

Leave of Absence

Monday, October 2, 2000

HOUSE OF REPRESENTATIVES

Monday, October 2, 2000

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from the Member for St. Ann's West who has asked to be excused up to October 4, 2000. The leave of absence which had been granted to the Member for Ortoire/Mayaro on an earlier occasion, continues until October 14, 2000. The leave of absence which the Member for St. Ann's West seeks is granted.

CARIBBEAN COURT OF JUSTICE

(FACTS RELATING TO THE ESTABLISHMENT OF)

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, two papers entitled "The Caribbean Court of Justice: The History and Analysis of the Debate" and the "Caribbean Court of Justice Draft Instruments" were laid in this honourable House on September 29, 2000.

The intention of laying these documents was for hon. Members and the national community to be informed of the matters contained therein so they would have a fuller understanding of the material facts relating to the establishment of the Caribbean Court of Justice.

The Caribbean Court of Justice would replace the Judicial Committee of the Privy Council as the final Court of Appeal for the Caribbean. Apart from the appellate jurisdiction which the court would exercise, the court would also have an original jurisdiction in the interpretation and application of the Treaty of Chaguaramas.

With the creation of the Caribbean Single Market and Economy, such a court with an original jurisdiction is necessary. There must be a judicial body to interpret the Treaty so the disputes between and amongst states must be resolved.

The original jurisdiction of the Court would also be invoked by national courts of contracting parties referring matters to the Court. The Court, in its original jurisdiction, would have exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty.

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The paper entitled "The Caribbean Court of Justice: The History and Analysis of the Debate" chronicles this debate on the need for the establishment of such a court from as far back as 1947 when West Indian Governors recognized the need for a West Indian Court of Appeal. The Court therefore has a long gestation period.

Mr. Speaker, 1970 stands out as a very critical year in the life of the Court. In that year, at the Sixth Heads of Government Conference, Jamaica proposed the establishment of a Caribbean Court of Appeal in substitution of the Privy Council.

In June 1989, Heads of Government at their Tenth Meeting took a decision to establish the Court.

In 1992, Heads of Government again decided that the establishment of such a Court was necessary.

Mr. Speaker, the Report of the West Indian Commission entitled "Time for Action" under the heading "The Time Has Come" stated:

"(W)e believe that the time is at hand for establishing the Caribbean Court of Appeal...We do not wish to minimise the issues which have characterised the discussion;...but we are strongly of the view that we cannot, like the characters in a Chekhov play, go on sitting around tables forever discussing the pros and cons of action and in the process forever deferring it."

Mr. Speaker, between 1996—1999, Attorneys General of Caricom in the Legal Affairs Committee were able to draft the instruments contained in the second paper entitled "Caribbean Court of Justice—Draft Instruments".

The availability to Heads of Government of the Draft Instruments permitted the Heads of Government of the Caribbean Community to take a decision in July 1999 to establish a committee to determine and implement arrangements for the inauguration of the Caribbean Court of Justice prior to the establishment of the Caribbean Single Market and Economy.

The Committee was also mandated by the Heads of Government of Caricom to develop and implement a programme of public education within the Caribbean Community about the Court.

The public education programme must include informing the public, not only about the history and analysis of the debate, but also about the contents of the proposed Instruments.

The arguments for and against the establishment of the Court are set out in the first paper laid. Some of the arguments which have been advanced in favour of the Court are:

1. The Court would be a symbol of our efforts to assert our independence and force Caribbean unity.
2. The need to develop the notion of a Caribbean jurisprudence.
3. The Privy Council is geographically far removed from the Caribbean. That distance of the Privy Council makes justice inaccessible to many people of the Caribbean.
4. The regional integration movement and future prosperity for the Caribbean favour the establishment of such a Court.
5. The movement towards the establishment of a Single Market and Economy and the right to determine our own economic space required that we have sound interpretation and adjudication on matters concerning the Instruments governing our economic space.

Some of the arguments which have been advanced against the Court are:

1. Judicial independence—it is felt that because of its geographical location, the Judicial Committee of the Privy Council is insulated from political and local pressures and influences.
2. Scarce Financial Resources—it has been advanced that the personnel as well as financial resources which are crucial to the maintenance and efficient performance of the Court are in scarce supply and that West Indian institutions suffer from a lack of resources.
3. National justice systems are not as competent, efficient and expeditious as the Judicial Committee of the Privy Council. Governments should direct their attention and resources to fixing the broken down and ineffective national justice sectors before they take steps to remove the Judicial Committee of the Privy Council.

The paper gave the history of the debate, gave the arguments which have been advanced for and against in order to properly inform the population of the matters.

The second paper entitled “The Caribbean Court of Justice—Draft Instruments” contains a collection of the following instruments:

- Agreement establishing the Caribbean Court of Justice
- Agreement establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Community

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- Rules of the Caribbean Court of Justice (Appellate Jurisdiction)
- Proposed Code of Judicial Conduct
- Protocol on the Privileges and Immunities of the Caribbean Court of Justice and Regional Judicial and Legal Services Commission
- Regulations of the Regional Judicial and Legal Services Commission
- The Draft Enabling Bill to implement the agreement establishing the Caribbean Court of Justice.

I will, in a very brief way, give an idea of each one of these instruments.

The Agreement establishing the Caribbean Court of Justice—this Agreement is the instrument that would give effect to the establishment of the Caribbean Court of Justice. It provides for:

1. The membership to be open to member states of the Caribbean Community and to any other Caribbean country that is invited by the Conference of Heads to become a party to the Agreement.
2. The vesting of the court with two jurisdictions, that is, an original and an appellate jurisdiction.
3. A court comprising the President and not more than nine other judges of whom, at least three should possess expertise in international law. The court would be duly constituted if it consists of not less than five and an uneven number of judges.
4. The appointment or removal of the President by a three-quarters majority of the Contracting Parties on the recommendations of the Commission.

The Heads of Government agreed with Trinidad and Tobago that the criteria for the appointment of a judge of the court should not be based solely on professional qualifications and experience but that persons to be appointed must have the following additional characteristics:

- High moral character;
- Intellectual and analytical ability;
- Sound judgment;
- Integrity; and
- An understanding of people and society.

The Agreement would also establish the Regional and Legal Services Commission which would be responsible for appointing judges to the Court. The Commission would comprise the President of the Court and eight other members. The President would chair the Commission. Of the other members:

- 1) One would be from the regional body representative of the legal profession;
- 2) Two would be nominated by the Bar or Law Association of Contracting Parties;
- 3) One would be a distinguished Caribbean Jurist appointed after consultation with the Dean of the Faculty of Law, the University of the West Indies, the Council of Legal Education and the Dean of the Faculty of any contracting party.
- 4) The remaining members would comprise the Secretary General of Caricom or his Deputy, two Chairmen of the Judicial Legal Services Commission of the contracting parties and the Chairman of the Public Services Commission of the contracting party.

The Agreement requires that the expenses of the Court and the Commission, including the cost of maintaining the seat of the Court and the remuneration and allowances of the members of the Judiciary of the Court and other payments to officials and employees of the Court, are to be borne by contracting parties in such proportions as agreed to by the contracting parties. The monies required to be paid by the contracting parties would be charged on their respective Consolidated Fund.

The Heads of Government have mandated their Ministers of Finance to provide funding for the recurrent expenses of the Court for the first five years of its operations. Additionally, the Legal Affairs Committee has approved a Financial Protocol, which provides, *inter alia*, for the establishment of a Trust Fund, the proceeds of which will help defray the recurrent expenditure of the Court. Sections of the international donor community have already indicated interest in contributing to the Trust Fund.

The Draft Headquarters Agreement Relating to the Court and the Regional Judicial and Legal Services Commission would set out the undertakings given by the host country party and the Caribbean Community. The Heads of Government agreed that Trinidad and Tobago would be the seat of the Court and, as such, the Agreement would deal with the operating conditions including those of the

privileges and immunities to be enjoyed by the Court and its officers. All the capital expenditure for the Court would be borne by the Government of Trinidad and Tobago. Trinidad and Tobago had initially provided the “NIPDEC Building” at Cipriani Boulevard which housed the Port of Spain Magistrates’ Court to be the temporary headquarters, but Cabinet has subsequently agreed in the light of the cost factor, that the Winsure Building on Richmond Street which housed the Ministry of the Attorney General and Legal Affairs be now refurbished and be prepared to house the Caribbean Court of Justice.

Rules of Court of the Caribbean Court of Justice—the rules cover a number of issues like:

- (a) regulating the sittings of the Court;
- (b) practice and procedure of the Court;
- (c) costs;
- (d) delivery of judgements; and
- (e) time limits.

Proposed Code of Judicial Conduct—the document entitled “Proposed Code of Judicial Conduct” would establish a code of ethics intended to preserve the integrity and effectiveness of the Court. Trinidad and Tobago had strongly advocated a Code of Judicial Conduct and the Legal Affairs Committee of Caricom and the Heads agreed to the Trinidad and Tobago proposal. It is expected also that all national courts within the community would have similar codes.

The following are some of the requirements set out in the Code:

- Members of the Judiciary of the Court are to be of sound and moral character, as stated before;
- Judges of the court are to avoid impropriety or the appearance of impropriety in all their activities. They are to conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary;
- Judges are required to respect and fully uphold the law by performing their duties impartially and diligently;
- Judges of the Court are required to regulate their extra judicial activities to minimize the risk of conflict with their judicial duties, not allowing their family, social and other relationships to influence their judicial conduct of judgment not lending to the prestige of their office to advance the private interests of others.

- Judges of the court are not to participate in any political activity or any other activity inappropriate to their judicial office; inappropriate financial, business or other dealings that could adversely impact on their impartiality, or compromise or interfere with the proper performance of their judicial duties would run afoul of the code.
- Judges of the court are required to disqualify themselves from hearing any matter where a conflict of interest arises. They are also required to ensure that judgments and written reasons are given in an expeditious manner.

1.45 p.m.

Mr. Speaker, the *Draft Protocol on the Privileges and Immunities of the Court and the Commission* is a multilateral agreement to be signed by all the contracting parties. The document speaks for itself. It states what privileges and immunities the Court's staff would enjoy wherever they sit.

The regulations of the Regional Judicial and Legal Services Commission would govern the commission in the discharge of its functions in respect of the appointment, disciplining, termination of employment and other terms and conditions of service and employment for officials and employees of the court and the Judges, with the exception of the President.

Finally, the draft enabling Bill to implement the agreement establishing the Caribbean Court is a model Bill which contracting parties would be required to follow in enacting legislation in their respective countries to give effect to the agreement.

Mr. Speaker, those are the instruments. In conclusion, I wish to note that the Judicial Committee of the Privy Council has been the final appellate court of the Caribbean since 1833; when Trinidad and Tobago was still under British rule.

In having a Caribbean Court to replace an institution which has been with us for 167 years, it is important for governments to ensure that the public would have confidence in such an institution. In discharging that obligation to the people of Trinidad and Tobago, the Government of Trinidad and Tobago is not only making these documents available to Members of Parliament, but will take steps to ensure that these documents are available to the public at large.

Mr. Speaker, I think I should also put on record that the Attorneys General of Caricom met, approximately four weeks ago, with some law associations of CARICOM to consult with them in respect of the court and they propose to meet again with the law associations of the Caribbean to further those discussions.

I should mention that one of the matters which has been raised by the lawyers, and also members of the public is that governments, although in countries which do not require to have a referendum—some countries require for there to be a referendum to give effect to this change—have been asked that even in countries where a referendum is not required, that governments should consider not treating this matter as a strict legal issue, but should allow the people of the country to participate in showing their views.

These and other matters are matters which the Attorneys General would have to consider in making representation to the Heads of Government.

I wish to undertake, in this statement, to keep the House and the national community fully informed on the progress for the establishment of the Caribbean Court of Justice.

Thank you very much.

Mr. Speaker: There is a second statement by the Attorney General.

RING BANG 2000 CONCERT
(TOBAGO HOUSE OF ASSEMBLY—AUDIT)

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): On February 01, 2000, the Minister of Finance, Planning and Development, under section 9(5) of the Exchequer and Audit Act, Chapter 69:01 requested the Auditor General to carry out an audit on the Tobago House of Assembly, in respect of its expenditure relating to the Ring Bang 2000 Concert, following reports reaching him of the unauthorized expenditure in respect of this project for which there was no parliamentary approval.

The Auditor General was requested to submit her report on this matter within one month of the receipt of the Minister's letter. In pursuance of this request, the Chief Administrator of the Tobago House of Assembly was informed by letter dated February 10, 2000 of the audit exercises to be conducted and the officers authorized to undertake the exercise. Further, he was requested to give these officers access to all relevant accounts, records and documents of the Assembly, which they may require in order to allow them to obtain the necessary information.

The Chief Administrator of the Tobago House of Assembly, by letter dated February 14, 2000, refused to comply and stated *inter alia* that the authority of the Auditor General, under section 9(5) merely requires her to examine a particular expenditure which is included in the appropriation account to see if it is supported by the authority of the Treasury, and that the authority cannot be used for any collateral purpose.

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A response to the Chief Administrator, dated February 21, 2000 pointed out that the Auditor General had the legal authority under section 46 of the Tobago House of Assembly Act, No. 4 of 1996 to audit the accounts of the Tobago House of Assembly.

By memorandum dated February 04, 2000, the Auditor General sought the advice of the Attorney General in accordance with section 19(1)(f) of the Exchequer and Audit Act, as to the correct legal interpretation of section 46 of the Tobago House of Assembly Act, 1996.

The Solicitor General, by correspondence dated February 16, 2000 advised as follows:—

"In light of the foregoing analysis of the relevant statutory provisions, it is submitted that the THA is governed by the Exchequer and Audit Act, and by implication, the Financial Regulations."

The Chief Administrator, in response to the Auditor General's, letter of February 21, 2000 stated *inter alia*:—

"It appears from section 9(5) of the Exchequer and Audit Act that before you can examine any expenditure pursuant to section 9(5) of that Act at the request of a Minister, the expenditure must be one included in the appropriation account. It is not in respect of any expenditure that a Minister may require you to report under section 9(5), but in respect of a particular type of expenditure.

I shall be grateful if you can assist me on this particular issue so that I can be satisfied of your authority to embark on a section 9(5) examination."

Accordingly, the Auditor General, by memorandum dated March 31, 2000 sought the advice of the Attorney General to ascertain the legal interpretation of section 9(5) of the Exchequer and Audit Act, Chapter 69:01.

A response dated June 21, 2000 was received from the Solicitor General, whereby the Attorney General advised that from the facts provided the following is clear:—

- “(i) The purpose of the Exchequer and Audit Act, Chapter 69:01 is to allow for the auditing of public accounts and the protection and recovery of public property.
- (ii) The accounts of the Tobago House of Assembly are public accounts and are therefore within the purview of the Auditor General and more specifically, the Exchequer and Audit Act which said Act provided for the audit of public accounts.

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- (iii) Section 9(5) of the Exchequer and Audit Act encompasses all expenditure and is not restricted to expenditure in an appropriation account. To limit scope of the section in this way would be to frustrate the purpose and intent of the Act.

As a result, it is advised that the Auditor General properly has the power to examine and audit the expenditure relating to the Ringbang 2000 Concert.”

That was the advice of the Solicitor General, which the Attorney General adopted.

By letter dated June 30, 2000 the Auditor General informed the Chief Administrator of the THA of the advice received from the Attorney General on the matter. The Chief Administrator by letter dated July 07, 2000 responded *inter alia* that:-

"The Tobago House of Assembly has received the advice of Senior Counsel that under section 9(5) of the Exchequer and Audit Act the examination which the Auditor General can lawfully undertake is expressly limited "to ascertain whether any expenditure included in any appropriation account is supported by the authority of the Treasury."

Senior Counsel disagrees with the advice of the Attorney General and the Tobago House of Assembly will be guided by the advice of the Senior Counsel in this matter."

Cabinet on the September 13, 2000 noted the unwillingness of the Tobago House of Assembly to comply with the request made by the Auditor General in accordance with the provisions of section 9(5) of the Exchequer and Audit Act, Chapter 69:01 to enable officers of that department to have access to all relevant accounts, records and documents to facilitate an audit of the Ringbang 2000 Concert and connected matters, and agreed that the Attorney General and Minister of Legal Affairs advise the Cabinet on the steps to be taken to enforce the law with respect to the above-mentioned matter.

The Cabinet was duly advised and authorized the Attorney General to make a statement on the matter. In respect of that advice, the Solicitor General has advised that the provisions of the Tobago House of Assembly Act do not give authority to the Executive Council of the Tobago House of Assembly to use money or authorize its use in a manner not authorized by Parliament. If there were no parliamentary appropriation for the project called the 'Ringbang Millennium Concert' or any connected matter, the use of the Assembly's Fund for this purpose was clearly unauthorized and improper.

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The Attorney General agreed with the advice of the Solicitor General. The Solicitor General also advised that the moneys in the Tobago House of Assembly Fund were public moneys. The Minister of Finance, Planning and Development can exercise his powers under the Exchequer and Audit Act and request the Auditor General to investigate the alleged investment of public funds on the Ringbang Millennium Concert. It should be noted that such an investigation was undertaken with respect to the ADDA Limited. The Attorney General also agreed with the Solicitor General's advice on that aspect.

The Solicitor General further advised that the question as to whether breaches of the criminal law in the refusal to permit the Auditor General to examine the Ringbang Concert accounts can also be considered. The Attorney General in the circumstances has a duty to refer the matter in the following way:

- (1) To the Minister of Finance, Planning and Development to consider taking action in respect of the advice of the Solicitor General of surcharging those persons responsible for unauthorized payments;
- (2) To the Minister of National Security, for him to submit the matters to the Commissioner of Police for investigation and for the Commissioner of Police to take whatever action necessary, if there is a breach of the criminal law; and
- (3) To the Director of Public Prosecutions, for him to take whatever action he considers necessary in the circumstances.

Thank you, Mr. Speaker.

COLLEGE OF SCIENCE, TECHNOLOGY AND APPLIED ARTS OF TRINIDAD AND TOBAGO BILL

Bill to provide for the establishment and administration of the College of Science, Technology and Applied Arts of Trinidad and Tobago and for matters connected therewith. [*The Minister of Education (Hon. Kamla Persad-Bissessar)*] read the first time.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, could you defer this Motion to a later stage so I can consult with the Opposition?

Question put and agreed to.

REGISTRAR GENERAL (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, the Government proposes to deal with Bills No. 2 to No. 7 at this stage, and by agreement we would deal with these Bills together, going through the process for each Bill. That would, obviously, go to committee stage.

Mr. Speaker, I beg to move,

That a Bill entitled an act to amend the Registrar General Act, Chap. 19:03 be now read a second time.

In moving the second reading of this Bill, I seek leave to debate together the other five Bills before this House which relate to the subject of the debate; these are: Real Property (Amdt.) Bill 2000; the Conveyancing and Law of Property (Amdt.) Bill 2000; the Land Acquisition (Amdt.) Bill 2000; the State Lands (Amdt.) Bill 2000, and the Registration of Deeds (Amdt.) Bill 2000.

Agreed to.

Hon. R. L. Maharaj: Mr. Speaker, may I thank hon. Members for their assent in this matter.

