has to wonder why. Who are they trying to assist? [*Crosstalk*]

Mr. D. Singh: The children!

Mr. Deputy Speaker: Order, order!

Mr. F. Hinds: When the Textbook Evaluation Committee was involved in its work, Circular No. 41 was issued from the Ministry of Education. Circular No. 41, *inter alia*, prescribed the texts that were approved by the new Textbook Evaluation Committee for the year 1999 to the year 2000. They had specific criteria to evaluate these books that were superior and more efficient than the old, watered-down, vague, methods of previous textbook evaluation committees. *[Interruption]*

Mr. Deputy Speaker: Order, order.

Mr. F. Hinds: Circular No. 41 accepted, wholly and entirely, the recommendations of the Textbook Evaluation Committee in mathematics, science and language arts. The committee made no recommendation as to social studies because they found that none of the books they looked at met the required high standards set by that evaluation committee. Circular No. 41, like all circulars, is a general letter published to all in education: principals and ministry officials, at the hand of the Minister.

The principals of the schools were asked to meet with members of the very textbook evaluation committee in May of 1999, and were told to assist in the implementation, if they could; look at the books, make recommendations and so forth. Mr. Deputy Speaker, there was the problem: what they came up with, as I said, was not acceptable to the Prime Minister. In spite of the fact that a Cabinet note was forwarded from the Ministry of Education by the Minister of Education, adopting and accepting the recommendations of the very textbook evaluation committee.

The Minister of Education, the Member for Tabaquite, went to Cabinet with recommendations on the basis of recommendations made by the Textbook Evaluation Committee which were in harmony with those made by the task force headed by Mr. Pantin. They had recommended the books that were prescribed and the Minister accepted. The position was for principals to have chosen one of two books, so that choice would remain and rest with the principals. If we are in a democratic society—we are not in Russia or the former Soviet Union, we are not told what we must read; this is not about 1984—the choice is concept akin to democratic traditions. We were supposed to have had a situation based on the recommendations, that the principals would choose the books that they saw fit.

The example was given by Prof. Ramchand. In Toco where you have a fishing village, if you want to teach children to count—because counting remains the same in Toco as it does in Carenage or Parlatuvier—you may wish in Port of Spain to use mangoes: eight mangoes plus five mangoes equal 13 mangoes. In Toco you may wish to say: eight fishes plus five fishes equal 13 fishes, it is as simple as that. [*Interruption*] The point that is being made—although they may laugh—the serious point being made is that from area to area in the country, we are not as homogenous as people may think; there are different cultures in different pockets of the society, therefore, different examples and teaching methods may be appropriate. But not the Prime Minister and this Government. They want by way of *dicta* to tell people in this country, "You must use that particular textbook!"

By the time the Minister of Education walked into Cabinet with his Cabinet Minute, it was shot down by his colleagues; more particularly, we understand, not by his colleagues, but by the Prime Minister. The man who once said, "If you see the lion and the Prime Minister in a fight, feel sorry for the lion". [*Crosstalk*] He now changes his song and said to feel sorry for the Prime Minister because of what happened two Mondays ago. He understands full well what is coming.

Mr. Deputy Speaker, the position is, first of all, it is quite clear from that which I have demonstrated, that the Government never intended to adopt the one book with choice philosophy. They clearly had an intention outside of the ordinary. They had extraneous motives to fulfil, that is only reasonable for us to conclude. The Prime Minister, heartlessly and very deceitfully—I saw him on the television—said thanks to the Textbook Evaluation Committee. I want to ask the Prime Minister and the Minister of Education: if they call on citizens, professionals like Prof. Kenneth Ramchand and others to take their time for some small stipend, not $15,000, to make recommendation for the good and benefit of primary school children, and the nation by extension, and at the end go on the television and say in a very sarcastic, angry manner, “Thank you, thank you; allyuh business is not to decide for the Government or to tell us on policy; allyuh business is to make recommendations, we do not have to accept them, so away with you, and we will go back to what we intended in the first place!” How do you expect to attract educated, intelligent, civic-minded citizens to the service of the Government and to this country, Mr. Deputy Speaker? [*Crosstalk*]

Worse than that, I am being reminded, and it is quite true, notwithstanding all that the Prime Minister said about cheaper and lighter book bags—because everybody agrees on the one book concept: TTUTA, the Principals Association, the parents, the ministry and the Ramchand committee agree on that, there is no divergence on that; everybody agrees that the book bag should be lighter and the books cheaper—but the textbook that the Prime Minister has eventually dictated to be used in schools happen to be more expensive. In one case the book that was recommended by the Ramchand committee would have cost $49, the book that the Prime Minister dictated—as if he was in the middle of the Soviet Union prior to 1990—is $65! But they are not fooling anybody. The people of this country understand that they will be paying more for a book that has been dictated for use by the Prime Minister of this country, having decided to fly in the face of the recommendations of the Ramchand committee.