May I start by saying that the future of electronic conveyancing, or e-conveyancing, is very close. Throughout the world in Australia, Canada, the United States of America and other countries, on-line access to land registers, title plans and registration of land title documents has been or is being implemented. Title searches and registration on-line are new services that are being offered.

The Registrar General's Department which manages the Land Registry must position itself so as to be able to offer to its customers, the people of Trinidad and Tobago, the advantages that modern technology can bring. The Land Registry has taken the evolutionary step of compiling image databases of its deeds, and textual databases of information held on these documents. This would make it possible to view images of deeds and plans and to conduct title searches by deed number, property address or name, all on the computer. The result would be faster more accurate and reliable information obtainable by using a number of different criteria.

The Land Registry databases would also be the foundation of the gateway for the National Land Information System. This related project cuts across ministries in its goal toward providing access to all information that one needs to search on a property during its conveyance, for example, whether taxes are paid, the value of the property and the relevant plan. However, these objectives cannot be achieved without legislative support.

The six Bills before the House today will assist in some measure or the other in providing this relief. They will enable the Register General's Department to function effectively in a computerized environment, it will also make the registration of title more efficient by removing unnecessary legal and administrative constraints which will then enable the title to be verified faster and more accurately.

In 1998 the Government of Trinidad and Tobago contracted the Land Titles Office of New South Wales, Australia to recommend, *inter alia*, appropriate data management and document management systems, and to evaluate existing legislation to identify key areas that would affect the operation of the new system.

Mr. Speaker, the consultants in their reports identified areas that required restructuring and strengthening so as to provide a structure or framework to effectively implement the changes necessary to support the systems automation. The need to have legislation enacted to facilitate the automation of the Land Registry was clear, and it was noted that the Real Property Ordinance which was introduced in 1889 has remained, essentially, in its original format, except for minor modifications. The current deeds registry systems have been in operation since the inception.

A major criticism was that these systems do not envisage the maintenance of records in any format other than paper; of major concern was the maintenance of original documentation. This original documentation is subject to daily search by members of the public. This has resulted in gradual deterioration, loss and alteration by either removal from the registers or deleting, adding or altering the records.

With the general public having access to most operational and secure areas, the integrity of the records was also compromised. It was also recognized that the manual paper-based system maintained, like many other manual registry systems, is experiencing difficulties in keeping pace with the needs of modern society. Recommendations were made, therefore, that all documents be scanned and stored in an image database which could be viewed only on the computer screen, the original documents preserved, and the compilation of computerized indices to facilitate the searching.

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In 1999 the ministry consulted with local practitioners to review the consultants' recommendations and to identify other legislative impediments to completing conveyancing transactions with a view to reducing the time taken in finalizing property transactions and to saving costs in searching title in order to benefit prospective purchasers.

These six Bills, therefore, are the result of recommendations by the New South Wales consultant and our local practitioners. They are intended to provide the basis for a more customer service based organization, able to process and register documents quickly and effectively, while providing a speedier and higher level of service to the general community. When I see these six Bills I recognize that there are other measures in the Bill, for example, an increase in some of the fees, and some of the points which the Opposition and other Members had raised with respect to the Land Acquisition Ordinance, but I am dealing with the overriding reason for the amendments.

Mr. Speaker, in addition, the effective implementation of the three Acts recently enacted, the Land Adjudication Act, the Registration of Titles Act and the Land Tribunal Act, requires strengthening of the administrative machinery of the Registrar General's Department by providing the legal basis for recording, verifying, storing and disseminating information in an electronic format.

I will now go through each of the Bills to say what each Bill does. The Registration of Deeds (Amdt.) Bill 2000 would amend the Registration of Deeds Act, Chap. 19:06 to enable the maintenance of records in an electronic format and system; to amend section 10 to make it easier to prove the execution of a deed executed outside of Trinidad and Tobago.

At present, a distinction is drawn, one, between deeds executed in Trinidad and Tobago and, two, between those executed within the Commonwealth of the United States of America and, three, between deeds executed outside the Commonwealth other than the United States of America. The amendment made to the section would draw the distinction only between deeds executed in Trinidad and Tobago and outside of Trinidad and Tobago. To amend section 13 so that when deeds are registered only the registration number and date of registration need to be endorsed to facilitate computer recording in an effort to increase the number of deeds which may be registered daily.

At present, since the deed cannot be registered less than one minute after the last, registration problems arise when 4 o'clock approaches to require the submission of a document registration cover sheet giving particulars of the deed being registered. Since the format of the cover sheet would be more closely aligned to the data entry screens used for registration, this would significantly

reduce the incidence of error during the registration and recording process to enable certification of deeds and documents by an Assistant Registrar in addition to similar certification by the Registrar General and the Deputy Registrar General, and to substitute new forms compatible with electronic recording of transactions in the Registrar General's Department.

The Registrar General (Amdt.) Bill 2000 would amend the Registrar General Act, Chap. 19:03 to insert a new subsection (5) in section 4, to enable records, documents and indices required to be kept and maintained by the Registrar General to be kept and maintained by an electronic system. To provide for new office hours of 8.30 a.m. to 3.15 p.m. for the Registrar General's Department to provide more hours for completing title searches, and to allow same-day recording of documents received for registration.

To enable the Registrar General to make rules with the approval of the Minister responsible for the Registrar General's Department, and to substitute a new schedule of fees in order to standardize fees for registration of documents, and to increase the fees for searching title in the electronic database. The adoption of a standardized fee structure is based on the premise that regardless of the size or value of the consideration, the same amount of work is required to examine and register each document.

The Real Property (Amdt.) Bill 2000 would amend the Real Property Ordinance, Chap. 27:11 by inserting a new Part XVIII to provide for the establishment of an electronic system for maintaining these records which will eventually replace the present manual system which is time consuming.

The Conveyancing and Law of Property Ordinance (Amdt.) Bill 2000 would amend the Conveyancing and Law of Property Ordinance, Chap. 7:12 to reduce the period of a title search from 30 years to 20 years. This change should effect considerable savings in cost and would benefit prospective purchasers of land. May I say that this change has been effected after consultation with the legal profession, and I would be correct in saying this has been a point which has been advocated by the hon. Member for San Fernando West.

2.10 p.m.

The Land Acquisition (Amdt.) Bill would amend the Land Acquisition Act, 1994 to require the Commissioner of State Lands to give notice of the acquisition to the Registrar General as soon as Parliament has approved the acquisition of the land by the state. This also is one of the babies of the hon. Member for San Fernando West. At present, notification is required only when an advanced payment on account of compensation is made and to achieve the goal of registering under the Registration of Titles to Land Act all lands acquired by the state. This obviously is to give protection to the person.

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The State Lands (Amdt.) Bill, 2000 will amend the State Lands Act, Chap. 57:01, so as to require the grant of a lease of state lands to be made under public seal of Trinidad and Tobago for the delivery of every instrument of lease together with the appropriate map to the Registrar General, who will register the lease in accordance with the Real Property Ordinance and to issue to the lessee a certificate of title with a copy to the Commissioner of State Lands and to provide for the creation of a separate part of the register to accommodate state lands. This obviously is for there to be a record of the lands which are being leased, even by the state, so that there will be a proper recording system.

Mr. Speaker, I should mention that in an effort to modernize the land registry, the civil registry, the companies registry, and for the relocation of these registries from the Red House, the Government took steps to have the possession of a building known as the Huggins Building on South Quay. That building started to house the companies registry and the intellectual property registry. I am happy to announce that both the legal and public officers of the Registrar General's Department have left the Red House because, as you know, the Red House, as part of the policy of this administration, should be used exclusively for Parliament, so that there can be reform of the structure and reform of the system to permit the House of Representatives and the Senate to sit at the same time and also to have modern facilities for the committee system to operate.

I should however mention that in the relocation of the land and civil registry to Huggins Building, there have been some discomfort to the legal profession and to members of the public. This is understandable because, as we know, the records which had to be moved from the Red House to the Registrar General's Department, especially the land records, were voluminous and it has taken weeks for those records to be moved, and it has taken time, even, for the members of staff working over the weekend, full-period, in order to have them repacked.

I want to put on record that the Register General's Department has done a lot of work to modernize the registry. What has happened, for example, 65 years of births and marriages are on the computer. Deeds from 1979 to 1999—the profile of the deeds—are on the computer, and within the next few days—the work has already been done—the deeds from 1970 to 1979 would be added to the computer. So that you will have a situation where, on the computer, you would be able to get the profile of the deeds from 1970 to 1999. I am talking about the common law deeds. The real property deeds are not on the computer because, as you know, there are different kinds of searches for that.

One of the problems that has been caused—and I should mention that the Member for San Fernando West has spoken to me several times about it—is that in relocating the registry to the Huggins Building, the question arose, and arises, as to whether the search clerks—that is both the private search clerks who are employed by private lawyers and the title clerks who are employed by Ministries—have sufficient space in order to conduct their business.

I visited again—apart from making several visits to the place—the site this morning and on the ground floor of the Huggins Building there is space for approximately 50 private title search clerks to occupy, and on the first floor there is space for another 50. Those on the ground floor will have access to the paper-based information; those on the first floor would have access to the computer information, and when you are finished with the computer information and you need any paper-based information, you could go downstairs.

I must confess that I met also with the title clerks and they are having some difficulty in accepting that arrangement. After discussion with them I indicated to them that in all areas in which you have to have a transition, some sacrifices have to be made. What I have indicated to them is, let us see how the system works for the next week. I undertook that I would pass into the office on a daily basis and see how it is working and I would again look at it in a week's time in order to have further discussions with them.

I am saying this because I want to give the assurance to this House that the Government is committed to ensuring that the lawyers have proper access to searching records and that their work is in no way affected. But in saying that, I think that the Government also has a duty to ensure that the facilities which are provided, if they are sufficient, are not to be used by search clerks to have their office there, because the search clerks do not have a tenancy of the chair. It is a way in which they go and get their records and information and then they can go and prepare their reports. In other words, it should not be a place where the search clerks operate an office, because the Government is under no obligation to provide that and the taxpayers' money should not be used for that. What the Government has an obligation to do is to provide access to the records and to ensure that they work in an environment in which they could have easy access to it.

I have taken the trouble of looking at systems in other countries and all I can say is that what the Government has provided, and what it does provide now, is, in my view, the best system, even comparable to England and other countries. And it does not cost private practitioners or search clerks much money, because, in effect, all they pay for are the searches to get documents. They do not pay any moneys for occupying the premises.

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I thought that I should use this opportunity to say that and to take the opportunity of putting on record tribute to that part of the ministry, the Registrar General's Department, the head of the companies registry, the head of the intellectual registry, the permanent secretary—there are two permanent secretaries—and all the staff and all those who have worked very long hours in order to make vacating the Red House possible, and also in trying their best to ensure that both the public and members of the legal profession are comfortable in their new environment.

Mr. Bereaux: Before the hon. Minister takes his seat, could he indicate whether the diskettes on the computerized portion of the record would be available for private practitioners at any time.?

Hon. R. L. Maharaj: I am not understanding. Let us say you have a deed to be able to look at, you can go on the computer and look at the deed, but they would not be able to give you the master copy.

Mr. Bereaux: I am not asking for the master copy; if they make copies of the diskettes. You see, I know of another system where you are able to get copies of the diskette and you could almost conduct your searches in your chambers and then go elsewhere—

Hon. R. L. Maharaj: Well, we have not reached that system. The intention is that it would be on line and we would be able to connect it to other systems which would mean that you will reach a stage where lawyers in their offices can look at it and would be able to get it. That is something which is being planned, but that is on the road. I do not want to use the expressions “down the road” because I know there is a saying about “up the road.” But the intention is to have something like that so that lawyers in their own offices would be able to see on line what the records are.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Speaker: May I remind Members that by agreement, Bills Nos. 3, 4, 5, 6 and 7 are also going to taken into consideration so that Members are free to refer to any of these Bills.

Mr. Barry Sinanan (*San Fernando West*): Mr. Speaker, I, too, would like to join the Attorney General in complimenting the staff of the Registrar General's Department and in particular the Registrar General for the tremendous service done with respect to the relocation of the registry from the Red House to the Huggins Building.

Let me start by giving a little background as to the reason for the move. As the Attorney General had indicated, the Parliament here is really for the Parliament's business. We have the House being here and the Senate cannot meet at the same time, and part of the reason for the total dedication of the Parliament building for parliamentary business is to accommodate such a happening, where the House can meet and the Senate can meet, where we can have committee rooms where members of the public can come and meet Members of Parliament, and so on.

I know that during the last five years you have been hard at work trying to accomplish just that, and I know sometimes I fear for your good self. When it rains and I see you coming down the corridor, I have always prayed that you will keep steady on your feet, because I come down there and slip sometimes, but being agile I manage to stay with my feet planted on the ground.

Mr. Speaker, as I said, you have been at the forefront of trying to get this Parliament for the Parliament's business, and I am sure your successor will be taking up the same position that you have taken up, in that the Parliament is for the Parliament's business. On the last occasion when we debated the Finance Bill here recently, I had to lament the fact that when we look at this Chamber we see cobweb all over the place, and we had only, I think \$10 million voted for the repairs of this building, and all that this Government has done for the last five years was to put some measure of tarpaulin on the roof, but the building still leaks, much to the annoyance of staff, your good self, and it is a danger because it is very easy for you to slip and damage yourself. Hopefully—I am sure that the new Government will do what it has to do to make this building what it ought to be and return it to its pristine glory.

2.25 p.m.

Mr. Speaker, to the Bills at hand. You would appreciate, Mr. Speaker, at the moment in Trinidad there are laws, there are lands held under the common law and lands held under what is called a Real Property Ordinance, and the purpose of these bits of legislation is to improve the registration of deeds. However, we must take it in context with what went on before. Sometime ago we had passed in this House three pieces of legislation dealing with the registration of titles, the adjudication Bill and I think the Land Tribunal Bill.

The idea behind those three pieces of legislation which, to me, are the most important pieces of legislation, was to bring all the lands in Trinidad and Tobago under the Real Property Ordinance system [*Desk thumping*] where there would be a certificate of title, and, to some extent, those are the important Bills because

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these Bills, as far as I see, are only stopgap measures because when those Bills are assented to and implemented, then we would not need a fair amount of what we have here. The Registration of Titles to Land Bill, Mr. Speaker, as you would recall, envisages the survey of every single piece of land in this country and after that one will have a certificate of title issue.

Right now we do have certificates of title for lands in Trinidad and Tobago and, as I said, the idea is to have the whole thing brought under that system. To do that, Mr. Speaker, we will require surveyors, it will take a great effort to do it but I am sure that it would be done. That Bill envisaged that we start inserting localities, for example, we take certain residential areas and we could start the process in those residential areas. Within the last 20 years in Trinidad and Tobago there has been a lot of private housing development taking place and that particular Bill, the Registration of Titles to Land Bill, can be implemented by going to these established residential areas, and there are many throughout the country, and starting to bring the lands there under the Real Property Ordinance.

Mr. Speaker, my biggest concern about all this, the Bills before us, is not so much the content of the Bills, because they are very good, what really annoys and bothers me to some extent, to a great extent, really, is the registry, the actual physical building. You would recall, Mr. Speaker, some time ago in the life of this Government that building was bought by certain individuals, allegedly friends of the Government, whether from inside knowledge or not I do not know, but it is reported that certain people bought that building and then, in short order, sold it to the Government at a handsome profit.

Now, Mr. Speaker, that building is not really suited for a registry. I have stood in this Parliament on several occasions asking the Government, long before the acquisition of the Huggins building for the registry, and I was told that building was not really acquired for the registry, it was to house some part of the customs division. The building is not suited for a registry. As I said before, a Land Registry is a very important asset of the Government. It is where all titles are kept—all birth certificates, death certificates, marriage certificates and so forth. It is a very important building. What ought to have happened was that the Government ought to have had a parcel of land and built a building purposely dedicated for the registry; but, that did not happen.

So, we have a building now, which to some extent would outlive its usefulness in short order. I am told, for example, Mr. Speaker, that—well, you would know—there are about 25,000 to 30,000 deeds that are registered on average every year and we are talking paper. My information is that the vault at

the new building is already nearing capacity. So that in a matter of a year or two that building would outlive its usefulness. I am hoping that the next government would plan a proper registry. That building down there is not suited—
[*Interruption*]

Mr. Maharaj: I thought the hon. Member for San Fernando West knew, but if he did not know, these facilities are temporary and in two years' time construction of new quarters is going to start at the corner of Queen and Richmond Streets, where the Ministry of Works and Transport was, to house that section of the Ministry and that is why we had this building, together with the constructed vault, to provide the temporary facility to get out of the—
[*Interruption*]

Mr. B. Sinanan: Well, I am extremely happy for the intervention of the Attorney General, because, as I have said, that building was really not suited for a registry. [*Interruption*] Exactly; that is the point. The point is, why did we not build a registry in the first place?

Mr. Maharaj: We would not have time.

Mr. B. Sinanan: Okay, fair enough. [*Interruption*]

Mr. Speaker: Order please, order please, order please!

Mr. B. Sinanan: Yes, Mr. Speaker. So that for two years we would have to put up with a situation down at the Huggins building where it will be trying not only on the Registrar General and her staff and the Registrar of Companies and so forth, but also on the general public and the people who use that place. So I am very happy to hear that the building—I hope the plans are well afoot so that the next government can, in short order, have that building at the corner of Richmond and Edward Streets built to house the registry.

My understanding of the present system at the registry, Mr. Speaker, is this. There is a situation now where birth, death and marriage certificates, I think, are all computerized. Judgments, *lis pendens* and mortgage bills of sale are all on the computer. What I am not too clear about, and perhaps the Attorney General can tell us this, is whether—for example, you know, Mr. Speaker, that judgments, *lis pendens* and mortgage bills of sale are renewable every three years—the information on the system just takes account of the last three years. In other words, I see a judgment against John Thomas but I am not sure whether it is a judgment in the first three-year period or whether it is a re-registered situation. It is important for conveyancers to know whether it is a re-registration or whether it is a judgment, a first registration, likewise with *lis pendens* and bills of sale.

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Mr. Speaker, the Attorney General alluded to the difficulty of space for the title clerks. My information is that there are about 130 title clerks, and that includes about 30 Government clerks. Now there are clerks working with the different Government departments, whether its the Solicitor General's Department or the Attorney General's Department—I am not sure whether he has clerks there—National Housing and so forth, so there are about 30 Government clerks and there are approximately 100 private search clerks. Now, the Attorney General indicated there is space there for about 50 clerks. That is my information too, there is space for about 50 title clerks which includes the Government clerks.

Now, I know the Attorney General indicated just now that the Government clerks will be on one floor and private clerks will be on another floor. As I said, that is not my information, but I take his word for it. The problem there, as I said, is one of space, so there is in the room earmarked for title clerks, which is about 20 by 40, this long table, and that table can accommodate about 50 people as the Attorney General says. But, Mr. Speaker, you know that when one of those country books is opened, it is perhaps half the size of your table, so that whilst there may be 50 chairs to seat the title clerks, if that whole table is occupied, in use at the same time, one would not get 50 country books fitting at the same time.

One may get 30 or 35, because those country books are fairly big and, when they are opened, one is talking about a table around which are 50 chairs, so that would be—on the contrary, I do not think that 50 people would be able to use that search room, as it were, at the same time, because the books themselves would take up most of the space. So that is something I want to bring to the Attorney General's attention. I am told that there is a corridor between the building and the vault, which can be used as additional space for the search clerks. I am told that space is earmarked for clerks to rewrite some of their records, but I think there is sufficient space there in the short run to accommodate these title clerks.

Mr. Speaker, you know, moreso than most of us in the House, that the entire commerce of this country, from a legal point of view, depends on what goes on at the Land Registry. There are people buying properties, mortgaging properties and so forth, and unless we can have that system running perfectly, then it would have the effect of slowing down economic activity in the country. So that, for example, let us say the Minister of Tourism wanted to buy a place and he found himself in a situation, as we have now, where he had a contract for three months; that three months could very well come and go and his search may not be completed. So, Mr. Speaker, I know the Attorney General has done some good work with respect to cleaning up these pieces of legislation. I am hoping, as I said, that he leaves the plans there for the next government to implement the building of that dedicated registry.

Mr. Speaker, what was missing from this package, and we had discussed it, is one piece of legislation that needed amending, that deals with the leases and sales of settled estates. I have served on a committee with the Registrar General, Mr. Arunachalam and Mr. Griffith of the CPC, together with two of my colleagues, Mr. Johnson and Mr. Thompson and valuable work, good work, was done in that committee. That piece of legislation was one that we discussed. Simply what it is, there is a little problem with that piece of legislation in that one can create a life interest and that legislation tends to suggest that once a life interest, a life estate, is carved out of the freehold, one has to go to a judge to get an order to sell.

In other words, I own property and I give it to someone for life and, after that person's death, to his wife and children. For that person to sell that property, they have to go to court to get an order and we found that was really nonsense. It defeats the whole purpose. Insofar as it relates to minors where minors own property, one has to go to court to protect the minor's interest, but, when people are of age, we did not see the necessity for that. So I am hopeful that the Attorney General—well, the next Attorney General would probably have to see about that because time is running out on this Attorney General.

One of these Bills, Mr. Speaker, has set out new fees to be charged to the public. You know, I always hear the public talking about fees that conveyancers charge and, Mr. Speaker, I think it was reviewed by, I am not sure whether it was the former Attorney General, the Member for Siparia, or this Attorney General. It was a legal notice, I think it was No. 27 of 1996, whereby new conveyancing fees were put in place. Mr. Speaker, let me indicate to this Parliament and to the public that when one buys a piece of land and the conveyancer charges X amount of dollars, the common belief of the public and the purchaser is that the lawyer walks away with all this money, which is not so at all. The attorney's fee—I will just give a little example. Up to \$100,000 it is one and a half per cent of the consideration. Between \$100,000 and \$500,000 it is 3/4 per cent and over \$500,000 to \$20 million it is a half per cent. That is what attorneys charge. By law, that is all they can charge.

2.40 p.m.

Mr. Speaker, do you know that real estate agents charge between 3 to 5 per cent of the consideration? They make more money than the conveyancer and the people that make the most money, obviously, is the Government. Where you have land that is not residential—and that means land on which there is not a residential building on it—for the first \$0.00—\$300,000, the stamp duty is 2 per cent; between \$300,000—\$400,000, it is 5 per cent; and any piece of land over \$400,000 it is 7 per cent of whichever bracket you fall in and that is what you pay. So the Government gets a fair amount of money on stamp duty.

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With respect to residential property, once it is over \$500,000, it is 10 per cent on the excess of \$500,000; between \$100,000—\$300,000 for residential property, it is exempted; from \$300,000—\$400,000, it is 5 per cent; from \$400,000—\$500,000, it is 7½ per cent; and, as I said, over \$500,000, it is 10 per cent, so that the Government collects a lot of money.

Mr. Speaker, I saw a very disturbing article in the press recently where, I think, the Law Association wants to meet to discuss fees charged by conveyancers. Mr. Speaker, as a conveyancer yourself, the fees that conveyancers charge are, in fact, prescribed by statute as against advocate fees. Now, good advocate attorneys do charge—not that they are not worth it—fees on briefs and refreshers and so on. It is a whole stack of money that one has to pay an advocate attorney, and as against a conveyancer, one has the responsibility of keeping his or her records. You would be surprised to know—because as I am sure that it has happened to you—people would come back 15 or 20 years later asking you about something you did for them and you have to keep your records to be able to service that need.

I am saying this in the context of the cost because under this new system we will have to see how it works out. The idea is for searches to be speeded up. I am not quite sure whether we are yet in that mode or we have reached the stage where it could be speeded up. What is happening now from my understanding of the computerization—and, I think, the Attorney General has referred to it—is that you would be able to scan a deed. So instead of opening the protocol and seeing the deed, once you have the deed number—and to get the deed number you will have to get the country book and the protocol—you will have to punch in the deed number and then that deed will appear on the screen and you can abstract your information from that or you can get a printout of the deed.

Mr. Speaker, what you cannot get at this point in time is that if you are looking for the title to a property, let us say, at No. 3 London Street, San Fernando, it is not a question of punching in No. 3 London Street, San Fernando and getting the history of that title. That would not happen at this point in time. I am not sure whether work is being done so that “the population of the title” I think, that is the technical expression, “the population” meaning the actual deeds that comprised the title that you could get out of the computer in the course of time, but again that costs money. I am having a difficulty in understanding why we are spending a lot of money in doing that when we have passed in this House the Registration of Titles Act which will bring everything under the RPO system.

We have to be very careful in that we are not wasting money here because when we come to the Registration of Titles Act, it is like the certificates of title where you will have every single piece of land on one piece of paper and every single transaction dealing with that piece of land will be endorsed at the bank of that title. So that is the way to go. I am not sure whether what we are doing here is a short-term measure and, obviously, it has to be. All I am saying is that we are spending a fair amount of money here when what we need to be doing is implementing the Registration of Titles Act, the Land Adjudication Tribunal Act and so on. That will have the effect of doing away with a lot of these things and then you could have the certificates of title on the computer. So I want the Attorney General to understand the difference between what he is doing. We have passed the Registration of Titles Act, which as I say, is the way to go and now we are computerizing the common law records.

Once you have the certificates of title you will do away with all the common law records. I am hopeful that the Attorney General appreciates the distinction and not spend too much money doing something that would become obsolete in short order. I am saying again that what we need to do is proceed post-haste, vigorously, in implementing the Registration of Titles Act, and the Land Tribunal and Adjudication Tribunal Act.

Mr. Speaker, yes, the way to go is to have “e-conveyancing” on-line. That is the way of the future bearing in mind that what you put into the computer is what you get out of it. So, for example, I know documents are being scanned at some Singer building on Henry Street. I also know that we have had instances where documents were left out from that scanning process—not deliberately but purely by accident or maybe because the people who are doing it are not quite familiar with the process. As I said, the major concern here, for me, is that the registry is not adequate to house the records and the search clerks. I am very happy to hear that this is a temporary measure and that soon work will start on a dedicated registry.

Mr. Speaker, if I may just go through some of the Bills before us, there is the Registrar General (Amdt.) Bill and we see here that the office hours for the registry would be from 8.30 a.m. to 3.15 p.m. which implies that during lunch hour the registry will be open. As you know, the registry has to be staffed with proper attendants because if the attendants are not there to get the books then you cannot get the information. There is a situation there where during lunch hour everybody’s business in Trinidad and Tobago seems to close down during that period from 12:00 noon to 1:00 p.m.

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We should get away from that system where between 12:00 noon and 1:00 p.m. in Trinidad and Tobago business seems to be shut down and it is not really 12:00 noon to 1:00 p.m. because that is the common lunch period. Perhaps, it is 12:00 noon to 2:00 p.m. that you will find a lapse where people are not available at their offices—whether it is a public or private office, but mostly public offices—where people take this lunch hour in terms of the “Latin American siesta”. So this is a matter for the Minister of Public Administration to make sure that public offices like the registry are opened to serve the public during what we call “the lunch hour”.

Mr. Speaker, in this Bill, I have often complained in this Parliament about the state of the books and I see here—which is good—that we now have in legislation the quality of paper and the size to be used and so on. It will be surprising to know that sometimes the paper that practitioners used to type deeds, the quality is not good; it cannot last a year or two and it disintegrates. So this piece of legislation sets out the quality of paper and that is good.

2.50 p.m.

Mr. Speaker, with respect to the Real Property (Amdt.) Bill, again, I would ask the Attorney General to look at clause 163(1)(b), it refers to a paragraph “(c)” and I am not seeing a paragraph “(c)” there at all.

Again, this Bill is in keeping with what the Registrar General's Department wants to do to improve the situation there. The Conveyancing and Law of Property (Amdt.) Bill: as you know, previously, we had to search a title for 40 years and that was amended some time ago, I think it was in 1976, to 30 years, and now we are down to 20 years. Let me draw a distinction: this is only a contract period, so that you could contract for a 20-year title. There are institutions, the National Housing Authority is one, Trinidad Building and Loan is another, I am not sure whether the Trinidad and Tobago Mortgage Finance Limited do loans upwards of 20 years, but you can have a situation where you are searching a title and there could be an encumbrance outside of the 20-year period, so there is a distinction to be drawn here. This is only a contractual period.

If I am selling you a parcel of land and we contract that the title period should be 20 years, if there is an encumbrance that I have, then you cannot impeach the title on that. Maybe you can sue me for a bad title, but the title cannot be impeached on that. So I would like to draw that distinction. Again, this is good because there have been new developments and it would be easy enough to search, it will certainly reduce the cost.

The Land Acquisition (Amdt.) Bill: again, this is something that I have spoken of several times in the Parliament, and it is good that we have this amendment before us. I would just draw the Attorney General's attention to section 5A(4) to make sure that the information is exact and precise, because when you look at the acquisition notices that come before the Parliament it is always "now" or "formerly belonging to".

It is very difficult for the Subintendant of State Lands to know who is the owner. You could never see a land acquisition notice coming to the Parliament that says "John Brown" is the owner of it. It is always a parcel of land situated somewhere belonging "now" or "formerly to" and not the name of the person. So this is good because conveyancers had a great difficulty, and it was an impediment to them not knowing when they are searching a title to land whether a piece was acquired, because you had no way of knowing it.

This Bill is now saying that once the land notice under subclause 5(3) is issued, then the Commissioner of State Land, the Subintendant, will issue to the Registrar a notice setting out the name and address of the owner or claimant of the land acquired, a description of the land with reference to deeds, certificates of titles, plans, property address and so forth. That information has to be exact. As I see here references to deeds, the Subintendant's office has clerks at the registry, and they are among the private search clerks that I mentioned before.

In subclause 4, Mr. Attorney General, it states:

"The Registrar shall give notice in writing of—

- (a) a caveat to the proprietor whose land, lease or charge is affected by it;"

There must be a time frame, and, perhaps, we can deal with that in the committee stage. Again, this peace of legislation is good.

We have the State Land (Amdt.) Bill, which is good in that it simplifies the title to state lands. In other words, you have your certificate of comfort, then you have your 30-year lease, then you have your 199-year lease. This is saying that coming out of the common law where you would have a deed, you will now have a certificate of title, so that every occupier of state lands who is granted a state lease will, in fact, have a certificate of title. This is a good piece of legislation.

The Registration of Deeds (Amdt.) Bill, as the Attorney General indicated, deals with the execution of deeds outside of Trinidad and Tobago, in the United Kingdom and the United States and Canada, so this is a good piece of legislation.

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In order to simplify the computerized process, section 13(a) talks about every deed presented for registration must be accompanied by a cover sheet indicating the name of the attorney, type of deed and the name of parties and so forth. This is good information for the registry and the staff there to be able to put this into a computer.

Mr. Speaker, in closing let me, again, offer my thanks and appreciation to the Registrar General, Miss Susan Francois, and her staff, to Mr. Aroon and Mr. Griffith of the Chief Parliamentary Counsel, and my colleagues who sat on a committee and worked on these pieces of legislation. It is good. I want the Attorney General to know that a lot of it is just temporary, and, certainly, the next Attorney General needs to proceed with implementing the Registration of Titles To Land (No. 2) Bill, because that is where we need to go. This here is really only a stopgap measure.

Also, with respect to the facilities offered to the search clerks, I have the Attorney General's undertaking that he will let the system work for about a week or two and then try to see whether he can accommodate these search clerks. As I said, you have 130 of them, 30 of whom are government clerks, search clerks, and there would only be space for about 20 search clerks. So, for example, a big firm in San Fernando like Dalton's, if they have about three or four search clerks then it will be a difficulty for their search clerks to get in. It is there on a first-come-first-serve basis.

What we are doing here by limiting the amount of search clerks is slowing down the commerce in the country. We are slowing economic activity, because if a buyer cannot get his deed on time then he cannot access his loan on time, which means that carpenters, plumbers, building contractors and hardware stores cannot sell their products, so the whole system can be slowed up if this thing is left in the situation it is now.

I accept the word of the Attorney General that he is going to review it in two weeks' time, and I am suggesting to him that there is room in that building in the corridor to house these additional search clerks. We, as conveyancers for the legal fraternity, for the last two weeks—I think this is the second week—we do not have the use of the registry. For the last two weeks commerce in this country in terms of buying and selling—a fellow wants to raise money to do some sort of business could not access his loan at the bank because the facilities at the registry were virtually closed.

I am told that the search clerks are going to start work tomorrow, taking the assurance of the Attorney General to see how the system works. They appreciate the need to come out of here. They appreciate that in change there are always little complications, but I am asking the Attorney General to also look at their plight. We do not want to put, virtually, 50 people out of work. That is not, I think, the style of any government, so we would not want that to happen. We have permanent and temporary search clerks, so in addition to your 113 search clerks, you have temporary search clerks and we need to actually also accommodate them.

As I said before, the Land Registry is a very important public institution, and if it is not properly staffed, if the actual physical accommodation, procedures and plans are not in place, then it all comes to naught. In supporting these pieces of legislation, again, Mr. Speaker, let me ask the Attorney General for his confirmation that in two weeks' time he would look at the situation with respect to space for the title clerks. I have heard him and I am taking him at his word that the Huggins Building is only a temporary site for the registry.

In Trinidad and Tobago, what is temporary normally ends up being permanent. I hope that this is not such a case, because as I have indicated before, already the vault at the new building is just about reaching its capacity, so that in two years' time we would be bursting at the seams down there. What we really do need is a building purposely built to house the different registries in this country.

Mr. Speaker, I wish to thank you for your attention.

Mr. Hedwige Bereaux (*La Brea*): Mr. Speaker, I rise to make a very short contribution in respect of the Bills Nos. 2—7 on the Order Paper, namely, the Real Property (Amdt.) Bill 2000; the Conveyancing and Law of Property (Amdt.) Bill 2000; the Land Acquisition (Amdt.) Bill 2000; the State Lands (Amdt.) Bill 2000, and the Registration of Deeds (Amdt.) Bill 2000.

It appears as though this Government, even when it is doing something that can be beneficial to the country and which you feel prone to support, they do it sometimes with such lack of foresight that there are things we see and have to correct.

For instance, the Government does not always, as we say, come to equity with clean hands. We had sometime ago in the annual budget a statement made by the hon. Minister of Finance, Planning and Development. He made the statement that there were no new taxes, no increases of fees and so forth, yet here we see today in the Registrar General (Amdt.) Bill, an increase in fees.

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Standard fee for all documents registered as a deed, \$100, and they went down. Some of these fees have increased by more than 100 per cent in some instances, but this is the same Government whose Minister of Finance, Planning and Development had the audacity and temerity to come here to say that we have increased nothing, but less than two months after we are seeing that the fees have increased. We are not saying that an increase in fees would not be called for or may not be appropriate, but we are dealing with the manner in which the Government does several things.

This is not the first time they have done it. On the last occasion when we were dealing with the budget, they also indicated that they had raised no fees, then, subsequently, they raised the fees in respect of licence fees for clubs. When I pointed it out in the budget debate, the hon. Minister of Finance, Planning and Development—all he could do was ask if I had a club. If I have a club “bully for me”, but it matters not. More importantly, even if I had one or two clubs for that matter, they have raised fees and the entire population would have been affected as a result of that. If that is the case, the Government should stay so. I just wanted to point this out.

Mr. Speaker, any attempt to simplify, make more efficient, to speed up and make simpler, conveyancing or commercial transactions, must be something which you can support. When I look at you, Mr. Speaker, and I think about electronic conveyancing, as it was called, and the ability to search titles quickly, I think you, yourself, may recall more than 20 years ago in a Caricom country where you had the opportunity to visit my chambers at that time. I was sitting in my chamber searching the titles in the commonwealth of the Bahamas. I was sitting in my chambers in Freeport, Grand Bahama looking at it there and just updating it elsewhere. I, obviously, must say that this is a good step in the right direction. But, again, we must have all the necessary components to do it.

3.05 p.m.

As I was pointing out, we have a new land registry. I do not recall whether the Attorney General said that the Companies Registry would be in the same building. If it is so, that is very good. I think that is a good move, because we need to have the ability to do the title completely. If it is a company, one would also want to search the antecedents of the company at the same time. When we have it all under one roof, that is very good.

We have a situation—it reminds me of something else—here it is, we are going into a new building and immediately, we have the Attorney General telling us that the building is not going to be able to house appropriately all the necessary title clerks, meaning those clerks who work privately, and search clerks, meaning the state clerks, or those who do different things in the registry. We have a new building and we are still unable to accommodate all the persons. It is like the so-called secondary education for all: you purport to put everybody in schools, and you do not have the schools available. Hopefully the Government will have them, or it will fall to us on this side to provide, not only the schools, but also the registry and all the other things, as it has fallen to the Government to build upon the foundation which we laid.

Mr. Speaker, I heard about the speed at which things were to be done, and that they were to be done electronically. With respect to the births, deaths and certified copies, am I to understand that these—if one applies for an official death certificate, it sometimes takes 10 working days. So too, if one applies for a birth certificate, that also takes a certain period of time. I did not hear the Attorney General explain that we were likely to see these times shortened.

Clause 3 of the State Lands (Amdt.) Bill states:

“Section 10 of the Act is amended by—

- (a) inserting in subsection (1) after the words ‘State Lands’ the words ‘and every lease of State Lands’.
- (2) Every lease of State Lands shall:—
 - (i) contain or have attached or annexed thereto a map, plan or diagram of the land leased, prepared by a registered Trinidad and Tobago Land Surveyor and certified or approved by the Director of Surveys or as may be prescribed; and
 - (ii) be delivered to the Registrar General for registration under the Real Property Ordinance with such other documents and fees as may be prescribed.”

Mr. Speaker, in respect of the Squatter Regularization (State Lands) Act, we have another legal document coming into play, which is called a “Certificate of Comfort.” The Certificate of Comfort is not a lease, it is some kind of comfort to the squatter. It was touted in this House and throughout the country as being some title acquisition which the holder could use to even acquire a mortgage. I would have thought that, having regard to that, we would have seen some reference to Certificate of Comfort, because the proposed mortgagee will not be able to check to see if there is any record of the certificate of title anywhere in the registry. I do not know. Maybe the hon. Attorney General could explain that later.