Mr. Deputy Speaker, in conclusion, this has created a crisis and problems. Last year, when September, October, November and even December came,

because of the fiasco with the same standardization, books were not available to parents for purchase for their children. We anticipate because of Circular 41 and because of the consultations between the publishers and the Ramchand committee, that they went ahead, some of them, and printed books on the assurance that their books were accepted by the Minister and the Ministry. So now that the Prime Minister has removed the goalpost and changed the rules while the game was in play, books are not now available. So we expect—and this is the crisis, apart from the dissatisfaction of teachers and principals, apart from the fact that they want teachers to teach with books with which they are not comfortable and happy, not having chosen them—that the publishers will not be able to supply the schools with the books that were unexpectedly thrust upon them.

8.10 p.m.

Come September, October, November, we will be in crisis and confusion in this country caused by a Government that claims to have education as the flagship in its efforts to the year 2000 and beyond. That Government has failed palpably and all it does is move on in this country creating confusion and chaos, crisis after crisis, I call on the Prime Minister to avert it promptly by allowing the Ramchand committee's recommendations to stand. I thank you, Mr. Deputy Speaker. [*Desk thumping*]

The Minister of Education (Dr. The Hon. Adesh Nanan): Mr. Deputy Speaker, there is no textbook crisis. If the Member for Laventille East/Morvant believes that by putting an end to the textbook nightmare faced by our parents and children over the years constitutes a crisis, then I am convinced that he really does not have the interest of the vast majority of his constituents at heart. [*Desk thumping*] [*Interruption*] What we have done is put an end to the trauma experienced annually by parents in this country. The crisis was when our children had to endure bulging book bags and parents had to dig deep into their pockets to purchase books that were on book lists, books that were not even used by their children. This was the crisis, a crisis conceived by the PNM, nurtured by the PNM, promoted by the PNM and which flourished under the PNM, Mr. Deputy Speaker. [*Desk thumping*]

It is no secret that textbook publication has spawned an industry in Trinidad and Tobago serving publishers and writers. I said serving publishers and writers because the children were the losers, having to contend with low-quality publications, demonstrated by textbooks filled or riddled with errors and at high cost. [*Desk thumping*] Let us this evening examine how the PNM approached the

matter of textbook evaluation and selection. Yes, they had set up a committee with the mandate to make textbooks affordable and available.

Let the Member for Laventille East/Morvant tell us what happened to the recommendations of this committee under the PNM. Not a single recommendation was implemented. Why? Tell us why. Were the PNM blind, myopic or just simply wicked—

Hon. Member: Wicked, wicked.

Dr. The Hon. A. Nanan: —to the children of our nation? [*Desk thumping*] Were they wicked to our children or were they protecting and promoting the publishers and writers at the expense of our children? [*Desk thumping*] [*Interruption*] Every day one can see young children going to school bending forward with the weight of book bags, and two-thirds of those books which were never used. [*Desk thumping*] It was pressure on their spinal column. [*Desk thumping*] I have no doubt that the heavy school bags contributed to what is now common in this country, that is scoliosis. [*Desk thumping*] Clearly, the PNM did not care one bit about our children.

Let me re-emphasize, this Minister of Education—[*Interruption*]

Mr. Deputy Speaker: Order.

Dr. The Hon. A. Nanan: They want to frustrate me, Mr. Deputy Speaker, but the country will know tonight how the benefits will be put forward for the children, all who make up your constituencies in the various electoral districts. Let me re-emphasize, this Minister of Education and this Government has put a stop to this burden. We are lifting the burden from our children and, by extension, parents who must find the money to finance the book list. We have not only lightened the book bags, we have, by our own policy, reduced the cost of the primary school child's book list and book bag from $1,200.00 to $300.00. [*Desk thumping*]. I ask my hon. friend there representing Laventille East/Morvant, what is the crisis? [*Interruption*]

Mr. Deputy Speaker. Order, order.