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Further, maybe, the hours of the registry can be changed. The hours are 8.30 a.m. to 4.30 p.m. It is said the hours have been extended from 8.30 a.m.—3.15 p.m. I assume, like my colleague from San Fernando West, that it is intended for persons to work through the lunch hour. Maybe what is needed to be done is to stagger the working time. I see no reason why it is essential to start the registry at 8.30 a.m. when everybody else in the country starts work at 8.00 a.m. I think what needs to be done is, some people in registry should go to work so that they start at 8.00 a.m. and they leave earlier, and others would come later and stop at 4.00 p.m.

We have to decide whether the registry is for the population or the population is for the registry. If the registry is there to serve the population—you may want to call us clients or customers, whatever you care to call us—the registry is there to serve the population, and every attempt should be made to have the registry available at the start of business. The registry is not supposed to start one minute after business in the country has started. If business generally starts at 8.00 a.m., the registry should be started at 8.00 a.m.; and if it closes at 4.00 p.m. the registry should close at 4.00 p.m. All there needs to be is that we stagger the hours in order to ensure that whatever work has to be done, is properly completed at the end of the day, and the doors should be open in time for the beginning of business. Sometimes one gets to the registry at 3 o'clock and one is told that the cashier is closed. The only person I know who refuses money is the state.

The way it has to be done is that it must be so organized that the arrangement caters to the business needs of the population. We see it with banks. The banks in the malls open later. They open at 10 o'clock and 6 o'clock in the evening they are still open. [*Interruption*] What did you say? Yes, the post offices also. That is an attempt to get things going. That is a position—that needs to be taken.

Mr. Speaker, if you have used the registry I know you have, from time to time—you would find that over the years, a certain practice has developed. When you go and look in the law, the practice is not always on all fours with the way the law has been written. Sometimes you worry and say: “Maybe there is an amendment which I did not see, or do not know about.” That is always possible. But in order to cure all that, I think there needs to be simple directions with regard to how you do certain things in the registry, similar to what we have in the companies registry. They have taken the time off—you do not make too much errors in that place, because they have taken the time to put down in writing how to do things. That companies registry is customer-friendly. Unfortunately, the land registry is not always customer-friendly. You need to grow up from a little boy or have somebody—you have been in the registry for 20 years and then you hire a clerk who has been there for 20 years, so you learn it by trial and error, in some instances.

3.15 p.m.

That is something that needs to be dealt with. I think although I am quietly shifting away, a similar requirement is needed in respect of the probate in the court. You also do not know if you are doing it in accordance with the rules because they do not always follow all the rules. They change the rules and when you point it out to them they say, "well, the registrar has changed that." Maybe with good reason, maybe because of a new law, but when the form says one thing and you follow the form, and then you find that they have changed the form without telling you, you have to run backwards and forwards, simply because somebody has not taken time off to do his work.

My colleague from San Fernando West, and to some extent myself, we are all suffering because of the fact that the land registry is not operating now. My clerks have been told that if you want something to be done in the registry, to come back at the end of the month—the end of October—to get it. It is no joking matter. I am not laughing at that at all, because there is no force majeure. The fact that the Government's office is not working and would not work for a month, I do not know that that falls under the definition of force majeure. So it is possible that we will have litigation involving the fact that many transactions will not be able to be closed because the registry is not operating. An experienced practitioner as the hon. Attorney General, and some of his advisors, should definitely have seen that this problem would arise and should have taken some steps in some way to alleviate it, or to so inform, generally, the country and say, look, there is going to be a period from one day in September to whichever day in October when you can get no registry services. Therefore, we will all be warned and maybe we would have taken steps. Rather than putting 90 days on some contracts, you would have put 120 days, or eliminate time being of the essence in those contracts.

Again, that is something which—I do not know that anything could be done now and I do not know whether the courts would be prone to look liberally and deal with the definition of force majeure in the liberal manner so as to accommodate what is happening in Trinidad and Tobago today.

I just wanted to make these very short comments with respect to the legislation before this House and to say, like my learned colleague from San Fernando West, that I support this and hope that this is just what it is, a transition period, a temporary period, which hopefully will end in about two years. I also expect that the hon. Attorney General would take steps to alleviate the plight of the title clerks.

Thank you, Mr. Speaker.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I think it is a bit unfair for the last speaker, the hon. Member for La Brea, to give the impression that in the move from the Red House to the Huggins Building the land registry is not functioning. As a matter of fact, I remember when I took office as Attorney General and assumed the portfolio for that part of the ministry and I was asked to come to the Red House to look at the conditions under which previous administrations have had these records kept, they were terrible. This morning when I met with the media and the staff at the Huggins Building, there were photographs which the Registrar General produced as to the chaos which existed in the land registry in the Red House over the years. We knew that search clerks used to strike regularly, because they were saying they were not prepared to work under those conditions. The records were not kept properly; there were no proper racks for the records to be packed.

What has happened is that when this administration took office there was a situation where the Red House had to be cleared to facilitate the Parliament, but also appropriate, temporary facilities had to be provided as a matter of urgency to have the land registry housed. It is in this context that if one visits the registry now, as the media did this morning, one would see that there is a vault—better facilities than there was at the Red House—there are racks on which the records are kept.

But in order to effect that move, for a few days there was discomfort of the public because you had to move all these records from one place to another, but there were services provided on an interim basis. There were advertisements on the radio and the newspapers advising persons, not only of discomfort for the land registry, but for the civil registry also, for marriage certificates, birth certificates, etc. At no time did I say that the facilities were not adequate. As a matter of fact, the hon. Member for La Brea has asked—and I do not know whether he has seen these facilities. Can I ask if he has seen them?

Mr. Bereaux: No, I have not.

Hon. R. L. Maharaj: Mr. Speaker, may I enlighten the Member? There is a section for the companies registry, a separate section; there is also a separate section for the intellectual property, and on the ground floor there is an area where the public would go in respect of the land and civil registry, and there is also the vault.

There is a waiting area for members of the public; there is a large enough area for people to queue up to get attended to, and there is a large area where the clerks of the registry have to work. On the ground area there is an area and that can house about 50 private title search clerks. Bearing in mind that there are about 100 private search clerks in all, there is also another area on the second floor to house another 50 private title search clerks.

What the Registrar General's Department did over the last few months, it provided free of charge courses for the private title search clerks as to how to operate and access the computer records. So that you have a situation in which some of the searches which people would have to do on the ground floor are no longer required to be done on the ground floor, because all of the profiles of the common law deeds from 1979 to 1999 are on the computer. I mentioned that in a week's time—it is already done; it is going to be put into the system—you are going to have from 1970 to 1999. So there will be 29 years title on the computer.

So that, for example, where the bank or anybody requests for a search clerk to check a property and has been given the number of the property, you can get that on the second floor. With respect to the paper-based information, you will then be able to get it on the ground floor. One has to understand that 100 search clerks are not there at any one given time and 100 search clerks do not use the facility for eight hours a day. If they are using it, it could be wrong. I want to tell you that there are some instances where some search clerks, I understand, have actually put their names on chairs.

As I said, the Government is not obliged to give them an office. It is not giving them a tenancy to use that chair or that table. The Government has to provide facilities for them to have access to the records. When they get that information, they are supposed to go back to the lawyers or the firms which employ them and compile their records, or go to some offices.

The taxpayers of this country would not be able to finance the private title search clerks for them to occupy the place as an office, using the telephone facilities, using the space and denying other members of the public to have access to it.

I went there from 8.30 this morning and I saw the facilities; I spoke to both the government search clerks and the private title search clerks. I have indicated that, obviously, there is always a resistance to change and there is some resistance of having to use the computer, and I could understand that. I was able to talk to them and tell them, "well, listen, let us see how it works and I will come on a regular basis to see how it works."

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The point has been made that there is a link area, that is to say, the area from the vault to the main building. That is an area which is to be used by the government search clerks; that is to say, search clerks employed by the ministry as public servants. What happened in the past, was that there were, for example, many companies in which the Government merely has some share or interest, a minimum investment, and they were considered as government search clerks. That has been unfair because what used to happen is that you have a security situation in which some of the records—without going into details—questions arose, and therefore for security reasons we had to have a situation where, between the vault and the main area there had to be some kind of arrangements whereby the records of the country can be protected.

Having said that, I have indicated to this House that there is, in my view, sufficient space for the title clerks to operate. If for some reason, however, the system does not work and it is not working and there is an injustice, I said I would look at it again. Problems are made to be solved and we will find a way to solve them.

I think it is unfair for the hon. Member for La Brea to give the impression to this House that the system has not worked and the registry has been closed for a month. That is not correct. As a matter of fact, I was there this morning and the registry was working. I know that there was some discomfort last week, but that had to happen in the moving process.

The other point raised by the Opposition was with regard to the building. I do not think I am on that today, but what I can say is that it would be wrong for anyone to think or to give the impression that the vault as constructed does not house the records 100 per cent better than what existed at the Red House. [*Desk thumping*] And as a matter of fact, there is more room for the staff and I would be prepared to talk to the Registrar to facilitate Members of Parliament who want to see it. As a matter of fact, it is something to see, having regard to what was in existence at the Red House.

3.30 p.m.

Mr. Speaker, I also want again to put on record that the Government recognized that this facility is not a permanent facility, and it was recognized that we had to find a facility on a temporary basis. You see, previous governments had taken decisions that, for example, legal officers in the Ministry of the Attorney General and public officers and legal affairs were being done an injustice and the public was being short-changed and there was need for two additional buildings. That has been a decision taken and recognized, but the governments of the past did not implement them and it is because of not doing that why the problems accumulated and the situation became as bad as it is today.

Recently, one building was made available for legal officers, some of the legal officers and some of the staff of one section of the ministry, and the other section of the ministry is to be housed in a new building which will be completed in about two years' time. That building is going to be commissioned shortly and that building, Mr. Speaker, would house all of the registries and will also house the office of the Director of Public Prosecutions and his staff. So that, this is all part and parcel of modernizing the facilities for law and modernizing the Registry.

Mr. Speaker, here it is we were approaching an information age and information technology not from 1996, you know, but from years before that, and nothing was done to prepare the registry for that era and for this era. What has happened is that this administration has taken steps to do that. So that if a person wants to do a transaction at the bank, a mortgage, he or she would be able to get it done faster through his or her lawyers by having the search done, whether it is a land mortgage or a bill of sale. If a member of the public would want to get information, such as a birth certificate, it will be quicker. Even if at the Civil Registry people want to get married they would be able to get it done in a different kind of environment and on a quicker basis.

We are on record as saying it is not only the registry that has been and is being improved. As a matter of fact, the whole system of the granting of marriage licences to religious bodies and their members has been archaic and bureaucratic. There have been complaints and it is this administration which has taken steps in order to redress that. Mr. Speaker, I think members of the public would be surprised to know that the head of ASJA could not have gotten a marriage licence because of the bureaucracy, and we have taken steps to remove those kinds of bureaucracy. As a matter of fact, we have taken steps to enable the Orisa church to get their marriage licences, but here we are being accused of not delivering properly to the people of Trinidad and Tobago.

Mr. Speaker, this is the registry also that deals with marriages and this Government has taken steps to meet with all of the religious bodies in an effort to have them tell us what should be done to regularize the laws where they believe the marriage laws have been discriminatory to them, and we have drafted laws in order to redress that. We will be coming to Parliament in a short space of time, enough time in order to have them passed. So, Mr. Speaker, the Government appreciates very much the support of the Opposition in this matter, but I think it is my duty to put on record that the problems that have arisen are not problems of which the Government has been the architect. The architect of those problems really is past administrations. This Government has been solving the problems and we have succeeded in solving many of them.

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I do not think anyone in 1996 would have thought that this Red House would have been free so that the Parliament can operate as a parliamentary institution alone, and today it is free so that the Government and the state will be able to improve the facilities so that we can have a modernized Parliament. *[Interruption]* Mr. Speaker, hear the allegation, that the Government is planning to sell the Red House. The Red House, it has been agreed to by this administration—as a matter of fact, Mr. Speaker, the last administration decided that the office of the Prime Minister must be in the Parliament. *[Interruption]* I want anyone to get up and deny that, that the office of the Prime Minister must be in the Parliament, and we took the position that there must be a distinction between the Parliament and the Executive.

Mr. Speaker, that is why we have decided that not only must the Parliament be free, that it must not be occupied by any other sector of the state, but we have taken steps and we are on record—we just passed two or three weeks ago a report to modernize the management structure of the Parliament in which the Parliament would have greater autonomy in the administration of its affairs. So how can the accusation be serious, Mr. Speaker, that this Government has not been delivering for the people of Trinidad and Tobago in these areas? I think hon. Members—Mr. Speaker, I think our politics should be of a very much higher level, if I may say with the greatest respect.

We must give credit where credit is due. *[Desk thumping]* We must criticize and we must lambaste and we must expose where facts are there to support such, but in the face of all these compelling and cogent facts, how can any reasonable-thinking person say that this Government is responsible for the problems in the Land Registry, that we have caused the Land Registry to close down, people are suffering and they will go to court and what the court would decide? Mr. Speaker, any government must be able to deal with the courts if they give decisions that are against the people or the public interest, and this Government will deal with it in accordance with law if those decisions come. Because the rule of law demands not only that the Judiciary be independent but they be competent and that Government is accountable to the court and the law, but the rule of law also demands that if judgments and decisions are wrong, if they are frivolous, if they are vexatious, the Government has a duty to the people to deal with it and to appeal and to discuss it, even with the public.

So I am not afraid if the hon. Member for La Brea says that the courts would decide matters. The courts have their duty to do. Let them decide. But governments and opposition also have a duty that if the decisions are wrong they

can talk to the public about them and we can deal with them on the facts. As a matter of fact, I think it is Lord Atkin who said that in the *Ambard* case, so I want to assure the hon. Member for La Brea that this side is not worried about the courts having to decide cases. That is their function. Let them do it and we will do our duty.

Mr. Speaker, the other point raised was about the question of the change in the office hours from 8.30 to 3.15. This has nothing to do with the working time of public officers. The public officer's working time remains the same. It is the time for services provided that has changed. For example, present title searching is from 9.30 a.m. to 3.00 p.m. Those are the hours. Title searching is done throughout lunch. Other services offered are from 8.30 a.m. to 4.15 p.m.—no closure for lunch. The change from 8.30 to 3.15 p.m. is to provide for more hours for title searching. So it does not alter the times of work of the public servant. So that it is the services—in order to get better services and to better accommodate the members of the legal profession and what they have asked for.

The other point which has been raised, and has also been raised by the hon. Member for San Fernando West, is the question of the status of bills of sale or judgments, how they will be indicated, that is, if they are re-registered judgments in respect of these matters, if they are new registrations or if they are cancelled, whether they will be shown on the computer. I am told yes, that they would be shown.

Mr. Speaker, I find that the progress which the Registrar General's Department has made is really unbelievable; it is incredible. If one saw the tedious way in which these records had to be put on the computer, and one saw the kind of commitment and dedication they displayed in doing it, and with this achievement in which 65 years of records with respect to births, deaths and marriages are now on computer and 30 years of records of common law deeds are on the computer, that is a hell of an achievement, Mr. Speaker. I would think that whatever little inconveniences and interim problems members of the public and the legal profession have to undergo in achieving this transformation are all worth the while so that the public would benefit more in the final analysis. Mr. Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

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Mr. Chairman: Hon. Members, there is a list of amendments to be moved which would now be circulated to everyone.

Mr. Maharaj: Mr. Chairman, hon. Members are getting an amendment and I am told that all it does is retain the charges for the manual searches, but the new charges would be for the electronic search.

Mr. Chairman: I take it that we now all have the list of amendments?

3.45 p.m.

Clauses 1 to 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. Maharaj: Mr. Chairman, I wish to amend clause 6 as follows:

“Under clause 6(d) replace ‘search of single indices’ with ‘search of single index’”

Question put and agreed to.

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

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

House resumed.

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

REAL PROPERTY (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, in light of all that has already been said, I beg to move,

That the Bill to amend the Real Property Ordinance Ch. 27 No. 11 be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Real Property (Amdt.) Bill

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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.

Mr. Maharaj: Mr. Chairman, I wish to amend clause 3.

“Under clause 163(1)(b) instead of ‘subject to paragraph (c)’ it should read ‘subject to subsection (2).’”

So we are deleting “paragraph (c)” and substituting it with “subsection (2)”. In the last line, delete the word “electronic” and substitute the word “manual”.

Question put and agreed to.

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

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

House resumed.

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

3.55 p.m.

CONVEYANCING AND LAW OF PROPERTY ORDINANCE (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That a bill to amend the Conveyancing and Law of Property Ordinance, Chap. 7:12 be now read a second time.

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 and 2 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.

LAND ACQUISITION (AMDT.) BILL*Order for second reading read.***The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move,

That a bill to amend the Land Acquisition, 1994 be now read a second time.

*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 3 ordered to stand part of the Bill**Clause 4**Question proposed, That clause 4 stand part of the Bill.***Mr. Maharaj:** Mr. Chairman, with respect to clause 4 (4) to accommodate the point made by the Member for San Fernando West, I would like to move that clause 4(4) be amended to insert after the word “shall” the words “as soon as possible.”**Mr. Sinanan:** You do not want to give a time frame? “As soon as possible” is as long as it is wide. Do not forget you may have proprietors wanting to know within a particular period, maybe six weeks.**Mr. Maharaj:** I wonder if we could leave it and let us see how it works and then we come back.**Mr. Sinanan:** As soon as possible? *[Laughter]***Mr. Maharaj:** We would come back as soon as possible if it does not work. I did not know that the hon. Member for Diego Martin Central is God.**Hon. Member:** He is gone, not God.*Question put and agreed to.**Clause 4, as amended, ordered to stand part of the Bill.**Clause 5**Question proposed, That clause 5 stand part of the Bill.*

Mr. Sinanan: Mr. Chairman, clause 5 (2)(4) , again, I think there ought to be some sort of time frame for a notice. In clause 4(4), you have “as soon as possible”, and in clause 5 (2) (4) there is no time frame. I think in order to be consistent you need to have some time frame there. [*Crosstalk*].

Mr. Maharaj: “The registrar shall, as soon as possible?”

Mr. Chairman: I do not think you could put “shall” there, because there is another “shall” in the other line.

Mr. Maharaj: Are we not on—

Mr. Chairman: He is on clause 5 (2) (4). So that if it should read, “the Registrar shall on receipt as soon as possible,” just “as soon as possible” after “Registrar” because you have “shall” in line immediately below it.

Mr. Sinanan: What is that? I am not following that.

Mr. Maharaj: I have been asked to mention before we consider it, it says, “the Registrar on receipt of the declaration shall cancel the registration of the notice...” So it is “on receipt.”

Mr. Sinanan: All right. I withdraw it.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6

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

Mr. Maharaj: Mr. Chairman, I think here is where you want “as soon as possible.”

Mr. Sinanan: In clause 6 (2) (4), you are referring to subsection (3). Which subsection (3) is that? There is no subsection (3). It should be under section 5.

Mr. Maharaj: Are you sure?

Mr. Sinanan: Well, it could be under clauses 4 and 5.

Mr. Maharaj: It should be section 9(3) of the Land Acquisition Act. You do not have to put, “Land Acquisition Act.”

Mr. Chairman: So clause 6 is amended by adding in clause 6 (2) (4) at the end of the second line, “section 9 before subsection (3).” Is that it?

Mr. Maharaj: Mr. Chairman, we do not need it because clause 6 is amending section 9. So what you are referring to there is correct, it has been abandoned under (3) of section 9. So you do not need it. Okay? Look at clause 6. "The act is amended in section 9." So you are really talking about subsection (3) of section 9.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill.

Clauses 7 and 8 ordered to stand part of the Bill.

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

House resumed.

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

STATE LANDS (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That a bill to amend the State Lands, Chap. 57:01 be now read a second time.

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 3 ordered to stand part of the Bill.

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

House resumed.

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

4.10 p.m.

REGISTRATION OF DEEDS (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That a Bill to amend the Registration of Deeds Act, Chap.19:06 be now read a second time.

Registration of Deeds (Amdt.) Bill

Monday, October 2, 2000

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 8 ordered to stand part of the Bill.

Schedule.

Question proposed, That schedule stand part of the Bill.

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

“In Form B, delete the words ‘Port of Spain, at
 o’clock in the
noon of’ and insert
 the word ‘on’ immediately before the words
 ‘the.....day of’”

Question put and agreed to.

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

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

House resumed.

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

ARRANGEMENT OF BUSINESS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I wonder, in the light of the fact that the amendments to the Proceeds of Crime Bill, and having regard to the urgency of it, can we do that one as the next matter? It is Motion No. 1 on the Order Paper.

Agreed to.

**PROCEEDS OF CRIME BILL
(Senate Amendments)**

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That the Senate amendments to the Proceeds of Crime Bill listed in Appendix I be now considered.

Question proposed.

Question put and agreed to.

Part I.

Senate amendment reads as follows:

“Part I	Delete the word ‘offender’ wherever it occurs in Part I and substitute the word ‘defendant’”
---------	--

Mr. Maharaj: Mr. Speaker, I wonder if we could do all the Senate amendments to the Proceeds of Crime Bill in one.

Mr. Imbert: What about the Equal Opportunity Bill?

Mr. Maharaj: We are doing the Proceeds of Crime Bill now because that requires a special majority. [*Interruption*] It is all right, go ahead.

Mr. Speaker, the proposed amendment speaks for itself, in that what has happened here is, instead of the word “offender” we have used the word “defendant”. In civil proceedings it is a defendant.

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

Question proposed.

Question put and agreed to.

Clause 2.

Senate amendment read as follows:

- | | |
|----|--|
| “2 | A. In the definition of ‘Specified offence’, insert after the word ‘schedule’ occurring in line three the words ‘except that in Sections 32 and 33, Specified offences means an offence under the Dangerous Drugs Act and Part 2 of this Act’. |
| | B. Insert after the word ‘Order,’ occurring in sub-clause (2) the words ‘legal or equitable’” |

Mr. Maharaj: Mr. Speaker, in respect of these amendments, what has occurred is that, in relation to adding to the Schedule, it has to be done by affirmative resolution, and in respect of the investigative powers of the police, there is exception in respect of sections 32 and 33.

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

Question proposed.

4.20 p.m.

Mr. Imbert: Before we go to the division, could the Attorney General tell us what Part 2 of the Bill is about? The amendment refers to Part 2, it talks about the Dangerous Drugs Act and then it refers to Part 2, what is Part 2?

Mr. Maharaj: Part 2 of the Act deals with money laundering. I could give the Member the section. The first part dealt with drug trafficking, and Part 2 of the Act dealt with money laundering.

Mr. Imbert: This amendment therefore restricts the powers under sections 32 and 33 to offences under the Dangerous Drugs Act and money laundering.

Mr. Maharaj: There were special powers given for investigation to take records from a person and it was felt that we should do it incrementally because there were very draconian powers which have been in legislation, but it was advocated that they were prepared to support the Bill if we do it on an incremental basis and we went along with that.

Mr. Speaker, in light of the fact that this is a Bill which needs a specified majority, out of an abundance of caution can I take a division please?

Mr. Speaker: Would we have a division on Part 1 and then clause 2?

Part 1

Question put.

The House voted: Ayes 25

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.
Humphrey, Hon. J.
Sudama, Hon. T.
Maraj, Hon. R.
Rafeeq, Dr. The Hon. H.
Assam, Hon. M.
Job, Dr. The Hon. M.
Khan, Dr. F.
Singh, Hon. G.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Mohammed, Dr. The Hon. R.
Singh, Hon. D.
Ramsaran, Hon. M.
Sharma, C.
Rowley, Dr. K.
Imbert, C.
Narine, J.
James, Mrs. E.
Bereaux, H.
Sinanan, B.
Williams, E.

Question agreed to.

Clause 2.

Question put.

The House voted: Ayes 25

AYES

Maharaj, Hon. R. L.
Panday, Hon. B.
Persad-Bissessar, Hon. K.
Lasse, Dr. The Hon. V.
Humphrey, Hon. J.
Sudama, Hon. T.
Maraj, Hon. R.
Rafeeq, Dr. The Hon. H.
Assam, Hon. M.
Job, Dr. The Hon. M.
Khan, Dr. F.
Singh, Hon. G.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Mohammed, Dr. The Hon. R.
Singh, Hon. D.
Ramsaran, Hon. M.
Sharma, C.
Rowley, Dr. K.
Imbert, C.
Narine, J.
James, Mrs. E.
Bereaux, H.
Sinanan, B.
Williams, E.

Question agreed to.

Clause 21.

Senate amendment read as follows:

“Insert after the word ‘any’ occurring in line four of subclause (8) the words ‘legal or equitable’.”

Clause 55.

- A. In sub-clause (6) insert after the word ‘the’ occurring in paragraph (d) the words ‘Act and the’.”
- B. In sub-clause (7) insert after the word ‘may’ the words ‘subject to subsection (12),’”
- C. Renumber sub-clauses (8) and (9) as (10) and (11) respectively and insert new sub-clauses (8) and (9) as follows:

(8) The designated Authority shall regard and deal with all information and documents which he has obtained in the course of duties as designated authority as secret and confidential.

(9) If the designated authority communicates or attempts to communicate such information to any person or anything contained in such document or copies to any person—

(a) other than a person to whom he is authorised to communicate it; or

(b) otherwise than for the purposes of this Act or any other written law,

he is guilty of an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.”

D. Insert after sub-clause (11) as renumbered the following new sub-clauses:

(12) The designated authority in order to exercise the powers given to him under subsection (7) shall apply for and obtain an *ex parte* order of a judge of the high court, which order shall constitute the warrant for the designated authority to enter into the premises of the financial institution.

(13) The application referred to in subsection (12) shall show reasonable cause for the designated authority to enter into the premises of the financial institution to fulfil the requirements of subsection (7).”

First Schedule Add the words ‘National Lottery on Line Betting Games’ after the words ‘Pool Betting.’”

Mr. Maharaj: Mr. Speaker, if I may explain these amendments to hon. Members, clause 21 is a clause which has to do with the court charging orders and under that clause were persons with a legal interest and it was thought that there may be people with no legal interest so they decided to specify legal or equitable interest. There may be a wife with equitable interest in a property and before the court makes the order, the person must be given the opportunity to be heard. That is the effect of that amendment.

Clause 55 A has to do with the Act and the Regulations; clause 55 B is very cosmetic. In clause 55 C there is a fundamental amendment as it was thought there should be some safeguards against a designated authority abusing his power. This is the authority that will be able to go into the bank and inspect the records and it was felt that there should be some safeguards. The Government accepted a suggestion from the Independent Bench that there should be something put in the Act in order to ensure that the person will not be able to use the information except for what it is authorized to do and secondly, if he does that, he commits a criminal offence and is liable to fine and imprisonment. That is what that clause does.

With respect to the designated authority, we decided also to put further safeguards so that he can only go in if he gets an order *ex parte* of a judge and there is precedence for that under the Corruption Act, that you go *ex parte* to a judge and then you can get the authority to go in to search and take whatever copies he wants.

In respect of the First Schedule, there was a strong view that the national lottery and online betting games should be part and parcel of the process under the First Schedule.

Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments.

Question proposed.

Mr. Bereaux: There is one point in respect to clause 55(12) which says:

“The designated authority in order to exercise the powers given to him under subsection (7) shall apply for and obtain an *ex parte* order of the judge of the high court,...

Does it in anyway bind the judge to give that order in the way this is written?

Mr. Maharaj: No.

Mr. Bereaux: I am thinking that the words shall apply to a judge for an *ex parte* order—apply for and obtain to what extent?

Mr. Maharaj: The authority cannot only apply for. In order for him to go into the premises of the bank, he has to apply for and obtain. If he does not obtain he cannot go.

Question put.

The House voted: Ayes 25

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Humphrey, Hon. J.

Sudama, Hon. T.
Maraj, Hon. R.
Rafeeq, Dr. The Hon. H.
Assam, Hon. M.
Job, Dr. The Hon. M.
Khan, Dr. F.
Singh, Hon. G.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Mohammed, Dr. The Hon. R.
Singh, Hon. D.
Ramsaran, Hon. M.
Sharma, C.
Rowley, Dr. K.
Imbert, C.
Narine, J.
James, Mrs. E.
Bereaux, H.
Sinanan, B.
Williams, E.

Question agreed to.

Mr. Speaker: Hon. Members, before the tea break is taken I simply wish to formally bring to the notice of hon. Members that there is a report that yesterday the Prime Minister of Dominica had died. Hon. Members I am sure would like to have an opportunity of expressing condolences. I indicate that one could have time to do this at the next sitting of the House which is likely to be on Wednesday.

The sitting of House is suspended for half an hour.

4.35 p.m.: *Sitting suspended.*

5.09 p.m.: *Sitting resumed.*

Mr. Speaker: We will continue debate on the Agricultural Small Holdings Tenure Bill 2000. I will advise that when this matter was adjourned the Minister of Agriculture, Land and Marine Resources was indeed speaking and he has some 37 minutes left of speaking time.

AGRICULTURAL SMALL HOLDINGS TENURE BILL
[Second Day]

Order read for resuming adjourned debate on question [May 11, 2000]:

That the Bill be now read a second time.

Question again proposed.

The Minister of Agriculture, Land and Marine Resources (Hon. Trevor Sudama): [*Desk thumping*] Mr. Speaker, on the last occasion when this Bill was being debated, I was winding up the debate. I spent a few minutes and I thought that I may just briefly reiterate the purposes of this Bill and some of the major amendments that we were trying to introduce through this piece of legislation.

First of all, I want to let this House know that land is a factor of production and, like other factors of production, there must be a reasonable degree of mobility in the ownership and use of land. We are trying to bring about a certain measure of flexibility in the terms on which lands are tenanted and leased to people. So that, if we do not have that basic minimum degree of flexibility, there is going to be a negative consequence for agricultural development and, indeed, for economic development generally.

Therefore, this Bill seeks to replace the existing law on agricultural tenancy and to introduce and incorporate that measure of flexibility so that there can be easier transfer of tenancies because we want to have that greater facility as to who should have the right to tenancies and, indeed, what agricultural crops will be grown. It is only in that way that we are going to have this greater flexibility in the use of land. At the same time, the Bill seeks to create a proper balance between the rights of landlords and the rights of tenants, and in introducing that proper balance we have decided to make certain key amendments. I will just, Mr. Speaker, quickly run through this.

We have debated this Bill already but one of the key changes that we are making is that in future, and when this Bill is enacted, the contract of tenancy will not be for a fixed statutory period and automatically renewable at the end of that statutory period. Members will recall that this was the case under the existing Act,

that the tenancy was for 25 years under Agricultural Small Holdings and then renewable for another 25 years. What we found is that in many cases the people who had these tenancies were not engaged in good agricultural practice, therefore very little could be done about that and in many cases people left, they could not be found, and there was no provision to deal with tenants who could not be found and, indeed, were not engaged in proper agricultural practices.

What this Bill does, one of the first and most fundamental things, is that the contract for tenancy under this Bill will be a tenancy for a period of time agreed to by the parties—the landlord and the tenant. It introduces the dispute procedure whereby a dispute arising in relation to a contract of tenancy shall be determined by a land tribunal and that is the tribunal that we established under the Land Tribunal Act, which was already passed in this House. So, Mr. Speaker, that was one of the major considerations, that it is a free, voluntary contractual arrangement that will be made between landlord and tenants, and that there is no automatic renewal. At the end of the tenancy, a new contractual relationship will have to be entered into.

Then the Bill has introduced a new element where, if the landlord wishes to have his land, he could give the tenant six months' notice to do so. Under the present law, the landlord had to go to a court and get an eviction order in order to get the tenant out, regardless of what the tenant was doing on the land, and that created a lot of problems. There was delay in time and sometimes the matter could not even be resolved. So under the present Bill the landlord has the option of giving the tenant six months' notice to vacate the land. The landlord did not have that option. But while the landlord has the option of giving six months' notice to the tenant, it can only be done under very strict conditions as mentioned in the Bill; so that is a protection. It is a protection for the tenant that the landlord cannot make any willy-nilly decision in order to require the tenant to get off the land.

Mr. Speaker, there was also the issue of how to register these tenancies, but before I go to that, we have decided that disputes will go to the agricultural Land Tribunal because, under the present system of agricultural tribunals, it never worked. They operated very badly in the sense that the body is headed by a magistrate. The magistrate only called meetings of this agricultural tribunal when he had time, and that is regarded as a peripheral aspect of his work, and secondly, there is little administrative support for these agricultural tribunals. So that, in the cases of dispute under present law, many of those were delayed and could not be resolved simply because the tribunal did not meet. Under this Bill, we are going to have an active agency for dispute resolution in the form of the Land Tribunal.

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[HON. T. SUDAMA]

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Mr. Speaker, there is the provision for registration of these deeds of lease of these tenancies, and when we come to committee stage I am going to move an amendment with respect to the issue of registration. Now, I understand that, under the law, the institution for registering these deeds is the Registrar General. We had suggested, in the Bill before us, that the district revenue officer in a particular district would provide these facilities for registration, and deeds of tenancy, of lease, would be taken to him and he would do the registration, but that is not possible under the present Bill, as I understand it, so the Registrar General will do the registration and the district revenue officer, for the ease of accessing records of tenancies and so forth, will keep that information on file. That information will be made available to members of the public so that it will be a much faster, a much more facilitative way in which information on tenancies would be provided at the local level.

Mr. Speaker, the Bill goes into detail in defining what good agricultural practices are because that is one of the major reasons on which application for determination of tenancy can be made. Apart from going into details, it does provide some degree of discretion to the Land Tribunal in dealing with these matters.

5.20 p.m.

Mr. Speaker, there is a new provision which, I think, we should take note of and which was not there before, and that provision relates to the right of the landlord to terminate a tenancy without notice. This is clearly spelt out here in clause 20 and it says:

“(a) by the landlord without notice—

(i) where the tenant is convicted of—

- (A) larceny of agricultural produce or livestock or both;
- (B) being in possession of agricultural produce or livestock or both, stolen or unlawfully obtained;
- (C) malicious damage...”

To any small holding. Under those circumstances the landlord has a right to terminate the tenancy. So we have included that in the provision but at the same time, as I said, we have made the terms more stringent where a landlord can request a termination of tenancy within six months’ notice.

On the compensation clauses in the Bill, we have gone to great lengths to ensure the right to compensation; the terms of that compensation; and what is included in the compensation schedule is fairly properly spelt out. But in any case, if there is a question of dispute, it goes to the land tribunal.

Mr. Speaker, there are clauses that deal with subletting and the fact that the landlord cannot unreasonably withhold his consent. Of course, if the tenant sublets without the landlord's consent, that is a ground on which the tenancy can be terminated. If that consent is unreasonably withheld then, of course, the matter could go to the land tribunal. There are a number of other matters that we have put in the Bill in order to strengthen the Bill and make the relationship between the landlord and tenant a more viable relationship in the interest of agricultural production and, indeed, in the interest of agricultural development in Trinidad and Tobago.

Mr. Speaker, I just want to explain a few things that we are going to do in the committee stage because I do not want this to be a long drawn-out process. I see the Member for Laventille East/Morvant just raring to go in this matter. As I said, the Member had partaken liberally of a certain part of poultry and so on and this is why this gives him the vigour to speak.

Mr. Speaker, in the title to the Bill, we will be deleting the words "by private and State-regulated bodies" because it is not necessary to put that in. It refers to lands that are not state lands and any lands that are owned by private persons and by state-regulated bodies come under the rubric of private lands. So I think that is not necessary. We will be deleting "State-regulated body" from the definition *et cetera* and we are putting a more specific definition for "tenant". Mr. Speaker, with respect to the whole issue that this Act binds the state, there is a different regime so that really is not necessary there.

Mr. Speaker, there are some other matters that we will deal with and that is with respect to how these tenancies are registered. We are not going to go with the previous terms of the Bill where it states:

"...and executed by the parties thereto before a Justice of the Peace or Commissioner of Affidavits and registered by the landlord or tenant within one month of the date of execution, at the District Revenue Office in which the small holding lies or such other place as the Minister may by Order designate."

The registration now will only be done at the Registrar General's Department. We are attempting to include in the Bill where the Registrar General will give information to the District Revenue Office, where for the purpose of convenience, a register would be held for the purpose of information and, therefore, subclause 10(3) of the current Bill will be deleted simply because that is no longer in effect.

Mr. Speaker, in instances where there is an omission to register contracts and so on, we are going to amend that as well in order to put it beyond doubt as to what instances registration would be required, and if there are any omissions due to inadvertence or accidents and so on, the land tribunal could, in fact, accept an application for registration outside of the specified time period.

We are going to amend clause 17 which deals with assignment of tenancy and clause 18 which goes into some details with respect to instances where subletting is permitted. We also did an amendment with respect to the appointment of an agent, where the landlord or the tenant is out of the country for a period of over six months, there is a necessity to appoint an agent and all the details are provided there. However, we have acceded to the Opposition's representation that clause 19(2) of the present Bill will not be enacted and that is where there was a penalty for contravening clause 19 which says:

“A tenant who contravenes that section shall be liable upon summary conviction to a fine of two thousand dollars.”

That clause is being deleted and, of course, there are other provisions to attempt to ensure that agents are appointed in specific instances and there are some other minor amendments.

Mr. Speaker, I just want to emphasize that there are saving provisions in the Bill, and these are contracts which are valid and entered into and are subsisting at the time. When this Bill becomes law and is proclaimed they will, of course, be observed.

5.30 p.m.

We have tried to deal with that in sections 42 and 43, which state:

“42. Except as is expressly provided in this Act, nothing in this Act prejudicially affects any power, right or remedy of a landlord or tenant or other person, vested in or exercisable by him by virtue of any other law in respect of any contract of tenancy or other contract, or of any fixtures, taxes, rent or other thing.

43. (1) Where proceedings have been commenced under the former Act, such proceedings shall be deemed to have been commenced under this Act.”