Dr. The Hon. A. Nanan: Mr. Deputy Speaker, I did not interrupt the Member for Laventille East/Morvant because I wanted to hear what contribution he had to make, but I did not hear anything so I want to put this on the record to show the country what this Government is doing for the children of this nation.

The World Bank last Friday agreed to the process adopted by the Ministry of Education in the selection of the textbooks on the prescribed list for the

1999/2000 school year. What was that process? The Textbook Evaluation Committee recommended books for three subject areas. The recommendation was circulated to principals by Circulars Nos. 41, 47 and 55 dated May 20, 1999 and June 7, 1999 respectively. Circular 47 was subsequently withdrawn. Of the 486 principals of primary schools circularized, the majority chose the textbooks for three subject areas prescribed in the final list as indicated in Circular Memorandum No. 68 dated June 28, 1999. No social studies text was selected because the Textbook Evaluation Committee did not find a suitable textbook to recommend.

The textbooks selected by the majority of principals for the three subject areas were the ones on the final list so there was choice. The principals selected the books that ended up on the final list and they are the only prescribed books recognized by the Ministry of Education. I want to make that absolutely clear in this House tonight. There is no doubt that the books that are on the final list will be in all schools in Trinidad and Tobago. To ensure that Circular No. 68 is complied with, we published in the daily newspapers the prescribed list on Circular No. 68. I am sure you would agree, Mr. Deputy Speaker, that we have been guided by the experience and operative competence of principals.

Government recognizes its obligation to ensure that all children of school age are able to access primary school education. We also recognize for the new millennium that our children are from poor homes and cannot even get the one book prescribed for the three subject areas. Are you aware of that? [*Cross talk*] Listen to this. In recognizing this need, the Ministry of Education will provide free textbooks from the prescribed list to 53,000 school children come September. [*Desk thumping*] These needy children have already been identified by principals. [*Cross talk*]. I am pleased to announce as well that supplementary textbooks from the recommended list will be made available to schools, based on the availability of funds.

Our commitment to our school children is further demonstrated by the fact that we have placed computers in schools and I thought I would have heard tonight from the Member for Laventille East/Morvant about computers in his constituency with specific reference to Success RC Primary School. [*Desk thumping*]. He is not even aware. I gave it on July 6, that memorable day, nine o'clock in Success RC.

Hon. Member: Take that. [*Desk thumping*]

Dr. The Hon. A. Nanan: Please be informed, hon. Member.

Hon. Member: He does not know anything. [*Crosstalk*]

Hon. Member: He does not service his constituency.

Dr. The Hon. A. Nanan: Cabinet decidedly moved in favour of children when it narrowed the choice of prescribed textbooks in schools. Also, had we allowed different books in different schools, it would have perpetuated the previous chaotic situation, Mr. Deputy Speaker—

Hon. Member: Racket, racket.

Dr. The Hon. A. Nanan: —a situation that led the Member for Laventille East/Morvant to speak of a textbook crisis.

Hon. Member: There is no crisis.

Dr. The Hon. A. Nanan: We have removed the crisis, my friend from Laventille East/Morvant, because we have protected our children.

Hon. Member: That is your friend? He is your friend?

Dr. The Hon. A. Nanan: Yes, he is still my friend.

Hon. Member: No, no, he cannot be your friend.

Dr. The Hon. A. Nanan: Once there are children in his constituency he is my friend.

Hon. Member: You are just a generous man, that is all.

Dr. The Hon. A. Nanan: Mr. Deputy Speaker, I want on behalf of the Government to thank members of the Textbook Evaluation Committee for their service. The Committee has done its work by making recommendations. It is the responsibility of the Executive to act in the interest of all our children. [*Desk thumping*] I would like to make an appeal here tonight for the Trinidad and Tobago Unified Teachers Association to join us in reducing the burdens on our children and their parents. We want the children to be the winners. As I close, it is ironic that the hon. Member for Laventille East/Morvant would be promoting the interest of publishers [*Desk thumping*] rather than the poor children in his constituency—[*Interruption*]

Hon. Member: Shame on you.

Dr. The Hon. A. Nanan: —whose cause he purports to champion. [*Desk thumping*]

Hon. Member: Shame on you. [*Desk thumping*]

Dr. The Hon. A. Nanan: I call on the hon. Member for Laventille East/Morvant to join this Government as we move towards the new millennium in building the education system and strengthening the foundation for a total quality nation. Thank you.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.24 p.m.