Mr. Speaker, we have attempted, in reformulating the Bill somewhat, to deal with some of the objections that were raised. I think the Bill before us is a worthy piece of proposed legislation which I would ask the Members on the other side to wholeheartedly endorse—even in this election phase in which we are in, because this is all for the betterment of the relationship between landlord and tenant and, indeed, in the interest of agricultural development in Trinidad and Tobago.

Mr. Speaker, with those few words I beg to move.

Question put. [Interruption]

Mr. Speaker: Just one second. I am sorry, but I thought that a few people had already spoken and the Minister was winding up. I was absent but that is the information I have. Is it not that you had spoken on Thursday, May 11, 2000?

Mr. Valley: Yes, Mr. Speaker, but given the list of amendments—

Mr. Speaker: Hon. Member, you would know that the fact that you have amendments—

Mr. Valley: All right, Mr. Speaker, thank you. *[Laughter]*

Agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, I think we have two lists of amendments. I take it that everybody has these lists of amendments. There is a short list, which includes the first column, clauses 10, 17, 19, 20 and 37, and another which begins with—

Mr. Valley: There is another list?

Mr. Chairman: There are two. There is one that begins with the long title and then clauses 1, 4, 2 and 3.

Mr. Valley: Yes, I have that one. *[Crosstalk]*

Mr. Chairman: Hon. Members, there are just two that are being considered, one which is marked “supplemental” and it is clauses 3 and 10. We have another, which is the thicker one, beginning with clauses 1, 4, 2, 3 *et cetera*. I take it that we have those two.

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Long title.

Question proposed, That the long title stand part of the Bill. [Crosstalk]

Mr. Sudama: Mr. chairman, I beg to move that the long title be amended as follows:

“Long title Delete the words ‘by private and state-regulated bodies’” in line 3.

Question put and agreed to.

Long title, as amended, ordered to stand part of the Bill.

Clause 1.

Question proposed, That clause 1 stand part of the Bill.

Mr. Sudama: Mr. Chairman, I beg to move that clause 1 be amended as follows:

“1 Delete; substitute the following clause:
Short title 1. This Act may be cited as the
Agricultural Small Holdings
Tenure Act, 2000.”

Mr. Chairman: Is that not what is there?

Mr. Sudama: We are deleting subclause (2).

Mr. Chairman: So you are deleting subclause (1) and the whole of subclause (2)?

Mr. Sudama: Subclause (2) then becomes clause 2.

Mr. Chairman: And you are deleting subclause (1) from after clause 1?

Mr. Sudama: Yes. Delete the subclause (1) so the short title stands by itself, and then subclause (2) will read:

“2. A. Insert as clause 2, the following clause:
‘Commencement 2 This Act comes
into operation
on such date as
is fixed by the
President by
Proclamation.’”

It does not change, it is just the numbering that changes. [*Interruption*]

Mr. Valley: Mr. Chairman, why is this Bill not coming into force immediately? What is the purpose of clause 2? Why is it for a date to be fixed? I want to know.

Mr. Sudama: This is a normal practice, the Bill does not come into effect until such date—

Mr. Valley: No, no, it is not a normal practice. It is used in situations in which there are preconditions and so forth, and they must first of all be fulfilled; after they are fulfilled then the President can do it by proclamation. I am not seeing anything in this Bill that are preconditions, and I am wondering whether this whole Bill is simply to fool landlords and that there is no intent whatsoever, given that we are so close to elections to say that you are doing something, because there is no reason for it and there are no preconditions. I suggest that it be deleted, unless you can show that there are preconditions.

Mr. Sudama: We have some regulations to issue under the Bill. The Minister has to make certain regulations on the Land Tribunal, although I think we have passed the Bill. The Land Tribunal has not been set up, and that is a dispute-resolving agency. Until that is set up we cannot refer—

Mr. Valley: So there are preconditions?

Mr. Sudama: Yes.

Mr. Valley: I just want to make sure that you are not fooling the landlords.

Question put and agreed to.

Clause 1, as amended, ordered to stand part of the Bill. [Interruption]

Mr. Chairman: No, you know this looks very simple but it calls for concentration, and if one is going to talk about that the best place for it is behind the Chair.

Clause 2.

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

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

- | | | | |
|-----|----|---|--|
| “2. | A. | Insert as clause 2, the following clause: | |
| | | ‘Commencement | 2 This Act comes into operation on such date as is fixed by the President by Proclamation.’ |

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- B. Delete the definition of 'tenant' and substitute the following definition:

'tenant' means the person in possession of land under a contract of tenancy and includes his assigns and successors'."

Question put and agreed to.

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

Original clause 2.

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

Mr. Sudama: Mr. Chairman, I want to go to clause 4.

Mr. Chairman: But you need to tie up the old clause 2 that you had there.

Mr. Sudama: When I delete clause 4 we will come back and tie up the other clauses.

Mr. Chairman: So we have clauses 1 and 2, and we have another 2 there, and you want to refer to something in clause 4?

Mr. Sudama: Yes, we want to delete clause 4 and then the present clauses 2 and 3 become clauses 3 and 4.

Mr. Chairman: May I suggest that consistent with what you just did, you simply move that clause 2 becomes clause 3, clause 3 becomes clause 4 and clause 4 be deleted. [*Interruption*] I suggest you do it like that.

Mr. Sudama: Mr. Chairman, I beg to move that the original clause 2 be renumbered clause 3.

Question put and agreed to.

Clause 2, renumbered clause 3, ordered to stand part of the Bill.
[*Interruption*]

Original Clause 3.

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

Mr. Sudama: Mr. Chairman, I beg to move that the original clause 3 be renumbered clause 4.

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Question put and agreed to.

Clause 3, renumbered clause 4, ordered to stand part of the Bill.

Original Clause 4.

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

Mr. Sudama: Mr. Chairman, I beg to move that clause 4 be deleted.

Question put and agreed to.

Clause 4 deleted.

Mr. Chairman: Why is the Member for Diego Martin Central being so loquacious?

Mr. Sudama: And he had his time to speak.

5.45 p.m.

Mr. Sudama: There is an amendment to clause 3.

“Delete the definition of ‘State-regulated body’,

Also delete the definition of ‘tenant’ and substitute the following definition:

‘tenant’ means the person in possession of land under a contract of tenancy and includes his assigns and successors”

Question put and agreed to

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

Clauses 4 to 6 ordered to stand part of the Bill.

Clause 7.

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

Mr. Valley: Mr. Chairman, looking at clause 7, I was wondering whether we ought not to put an onus on the landlord also in this situation. What it says is:

“...where the term of a contract of tenancy has expired and the tenant fails to exercise an option to renew, the contract of tenancy is deemed to have been terminated on the date of the expiry of the contract.”

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[MR. VALLEY]

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There are situations when there is a contract. The contract may be for a period of, let us say, three years. One may simply miss the period given for renewal. Here we are talking about the tenant on agricultural small landholdings, and I am wondering whether we ought not to put some protection for the tenant. In other words, put the onus on the landlord who, one would expect, ought to be more acquainted with contractual provisions and so on, rather than the tenant who is working the land.

Mr. Sudama: Where there is any dispute, the tenant can take that matter to the land tribunal in order to gain any redress. The landlord has to do so according to certain fixed rules. If you look at clause 20, you will see that the landlord can do certain things without notice. But, where he has to—*[Interruption]*

Mr. Valley: Remember we just got these amendments. Just let me look at clause 20.

Mr. Sudama: Where the tenancy exceeds one year, and he wants to get hold of the land again, he is required to give six months notice, but under certain conditions. He must prove that the tenant commits a breach of any term or condition.

Mr. Valley: That is not the point I am making. Under clause 7, what it says is, if we had a contract for three years, there is an option in the last three months that the tenant has a right to renew the lease. To me, we ought to put an onus on the landlord that he should—perhaps, at the beginning or 15 days before the period of the option—be under an obligation to write the tenant and inform him that he has this option and if he fails to exercise it, then there would be termination. My fear is that via the passage of time—

Mr. Sudama: Both parties would know when the tenancy is coming to an end. If the tenant wishes to contract again for a new tenancy, then he approaches the landlord.

Mr. Valley: I know. It has been known to happen that the tenant is there, going about his business and simply misses that option period, and the landlord comes and say: “Listen, you missed the period for the option.” This guy’s livelihood is dependent on that. He may have wanted to renew the thing. I am thinking that in this law, we ought to try to protect the tenant. The landlord, one would expect, ought to be better versed in contractual provisions and so on. Ought we not to put an obligation on the landlord? There must be evidence that at least he has reminded. This is simply a reminder.

Mr. Sudama: The tenant would have a copy of the deed of lease. It will be registered and a copy would be placed at the district revenue office. Do you think a tenant would be so lax that he would not know when his tenancy has come to an end?

Mr. Valley: Do you remember all the time when your drivers permit is up for renewal?

Mr. Sudama: But that is different. In any case, the people who forget are in the minority.

Mr. Valley: I rest my case.

Mr. Sudama: In any case when he comes and he says: “Okay—[*Interruption*]

Mr. Valley: When who comes?

Mr. Sudama: When the landlord comes, and the tenant feels that he has been aggrieved in any way by the termination of the contract, he can go to the land tribunal.

Mr. Valley: I rest my case.

5.55 p.m.

Question put and agreed to.

Clause 7 ordered to stand part of the Bill.

Clauses 8 and 9 ordered to stand part of the Bill.

Clause 10.

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

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

- | | |
|----|---|
| 10 | A. In subsection (1), delete the words commencing with ‘before a Justice of The Peace’ and ending with ‘may by Order designate’ and insert the words ‘and registered by the landlord or tenant as a deed under the Registration of Deeds Act, at the Registrar General’s Department’. |
|----|---|

- B. Delete subclause (4) and substitute the following subclause:
- (4) The Tribunal, on being satisfied that an omission to register a contract of tenancy within the time specified in subsection (1) was—
- (a) accidental or due to inadvertence, may extend the time for such registration on such terms and conditions as it may deem necessary; or
 - (b) neither accidental nor due to inadvertence, may decline to entertain any matter brought before the Tribunal, in relation to the contract of tenancy.”
- C. Insert after subclause (5), the following subclause:
- (6) The Registrar General shall give to the District Revenue Officer in the district where the small holding is located, notice of the registration referred to in subsection (1).
- D. Insert after subclause (6), the following subclause:
- (7) A contract of tenancy registered in accordance with this section is exempt from stamp duty.”

In other words, what we are doing here is removing primary registration from the District Revenue Office, and it now has to be done at the Registrar General's Department.

The registration now is by the landlord or tenant as a deed under the registration of deeds at the Registrar General's Department. That is the way we satisfy information being at the local level. There is a registration at the Registrar General's Department who then informs the District Revenue Officer of such a deed and the District Revenue Officer keeps a register there for information purposes.

Mrs. Robinson-Regis: Mr. Chairman, I want to ask a question concerning the amendment which deals with the execution that is now to be deleted. Where it says:

“and executed by the parties thereto before a Justice of the Peace or Commissioner of Affidavits...”

If I am reading the amendment correctly, and all those words are now deleted and it is said it is to be done in accordance with the Registration of Deeds Act, would that mean therefore, that it would be done as a deed, as an Attorney-at-law prepares a deed and would have to be executed before a Commissioner of Affidavits only? Would that incur more cost for the parties to the deed?

Mr. Sudama: I have to get some technical advice.

Mrs. Robinson-Regis: I wanted to know if it would result in more cost incurred by the parties.

Mr. Sudama: There is greater protection and you want to be registered. It is a public document and you want to have greater protection for the parties so you want to encourage registration even if it is slightly costly.

Mrs. Robinson-Regis: I agree with that. The way the Bill was drafted previously in any event, it would have been a document that was registered.

Mr. Sudama: We would minimize the cost. If you look at the First Schedule, you will see a draft contract of tenancy under this Bill.

Mrs. Robinson-Regis: So it would necessarily be in that form and the Act indicates that there would be no stamp duty attached.

Mr. Sudama: Yes, it will be exempt from stamp duty.

Mr. Chairman, I want to make a small amendment again to clause 10(3) which says:

“A contract of tenancy duly signed and attested and received by the District Revenue Officer or such other person as the Minister may by Order designate for the purpose, is deemed to be registered under this Act.”

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That has to be deleted because we are not doing registration at the District Revenue Office and, therefore, the clauses have to be renumbered. Subclauses (4), (5), (6) and (7) now become (3), (4), (5) and (6).

Question put and agreed to.

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

Clause 11.

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

Mr. Sudama: Mr. Chairman, I have an amendment to clause 11 which was not circulated. It reads as follows:

“Insert after the word ‘register’, the words ‘in accordance with section 10(5)’.”

Mrs. Robinson-Regis: Mr. Chairman, if the contract of tenancy would be executed as a deed, would it be called a deed, or would it be called a contract of tenancy?

Mr. Sudama: It is a form of an agreement, it is a contract.

Mr. Maharaj: Mr. Chairman, it is a contract of tenancy, but in effect you are treating it as a deed for the purpose of registration because before it was registered in the Revenue Office, but now it is going to be registered so that there would be a record on the land which is charged in respect of the agreement. So if anybody has to search the land, they will know that there is such an agreement in respect of that.

Mrs. Robinson-Regis: Thank you.

Question put and agreed to.

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

Clauses 12 and 13 ordered to stand part of the Bill.

Clause 14.

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

Mr. Sudama: Mr. Chairman, I beg to move that clause 14 be amended as follows:

- | | | |
|----|--|---|
| 14 | “Delete, substitute the following clause:
Contracting
Out of Act | 14. A provision in a contract of tenancy of a small holding whereby the tenant purports to contract himself out of the provisions of this Act or the effect of which would be to contract the tenant out of the provisions of this Act, is against public policy and void.” |
|----|--|---|

Question put and agreed to.

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

Clause 15 ordered to stand part of the Bill

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Mr. Sudama: Mr. Chairman, I beg to move that clause 16 be amended as follows:

- | | |
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| “16 | A. In the marginal note, delete the word ‘re-entry’ and substitute the word, ‘entry’. |
| | B. In paragraph (a), delete the words ‘one day’s’ and substitute the words ‘forty-eight hours.’” |

6 10 p.m.

Clause 17.

Question proposed, That clause 17 stand part of the Bill.

Mr. Sudama: There is an amendment to clause 17 which has been circulated and it reads as follows:

- “Delete subclause (3) and substitute the following subclause:
(3)An assignment of the tenancy shall not be valid unless it is executed and registered in the manner prescribed in section 10(1).”

Question put and agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Mr. Valley: Mr. Chairman, I crave your indulgence. I do not know whether you can do it now or sometime else, if you can.

Mr. Chairman: You want to revisit a clause?

Mr. Valley: Clause 14.

Clause 14 recommitted.

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

Mr. Valley: Mr. Chairman, I am just wondering, why are we preventing individuals, the tenant and landlord, from arranging their business? Why are we saying it is against public policy for the tenant to contract out? What happens if the contract that he is entering is better than what is envisaged here under the Act, if it is to his benefit?

Mr. Sudama: The Act does allow for the terms of a contract to be voluntarily agreed upon, for the rental to be voluntarily agreed upon, but the provisions of the Act were really put there to protect both parties. I thought you were arguing earlier on that it did not have sufficient protection for the tenant.

Mr. Valley: Well, this is it. For example, and that is why I am going back, if the tenant can agree to a better clause 7 than is here, why should he not be so allowed?

Mr. Sudama: Well, I mean, the thing about it is, why the Act, then? Why make provisions in an Act?

Mr. Valley: No, no, when you make—[*Interruption*]

Mr. Sudama: The provision is to regulate the relationship between landlord and tenant. So if you are going to have a situation where some people are abiding by the Act and others are not, then you are going to have a very difficult—[*Interruption*]

Mr. Valley: I think we are getting into all types of difficulties because then you are saying that you may have to pass this by a special majority, because you are telling people that they can deal with their property only other than as specified here and if that is so then you are interfering with the right of an individual to deal freely with his property, you see. Now, if you are saying here

that the Act provides protection for the tenant, because what you are saying here is that it is the tenant, not the landlord, but the tenant cannot purport to contract himself out of the provisions of this Act. So it seems to me that you are providing some protection for the tenant, but I am saying that—[*Interruption*]

Mr. Maharaj: Mr. Chairman, these provisions are in a certain form in the existing legislation. In other words, if you have a law, it is a principle of avoiding contract on the grounds of public policy if people cannot contract out of an Act of Parliament, and this is in the existing Act in some form and it is really to protect the tenant, because you are saying that neither a tenant nor a landlord can contract out of the Act.

Mr. Valley: Well are you passing this by a special majority?

Mr. Maharaj: No.

Mr. Valley: I mean, if you are dealing with my property and you want to bind how I deal with my property, then it requires a special majority.

Mr. Maharaj: But I do not agree with you. Contract, as to whether if you have—the Constitution does not provide for regulating, and if you are going to have a tenancy in respect of land, and there is a law which is passed with respect to land and tenancy—under the existing law on grounds of public policy you cannot contract out, and this is purely to state—put in statutory law.

Mr. Valley: As I understand the Constitution, you cannot tell me how to deal with my property unless it is passed by a required majority.

Mr. Maharaj: Mr. Chairman, just for the record, the existing law, section 10, a provision in a contract of tenancy of small holdings whereby the tenant purports to contract himself out of the provisions of this Act, or the effect of which would be to contract the tenant out of the provisions of this Act is against public policy and void.

Mr. Valley: The question is whether that Act was passed by a special majority and if it was not—I mean, look, quite simply—[*Interruption*]

Mr. Maharaj: Mr. Chairman, you know, when I became the Attorney General everything was a special majority, a special majority. The Constitution has not said that the Parliament cannot deal with property at all. What the Constitution says is that you must deal with property in accordance with settled law and also to ensure that people's right to enjoyment cannot be taken away, except by due process of law. If a Parliament is passing law to regulate the way in

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which tenants or lands are to be dealt with, and that is the law of the land, and there is a provision that a person cannot enter into an agreement with respect to land to which that Act would apply and contract out of the legislation, that does not need any special majority.

Mr. Valley: Tell me something else. Mr. Chairman, I rest my case.

Mr. Chairman: So can we proceed with clause 18 now?

Mr. Valley: I wanted to register a no vote against clause 14. Is it too late to do that?

Mr. Chairman: You wanted to do what?

Mr. Valley: I wanted to register a no vote against clause 14.

Mr. Chairman: No, you wanted to revisit the clause which we were revisiting, but then there was an explanation given and you were not making any proposal concerning it, were you?

Mr. Valley: Yes, I made a proposal, Mr. Chairman, and I realized that I was getting nowhere, so I thought we would put it to the vote so that it would give me a chance to say no, but, please go ahead, Mr. Chairman.

Clause 18.

Question proposed, That clause 18 stand part of the Bill.

Mr. Sudama: Mr. Chairman, I beg to move that clause 18 be amended by deleting and substituting the following:

“Tenants’ right to sublet 18(1) A tenant has the right to sublet with the consent of the landlord whose consent shall not be unreasonably withheld; but the rent payable by any sub-tenant shall not exceed the rent payable by the tenant to the landlord unless such excess was approved by the Tribunal on application by the sub-tenant.

(2) A tenant who wishes to sublet shall serve on the landlord, an application in writing for the landlord’s consent.

(3) Within one month of receipt of the application, the landlord shall serve on the tenant, notice in writing of his consent or refusal and in the case of refusal, the reasons therefor.

(4) Where the landlord fails to serve notice in accordance with subsection (3) within the period therein mentioned, he shall be deemed to have consented to the application.

(5) A tenant who is aggrieved by a refusal may apply to the Tribunal which may dispense with the landlord's consent unless it appears to the Tribunal that the refusal is reasonable."

The whole issue of tenants' right to sublet is given more precise definition and we think it is a better form in which to draft the legislation.

Question put and agreed to.

Clause 18, as amended, ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Mr. Sudama: Mr. Chairman, I beg to move that clause 19 be deleted and the following clause substituted therefor:

"Appointment of agent 19.(1) Whenever a party to a contract of tenancy intends to leave Trinidad and Tobago for any period exceeding six months, he shall—

- (a) appoint an agent resident in Trinidad and Tobago to represent his interest;
- (b) inform the other party, in writing, of his intention to leave and his agent's name and address; and
- (c) forward to the other party, concomitantly with the information referred to in paragraph (b), the agent's letter of consent to act as agent.

(2) Where a tenant contravenes this section and in the opinion of the landlord, the small holding was not being cultivated according to good agricultural practice, the landlord may apply to the Tribunal for a declaration that the small holding was not being cultivated according to such practice and that the landlord is entitled to terminate the contract of tenancy.

(3) Written notice of the landlord's intention to apply to the Tribunal for a declaration referred to in subsection (2) shall be served at least twenty-one days before the application is made, at the last known address of the tenant or posted in a conspicuous place on the small holding."

This is one that seemed to have caused a bit of contention and we had acceded to the Opposition representation that we delete the sanction attendant on failure to appoint an agent and to notify. So the whole of clause 19 is deleted and substituted as per the circulated draft.

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

Clause 20.

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

Mr. Sudama: Mr. Chairman, there is a minor amendment to clause 20 as follows as circulated.

- "A. In subclause (1)(a) (i) (C), delete the words 'The property of the landlord' and substitute the words 'any smallholding'.
- B. In subclause (1) (b) (iii), insert between the words 'arrears' and 'or', the words 'in excess of fourteen days.'
- C. In subclause (1) (c), delete the words 'without notice' and substitute the words 'after twenty-one days' written notice to the landlord at his last known address,.'

Question put and agreed to.

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

Clauses 21 to 27 ordered to stand part of the Bill.

Clause 28.

Question proposed, That clause 28 stand part of the Bill.

Mrs. Robinson-Regis: Mr. Chairman, I wanted to ask a question in relation to clause 28. I just wanted to find out if the cutting of trees, as is described here, would, in any way, contravene the Sawmills Act.

Mr. Sudama: For the cutting of trees, you have to obtain a permit to fell and a pay permit to remove trees from any holding.

Mrs. Robinson-Regis: Yes, according to the Sawmills Act. So that would also obtain in relation to this particular section of the Act?

Mr. Sudama: Yes. But you see, the contract would define what you can and cannot do, because, as the contract of tenancy is entered into, there are certain existing assets on the land which, you know, you may contract and say, "Okay, these assets will now pass over to the tenant or they will not".

Mrs. Robinson-Regis: Right, I am aware of that. But what I was asking is, in relation to the Sawmills Act, which instructs that you need to have a licence or permission to cut trees, would this in any way contravene the Sawmills Act?

Mr. Sudama: Not at all.

Mrs. Robinson-Regis: All right.

Question put and agreed to.

Clause 28 ordered to stand part of the Bill.

Clauses 29 to 36 ordered to stand part of the Bill.

Clause 37.

Question proposed, That clause 37 stand part of the Bill.

Mr. Sudama: There is a slight amendment to clause 37, Mr. Chairman, as circulated as follows:

“Delete the words ‘A claim for’ and substitute the words ‘Notwithstanding any other written law, a claim for’.”

Question put and agreed to.

Clause 37, as amended, ordered to stand part of the Bill.

Clause 38 ordered to stand part of the Bill.

Clause 39.

Question proposed, That clause 39 stand part of the Bill.

Mr. Sudama: There is a slight amendment to clause 39 as circulated as follows:

“Delete the words ‘Where the tenant’ and substitute the words ‘Subject to clause 6, where the tenant’.”

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Question put and agreed to.

Clause 39, as amended, ordered to stand part of the Bill.

[Mrs. Robinson-Regis raised her hand]

Mr. Chairman: Were you trying to draw my attention?

Mrs. Robinson-Regis: Yes, Mr. Chairman, but it was really to go back to clause 39 to ask a question, and I apologize for that. So when you have dealt with—*[Interruption]*

Mr. Chairman: You want it revisited?

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

Clauses 40 to 44 ordered to stand part of the Bill.

Clause 39 recommitted.

Question again proposed, That clause 39 stand part of the Bill.

Mrs. Robinson-Regis: Mr. Chairman, I just wanted to ask the question, in the amendment it says, “substitute the words ‘Subject to clause 6, where the tenant’”, and I am wondering if it should read instead, “Subject to section 6” rather than “clause 6”.

Mr. Sudama: Yes, we accept that, section 6.

Question put and agreed to.

Clause 39, as amended, ordered to stand part of the Bill.

6.25 p.m.

First Schedule ordered to stand part of the Bill.

Second and Third Schedules 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.

**EQUAL OPPORTUNITY (NO. 2) BILL
(Senate Amendments)**

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That the Senate amendments to the Equal Opportunity (No. 2) Bill 1999 listed in Appendix II be now considered.

Question proposed.

Question put and agreed to.

Senate amendments read as follows:

Clause 3.

“A. Insert the following new definitions:

‘family’ means parents, brothers, sisters and other lineal antecedents and descendants, uncles, aunts and cousins;

‘family business’ means an enterprise owned or controlled by the members of a family;

‘place of public worship’ means a church, mandir, temple, mosque or other similar building or temporary structure in which religious activities are conducted whether permanently, intermittently or temporarily.’

B. In the definition of ‘Minister’ delete the words ‘social development’ and substitute the words ‘equal opportunity’.

C. Insert after the definition of the word ‘sex’ the following:

‘State’ includes—

- (a) Government Ministries,
- (b) Municipal corporations,
- (c) Statutory authorities,
- (d) Enterprises owned or controlled by or on behalf of the State or which received funding from the State of more than two thirds of its total income in any one year;
- (e) Service Commissions; and
- (f) Tobago House of Assembly.”

Mr. Maharaj: Mr. Speaker, I am conscious because of the Standing Orders and the learning on this matter that I am constrained only to talk in respect of the amendments, so I will confine it to that. What this amendment does is to clarify the meaning of “family business” in clause 13(2) and to give a definition for a “place of public worship” which means a place where there is a temporary or permanent structure.

This clause is also in relation to the Ministry responsible, to substitute the Minister responsible for “equal opportunity” instead of “social development”. And having regard to the purpose of the Bill since it is to bind the state, clause 3C includes for clarity what “state” means and, basically, that is the purpose of this amendment. Obviously, when we come to other clauses in which it is connected to a “place of public worship”, I will deal with it under those clauses.

Mr. Imbert: Mr. Speaker, there are other clauses in which we will speak at length. I notice in clause 3A the Government has added the word “cousins” to the definition of “family”. I am wondering if that is a legal term. Is that a first, second or third cousin? I mean that could be a multitude of people.

Hon. Member: It does not matter.

Mr. Imbert It does not matter.

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

Question proposed.

Question put and agreed to.

Clause 7.

“Renumber sub-clause (3) as (4) and insert the following new sub-clause (3):

‘(3) This section does not apply to acts committed in a place of public worship.’”

Mr. Maharaj: Mr. Speaker, in respect of clause 7, hon. Members would know that the Government met with religious institutions, and based on the discussions which the Government had with them, the Government decided that this clause will not apply to acts committed in a “place of public worship”. So that

whether it is in a permanent or temporary place, whatever is said in a “place of public worship” would not attract any sanction under this Act. Obviously, if it comes under sanction of the Sedition Act or whatever other laws there may be the case, but that is the policy decision which the Government has taken in this matter.

Mr. Speaker, I beg to move.

Question proposed.

6.35 p.m.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, clause 7 of this Bill is one of the most pernicious and disgraceful pieces of legislation ever brought by any government into this Parliament, and I think I need to correct the record. The Government is clearly afraid to debate this legislation and these amendments, in particular, in full glare of the public. In the other place they went until 2.45 in the morning, clearly hoping that Independent Senators would become tired or would have other engagements and would be unable to remain until the wee hours of the morning.

As it actually happened, an amendment to clause 7 was proposed by Sen. Daly, who had indicated at the beginning of his presentation that he would have been unable to stay late into the evening. The amendment proposed by the hon. Senator dealt in part with the pernicious effects of clause 7, and that amendment sought to establish a defence to a complaint under section 7, such that the Act complained of had redeeming, artistic or social merit. What the goodly Senator was seeking to do was to deal with the aspect of censorship, which is what this clause is all about, because the Government was subjected to heavy pressure by religious bodies, and they realized, even through opinion polls which I believe were organized by the North American Committee of Teachers (NACTA), that that clause 7 could cause the Government to lose the next elections.

When they came under fire from the Pentecostals and several other Christian organizations and they started to feel the heat, and it was exposed that clause 7 was really something that was initiated by a supporter of the administration, it was aimed primarily at the small churches and was intended as an act of suppression and terror against non-established churches in this country. I do not need to name all of them, but that is what it was all about. It was an act of terror, in particular, against non-established and, particularly, non-established Christian churches in this country. When they started to get the heat—

Mr. Hinds: Fires of hell!

Mr. C. Imbert: When people made statements such as, "To hell with clause 7", I remember seeing a newspaper headline to that effect, "To hell with clause 7" and the word "clause" was actually spelled as "c-l-a-w-s", and so forth, they did a backtrack, and now we see in this clause 7 that it does not apply to acts committed in places of public worship. But it needs to be said that this evil clause 7 which was intended to create religious suppression in Trinidad and Tobago and also censorship of freedom of expression and censorship of free speech, I am afraid this amendment just does not go far enough. What was recommended in the other place was an attempt to allow artistic expression, particularly, by calypsonians. This Government is very afraid of calypsonians. [*Interruption*]

I hear someone on that side parroting out his nonsense. I have the voting record on the amendment recommended by Sen. Daly, and the Government would have fallen on this clause if they had not taken it to 3 o'clock in the morning, because there were eight Independents present, six Opposition Senators and 15 Government Senators there at half past two/quarter to three, and there were 14 votes in favour of Sen. Daly's amendment and 15 against.

The rules of this Parliament is that you preserve the status quo, and had they not waited until 3.00 a.m. it would have been 15/15. In the middle of the night 15/14, and it shows you what kind of dictatorial Government we are dealing with: eight Independent Senators representing a cross-section of our society, representing different interests in our society. The mover of the amendment, Sen. Daly, was not there, it would have nine, all nine of the Independent Senators appointed by the President would have voted against it. On the new clause 7(5) the vote was 15 against, and 14 for. As I said, if Sen. Daly was present the Government would have had a problem, but it just goes to show that in the face of that demonstration by Independent Senators, this Government is spreading the "rake" that the Bill was passed unanimously and there was no dissenting voice. [*Interruption*] Yes, sure.

When the amendment to clause 7 was put, all six Members of the Opposition and all the Independent Senators voted in favour of Sen. Daly's amendment. I have the voting list. A division was taken on subclause (5) which would have dealt with this censorship that the Government is trying to institute in this country, and every Independent and Opposition Member present voted in favour of allowing the continuance of artistic freedom in Trinidad and Tobago, and that needs to be said.

The lie that is perpetuated by this Government, the lie that the Equal Opportunity (No. 2) Bill and all its clauses were passed unanimously, it is a lie. At 2.45 in the morning 14/15, and as I said, if the mover of the amendment was present it would have been deadlock in the Parliament of Trinidad and Tobago. They did not get one vote from the rest of the country, not a vote, it is only the puppets on the Government side that voted for it. The Independents and the Opposition did not vote for it. [*Desk thumping*] Every single Independent Member and the Opposition: Sen. Diana Mahabir-Wyatt, Sen. Philip Marshall, Sen. Rev. Daniel Teelucksingh, Sen. Dr. Eric St. Cyr, Sen. Dr. E. Mc Kenzie, every single one of them voted in favour of Sen. Daly's amendment, but they like to fool people.

I saw reports in the papers afterwards that the Bill was passed unanimously, that there was no dissent, obviously, planted into the system by the Attorney General. Who is going to be there at 3 o'clock in the morning? Obviously, they planted this nonsense in the system. That is why at quarter to seven they think that this is not going to be reported in the media, but your efforts to have your treachery hidden from the public view is only a minor inconvenience. You could try to make sure that what I have to say today is not published in the media, but you can only try; it is only a minor inconvenience. It just goes to show what this Government is all about. A Senator in the other place, a distinguished attorney, tries to put an amendment that will weaken the pernicious effects of this horrible clause 7, and all the puppets voted against that very, very worthy recommendation. [*Interruption*] They may very well take it to the privileges committee, "yuh know dem".

All the UNC is doing is demonstrating their Hitlerian tendencies; that is all they are doing. [*Desk thumping*] [*Laughter*] In non-democratic societies, censorship is dominant and all-pervasive. It is felt at all levels of artistic, intellectual, religious, political, public and personal life; in non-democratic societies.

This clause 7 is an insidious and very transparent attempt at censorship, because another effort was made in the other place to let these complaints come from a group rather than from one individual, because you would have the absurd situation where one individual keeps making complaint after complaint on a daily basis. This was pointed out to them. When one looks at the wording of clause 7 and one sees what it says:

"A person shall not otherwise than in private, do any act which—

- (a) is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of persons;"

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What does “reasonably likely” mean? What does “offend” or “humiliate” mean? Something that I consider offensive is a minister of Government talking about the size of pipe. I consider that to be offensive, I feel badly about it.

I am sure there are many public servants who are humiliated when they hear this story about a Government minister talking about the size of pipe and the only pipe that she knows about is her husband's pipe. I mean, I am very offended, Mr. Speaker, when I hear these things. [*Crosstalk*] I am very offended, but then it appears obvious to me that Members on the other side are not offended by coarse language. [*Desk thumping*] They are not offended by crude language. [*Desk thumping*] They are not offended by obscene language. [*Desk thumping*] They are not humiliated.

When one hears about this kind of behaviour, you wonder if some of the persons involved had a few drinks before they did what they had to do. [*Interruption*] Well, it is a fact. I have to wonder; I can hold an opinion that if someone is not offended about all these innuendoes, these dirty, lewd overtones, that if it does not bother you then, perhaps, you had a few drinks before you listened to this kind of thing.

The other thing is that we had another situation recently where a would-be Member of Parliament lowered the tone of his public utterances into the gutter, referring to various parts of the anatomy and referring to a whole group in the society as belonging to a certain part of the anatomy. I can tell you that many people would have been offended by that behaviour, but, obviously, the people on the other side are not offended. I use these examples to show you how pernicious this clause 7 is, because they want to create an intolerant society through this legislation and, particularly, through this clause. They wish to create an intolerant society.

They want to create a situation in Trinidad and Tobago where every day one of their lackeys, one of their stooges will make a complaint to this commission, and then anybody who dares to criticize the UNC will be hauled before the commission.

6.50 p.m.

If one goes into history, it goes back thousands of years. Censorship, as the Member for Tobago East would know, goes as far back as Socrates and Plato. Socrates preferred to kill himself. He preferred to drink poison. The Member for Tobago East would know what I am talking about. He is probably the only one on the other side who would know what I am talking about. Socrates preferred to sacrifice his life, rather than accept censorship of his teachings. He drank poison. He made the ultimate sacrifice against censorship.

This Government does not care about these things. Let me take you back in time. I have some literature on Roman censorship. Listen to this:

“In Rome the general attitude was that only persons in authority...enjoyed the privilege of speaking freely.”

Does that remind you of Trinidad and Tobago, under the UNC, Mr. Speaker? Let me repeat it:

“In Rome the general attitude was that only persons in authority...enjoyed the privilege of speaking freely. Public prosecution and punishment...occurred frequently...”

when others in the society spoke freely.

You have noticed the behaviour of the Member for Couva North who says that no one shall criticize his government and remain unscathed. There are Members on the other side making the most ridiculous accusations against people in the society, generally, against persons on this side, and anybody who dares to criticize the UNC and its behaviour, and the behaviour of its MPs, and the conduct of its Ministers. We have the most violent reprisals that the UNC can dream up against anybody who dares to criticize them. The Prime Minister and the UNC would have done very well in ancient Rome.

I have often heard the Member for Tobago East talking about Cicero. It does not matter how it is pronounced. He said “Kikero”. My understanding is that the pronunciation is Cicero. The Emperor Caligula would love this. *[Interruption]* The man who wanted a horse ordered an offending writer to be burnt alive. That is why I say the Members of the UNC would have done very well in ancient Rome. Caligula ordered an offending rider to be burnt alive.

The whole thing is replete, Ken Gordon, Julian Rogers and Jones P. Madiera. Anybody who dares to offend this Government, along the lines of what we see in this horrible clause 7—if you offend, upset or humiliate them—you would be literally burnt alive or bought out. That is the punishment that is destined for anybody who seeks to criticize this Government. They are actually bringing it into legislation now.

The Member for Tobago East likes to tell us about his wide knowledge and so on. I sometimes believe that he just has a superficial knowledge of many things. He must have seen many versions of the Hunchback of Notre Dame. It is one of the most widely portrayed films. There have been many versions of the Hunchback of Notre Dame. Do you know what is interesting about that? A man

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was falsely accused of murder in the Hunchback of Notre Dame. What had really happened was that a Cardinal killed someone in authority, who wanted to allow the printing press. That is the real story in the Hunchback of Notre Dame, if the Member for Tobago East knows anything about it at all.

There was a printing press which was circulating pamphlets making criticisms of those of the church and so. A particular person in authority, at the time, wanted to allow the printing press to flourish. He was murdered and someone else was blamed. The gypsy, Esmeralda, was actually blamed for the murder, but the murder was committed by this Cardinal. The interesting thing about that was they did not want the printing press to be established. Prior to that, religious texts were done by hand, and it might take years to do a passage from the Bible. They saw the printing press as evil, because the printing press could make copies of leaflets and pamphlets and circulate and publish them so much faster than handwriting. A man was killed for that, but it did not stop the freedom of expression and free speech. The printing press came into being, and from there we got to the modern era where we have written published text and so on.

All throughout history you had the Inquisition. The Inquisition went for 500 years as an agency of religious censorship and persecution.

As my colleague said: “One of the first things we are going to do when we get into government is to undo and repeal this rubbish.” [*Desk thumping*] We are going to repeal clause 7 of this nonsense. [*Interruption*] The Member can say what he wants. I am speaking about clause 7 right now. There are other clauses to deal with, but I am talking about the rubbish that is clause 7. [*Interruption*] The Member could go and lie and say what he wants all over the place. That does not bother me.

Mr. Speaker, one of the interesting things about election season—one of the things that the UNC has brought to the political culture of Trinidad and Tobago, one of the evils brought by the UNC—is the depths to which they will sink in their depravity. [*Desk thumping*] It is amazing, the lies that they will fabricate and the depths to which they will go in order to assassinate the characters of other persons. The interesting thing is that the society has already written off the other side, as my colleague from Diego Martin West has said.

This session of Parliament is going to be over in a couple days. Since when do we have a sixth session of Parliament? It is only the UNC. I have noticed— [*Interruption*] By public demand they have decided that they want to have a sixth session of Parliament. The Government does not want to call election, Mr. Speaker. The Government wants to come here in the middle of the night with this rubbish, hoping that it will not be reported and that the debate will not get any coverage, so it could railroad through this foolishness.

7.00 p.m.

But we are going to talk. You know, it is interesting that we in this Parliament have to face a Government that does not have any popular support in terms of the evil that it wants to bring into this country. I have already alluded to the fact that every single Independent Senator was not in favor of clause 7. Every single Independent Senator was opposed to clause 7. It is interesting that in order to continue their populace rantings—you see, whenever this election is called, they want to say that “we passed this Bill and passed that Bill and we did this and we did that.”

They do not care whether what is contained in the legislation has any merit whatsoever. They do not care about the damage that would be done to the society with the rubbish that they keep trying to railroad through this Parliament. As the Parliament enters its twilight hours, you see six and seven Bills parachute out of nowhere. They want to do them in the middle of the night; they want to rush through eight Bills in a sitting, and so on, so that the Attorney General and the Government could come with some curriculum vitae and say, “well, we passed 120 Bills; they only passed 100; we better than them.”

But in this vile quest for numbers they are destroying this society. [*Desk thumping*] One would think that the great defender of liberty, the Member for Couva South, and the other great defender of liberty, the Member for Couva North, would be at the forefront of bringing legislation into this Parliament similar to the first amendment to the Constitution of the United States. One would think from their background, that is where they would be coming from.

The first amendment to the Constitution forbids Congress from enacting laws that would regulate speech. That is the purpose of the first amendment. It forbids Congress from enacting laws that would regulate speech. There have been many attempts by persons, state legislators, and so on, to pass laws, and in each case the whole question of the first amendment has come up and the US Supreme Court has always come down on the side of freedom of speech, especially artistic freedom.

There have been many attempts to censor calypsoes, going back 60, 70 years, in the days of Attila the Hun, Raymond Quevado—many attempts to censor calypsonians. There were many governments prior to the coming of the PNM who tried to censor calypsonians. Calypsonians have been arrested, attacked in the pre-PNM era and we now see that the Member for Couva South and his Government wants to take us back to the 1930s and the 1940s when it was considered a crime to sing something uncomplimentary about the governor.

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There are so many calypsoes of those days. There were all sorts of scandals about the governor and about our colonial rulers, and so on, and they were well-known among the common folks and they were transformed into verse by calypsonians and disseminated through the medium of the calypso tent. That is our history; that is our culture in Trinidad and Tobago. Even in recent times we have another form of political commentary—is it called pichiary—which is a freedom of expression.

Hon. Member: Pichakaree.

Mr. C. Imbert: Pichakaree, however it is pronounced. I am not an expert in that language and I would take any correction from the Members on the other side on how to pronounce pichakaree. But the fact is, you have seen, over the last ten years or so, the development of pichakaree to the point where stinging social commentary is made without any condemnation, without any criticism, without any reprisal. It is an alternative to the social commentary in calypso and it should be welcomed as such. But this Government, this evil UNC, wants to stifle the traditions in Trinidad and Tobago, the culture that we have had for the last 100 years and more. They do not want any calypsonian to make any comment about them because it bothers them. If a person, for example, behaves in a manner that is not becoming his or her station in society, but they just happen to be associated with the UNC, a calypsonian must not sing about that.

I was listening to a talk show the other day and, you know, it is intriguing. They were talking about the utterances of a Cabinet Minister. They were making the point, they did not approve of it. They thought it was vulgar. But they were making the point that if a calypsonian had sung a calypso about somebody's pipe and what size the pipe is and whether the husband saw the pipe first; all of them would be up in uproar about how he could do that, and he is disrespectful to women, and to our leaders, and so on.

I thought it a very interesting point to be made on the radio on a talk show—a very interesting point. It is, “do as I say, but not as I do.” That is the philosophy of the Members on the other side. That is why I used the quotation about Rome; that in Roman society only those in authority were allowed to make critical comments. The common persons who were not part of the Roman Senate were not allowed to make any critical statement about the Emperor and the persons in the Emperor's court and so on. They were burned alive.

It is very interesting to me what this UNC wants to do. They want to create a situation—because when you look at the powers of this Commission—it is all very relevant to clause 7 because it can initiate, or a number of other clauses can be invoked if there is an infringement of clause 7—in terms of notices. If a person makes a complaint under clause 7 and sends it to the Commission, it says in clause 33:

“The Commission may by notice in writing—

- (a) require any person to furnish such information as may be described in the notice;
- (b) specify the time within which the required information is to be furnished; and
- (c) require the person to attend at such time and place specified in the notice and to give oral evidence about and produce all documents in his possession...”

When one looks at clause 35 which will flow from clause 7, it states:

“Where the Commission finds that the subject matter of the complaint may be resolved by conciliation...it may by notice require:

- (a) the complainant (to attend)
- (b) the person who is alleged to have committed the act...
- (c) any other person who—
 - (i) is likely to be able to provide information relevant...
 - (ii) (any other person) whose presence at the proceedings is likely to assist (the Commission)”

When one goes to clause 36 which all flows from this evil and horrible clause 7, it says:

“A person who without reasonable excuse, refuses or fails to comply with any requirement of a notice under sections 33 and 35(2) is liable on summary conviction—

- (a) in the case of an individual, to a fine of one thousand dollars;
- (b) in the case of a body corporate, to a fine of five thousand dollars, for every single day that the individual or body corporate refuses or fails to comply with any requirement of a notice.”

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For every day! So that you have a calypsonian in full flight in Spectacula, or in Review, or in the savannah, or in Skinner Park—in full flight—making social commentary criticizing the UNC and its members, the next day, complaint before the commission. So the calypsonian has to come; the composer of the song has to come; the manager of the show has to come; those persons who participated in the process have to come; the persons who assisted the calypsonian, the back-up dancers, have to come. I mean this is the most pernicious piece of legislation I have ever seen. *[Interruption]* You could say what you want. It is a question of complaining.

I heard the Attorney General mumbling to himself about all the conditions that have to be satisfied, and so on. The conditions do not have to be satisfied in order for a complaint to be made. The person can make a complaint and it is up to the commission to determine whether the person is in violation of this Act. So you could have a nuisance situation as well, where a complaint is made against a calypsonian because he says he does not like the UNC. That is a group that he does not like; he does not like the Minister of Tobago Affairs because of his physical appearance—complain. He does not like—

Dr. Job: I am sure you were living here when calypsonians used to sing 10, 12 calypsoes against me and I never complained. I would not complain for that.

Mr. C. Imbert: Mr. Speaker, if that is so, then he is in a minority of one on the other side. *[Desk thumping]* The whole point is, in the calypso season, calypsonians move from place to place; they appear every night and you can have a situation where every single time a calypsonian appears in a public place—because they define “public place” as any place that the public has right of access to—every night a calypsonian appears and sings on their head and says how he does not like them, or makes uncomplimentary remarks about the UNC and so on, the next day, complaint. As the complaint is dismissed, another one; then another one; then another one. That is what is so pernicious about this legislation.

7.15 p.m.

When we have an open-ended clause like this, there is no limit. There could be a group of people, about 20 of them, and they could have a conspiracy where—all right, Tom will make a complaint today and, as his complaint is thrown out, the next day “is Jack”, and next day “is Mary”, and next day “is Sam” and the day after that “is Harry”, *[Laughter]* so there could be 20 agents of the Government, 20 paid agents of the UNC, who decide they are going to persecute Sugar Aloes or Pink Panther or Cro Cro, or anybody, and this thing just does not deal with calypsoes, you know.

Hon. Member: Gypsy.

Mr. C. Imbert: No, he would not be persecuted. He is on your side. But, you see, this pernicious clause 7 does not only apply to artistes, it applies to public speakers. So there could be someone on the radio with a talk show and he makes a statement which is considered to be offensive, as the Member for Tobago East was accused of making—I am not saying that he did—but an accusation was made that it was demeaning and insulting to a particular group in the society, and clause 7 of the Act is invoked. The complaint does not have to be valid, Mr. Speaker.

You see, one of the evil things about legislation like this is that the complaint does not have to be valid. It could be absolutely frivolous or the commissioners themselves, Mr. Speaker, could have their own hang-ups, their own prejudices. You see, we are dealing with things which are totally subjective. [*Desk thumping*] One person might say, “Let the jackass bray”, for example. Then one person might say, “Let the jackass bray?” “Forget all about it”, “No big thing, let them talk”, but another person might be deeply offended. There might be four people in the commission, one might be a very tolerant person who has a very firm and strong belief in tolerance, who believes in freedom of expression, and another person might be very intolerant and might believe that anything that is said that offends someone should be subject to punishment. How is one going to deal with this situation, Mr. Speaker, when that kind of ambiguity is contained in clause 7?

I have an amendment to clause 7. The amendment is, delete clause 7. [*Desk thumping*] It is so interesting that this Government, in the face of public outrage, in the face of public condemnation, kept pushing with clause 7. What is so important about clause 7? Why did this whole Bill hinge on the retention of clause 7? You know, they are bringing a Bill to deal with equal opportunity. It sounds nice, you know.

Mr. Sudama: “Is to deal with people like you”.

Mr. C. Imbert: I hope the reporter has picked that up. “Yuh hear” what the Member for Oropouche has said? He said it is to deal with people like me. You see, they say these things as a joke in crosstalk, but that is what they really mean, Mr. Speaker. [*Desk thumping*] [*Interruption*] There is a situation, and a decision has already been rendered, you know, where a judgment has been given that the Prime Minister was biased. It has been published in the newspaper. [*Interruption*] All right, appeal, fine—the court will deal with that.

Mr. Maharaj: “Ent” the judge decide against you in the Elias case? Is the judge right?

Mr. C. Imbert: That is not the point. They do not see me jumping up and down and screaming and carrying on all over the country. But the whole point is, Mr. Speaker, we already have a situation where, because of criticism, there has been a statement of bias. If we go back—let us go back in time and let us look at this Government very carefully. *[Interruption]* No, no, no, I will just go back to the *Trinidad Guardian* and the behaviour of the UNC—*[Interruption]*

Mr. Speaker: The speaking time of the hon. Member has expired. But I do want to appeal to Members on the opposite benches, I do not think that you will shorten anything by keeping up a constant conversation with him while he is talking. I think that we are likely to get through things much easier—*[Interruption]* Well, I disagree with the Member for Oropouche. I do not think that is the way to behave and you are the chief offender in that regard. I ask you please to desist. The speaking time of the Member has expired.

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

Question put and agreed to.

Mr. C. Imbert: *[Desk thumping]* Mr. Speaker, I do not know what is the problem of the Member for Oropouche, you know. I do not know what is his problem. He is no friend of mine. To deal with the earlier matter, the issue is not the judgment of any case in court. The issue is people feeling offended or humiliated and what is reasonably likely to offend and humiliate people. The particular case in question is not particularly important to me. The Government has appealed it and so forth. We will see what the Appeal Court has to say, we will see what the Privy Council has to say—but that is not the issue. It is the sensitivities in the society—I am using that case as a reference to the sensitivities in the society.

What I am trying to do is educate Members on the other side on what is reasonably likely to offend or insult someone. This is where I am coming from. You see, this is what they do not understand. In this Trinidad and Tobago, in this diverse society, and with our cultural traditions coming from all parts of the globe—you know, we have cultural traditions from all over the world. The people who came here, Mr. Speaker, brought with them all of their cultural traditions and all of their methods of expression, they brought all their songs, they brought their language, they brought their insults. People came to this country from all over the

world and constant within Trinidadian language now we have some insults that I do not think exist in any other country in the world. You know, there are things that I use to insult people in this country, words that are used, that do not exist in any other country in the world.

This is what I am trying to get across to the Attorney General. When there is a clause that says, “is reasonably likely to offend or humiliate” and so forth, you know people in Trinidad and Tobago can take offence at the strangest things, you know, and that is why I backtracked to the *Guardian*. There was a headline that said “Chutney Rising”. The general definition of the word “rising” means, you know, going up. The writer of that article had said at the point in time, when he was accused of all sorts of sins and crimes against humanity and the UNC in general, that he was trying to be complimentary. He was trying to say by the headline, “Chutney Rising”, that chutney had come of age, that chutney in Trinidad and Tobago had developed to the point where, you know, it was an art form to be admired and so forth.

Hon. Member: You believe that?

Mr. C. Imbert: Of course I believe that. When one reads the text of the article, that is what the article said in it. You know, it is interesting, Mr. Speaker. I want to educate them a little more. Let me read an article here. This is from an American group, the National Coalition Against Censorship and it is issue No. 72 of the National Coalition Against Censorship. “Hear how it goes”:

“Cry racism and watch knees jerk.”

By the reaction of the Member for Chaguanas, I could not put it any better. Do you know what this all about, Mr. Speaker?

“A well-intentioned third-grade teacher, who happens to be white, gave her mostly black and Hispanic students a critically praised gook book about a black girl with kinky hair.

Heaven forbid that they should have troubled themselves to read the book, *Nappy Hair*. They might have found that it was about a young heroine who celebrates that which makes her special. With ignorance in full bloom, they had no problem denouncing the teacher as a racist, often in words of four letters.”

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And they made threats of violence and so forth.

“So who did the school authorities choose to investigate first? The well-meaning teacher, or the...”

Violent parents?

“The teacher, of course.

She stood accused, however falsely, of being ‘racially insensitive’, and in the touchy-feely twilight of this century, few sins will land you in purgatory faster than presumed insensitivity, especially on a matter of race, sex, religion, national origin or sexual orientation.

The good news is that it took school officials very little time to realize that the teacher...was guilty of no transgression...than failing to clear the book with her principal.”

After the parents read the book, the same parents who wanted to beat her, they:

“...praised her lavishly, as did officials...”

At the school.

“The authorities asked...”

The teacher:

“...to return. She declined out of fear for her safety.”

It goes on to give reports that the teacher did not come back to the school but she tutored many of the students in her class privately and many of them went on to do very well under her tutoring. [*Desk thumping*] The whole point is that she asked them to read a book called *Nappy Hair* and from the time they heard the words “nappy hair” they said she is a racist and they wanted to kill her, Mr. Speaker. “Cry racism and watch the knees jerk” and this brings me back to “Chutney Rising”.

You know, the headline is deemed to be racist and nobody goes on to read the article, and the article is very complimentary and full of admiration for the art form that is chutney. But nobody reads the text. They just—drunken anger about this headline and everybody follows. You know, “They must leave the *Guardian*”, “The editor of the *Guardian* must resign and the rest of them must go too”, and so forth. I am giving you this example to show what happens in a society like Trinidad and Tobago where there are so many diverse groups. It is like putting matches to gasoline, Mr. Speaker. [*Desk thumping*] This is what this

legislation is all about. Because people take offence in this country, as I said, at the strangest things. Things that 99 per cent of the country might consider a statement to be totally innocuous, harmless, laughable and so on, one person decides, “You see dat, I am offended, I am humiliated” and so forth. I mean, they know what I am saying is true.

7.30 p.m.

Mr. Speaker, this is why I drew reference to that court matter. I was not talking about the merits of the case. I was just saying that one of the arguments presented in that court matter was that the newspaper group had been critical of the Prime Minister and, therefore, he responded in a particular way. I am not saying whether I agree or disagree. I am not getting into that. As I said, this matter is on appeal and is *sub judice* and so on and I really do not want to go into that. The judgment has been rendered but the matter is on appeal.

Dr. Rowley: It is a conviction.

Mr. C. Imbert: Mr. Speaker, I am making a point that in this society there are persons who are very thin-skinned. I saw another very interesting article in a Magazine *Freedom of Speech* from the United States of America. It refers to a situation where federal housing officials violated the first amendment rights of three California residents by investigating them for speaking out against a building project. Look at the ludicrous nature of this whole matter!

Mr. Speaker, three California residents spoke out against a building project and they were investigated and terrorized by federal housing officials. The case is very interesting. The residents had expressed their opposition to plans to convert a local motel into a housing unit for the homeless. They began to speak out at public meetings and circulated a newsletter criticizing the project. They formed a group called “neighbourhood groups” opposing the Bel Air conversion and this is in California.

“A housing-rights advocate, upset with the neighbours’ conduct, petitioned the San Francisco office of the U.S. Department of Housing and Urban Development to investigate the three for possibly violating the Fair Housing Act...”

Now, could you get more ridiculous than that!

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Mr. Speaker, so these people live in a neighbourhood and there is a motel next to where they live. The public agency involved in housing and so on wants to convert the motel into a shelter for the homeless. These people live in that area and they do not want a homeless shelter near to their homes. The residents made noise, complained and circulated a petition and so on, and then somebody decides that they were not entitled to complain and they have violated the housing act. It is so interesting. *[Interruption]* It is a fact because they were investigated by federal investigators. The San Francisco office investigated the complainants and threatened them with legal action. They were warned that if they did not co-operate with the investigation they could be subjected to fines as great as \$100,000.

“After an eight-month investigation...the San Francisco HUD sent a letter to the Washington office recommending that charges be filed against the three residents for violating the Fair Housing Act.”

Mr. Speaker, of course, when the matter went further, it was determined that there was not reasonable cause to issue charges against the residents. Mr. Speaker, the three residents then filed a lawsuit in federal court alleging that the investigation by the housing officials had violated their first amendment free-speech and free-petition rights.

“They alleged they were retaliated against solely for exercising their constitutionally protected rights.”

Mr. Speaker, do you know what the housing officials did? They claimed immunity and said that they were government officials and what if they subjected the residents to an eight-month investigation and threatened them to a fine of \$100,000 and so on. In December 1998, a federal district court rejected the motion brought by the housing officials for immunity and ruled that they were liable.

“On appeal, a three-judged panel of the 9th U.S. Circuit Court of Appeals...agreed unanimously with the lower court...”

And said that the first amendment rights of free speech of the residents had been violated and they had been terrorized by this state agency. It is a ridiculous scenario.

Mr. Speaker, look at it! I am a resident in a neighbourhood and they want to put a shelter for the homeless next to me. I have complained about it and I am subjected to investigation, threats and so on, and I have to go to court to get protection against the heavy hand of the state, and this could happen in Trinidad and Tobago. This is what I am trying to tell the Members on the other side.

Mr. Speaker, I have another matter here entitled “Campus police arrest student who challenged free-speech policies”

“A New Mexico State University student who protested school free-speech policies...has been arrested by campus police.”

Mr. Speaker, a student was circulating flyers on a campus and was told that he was violating the school’s policy. He was told that one could only circulate leaflets in one part of the campus. It sounds ludicrous but it happened. This student felt that he could protest anywhere on campus—but not a violent protest or anything—and he could have a placard and issue a pamphlet and so on. The student was arrested and charged and the point he made was very interesting. He said:

“I have the right to buy a gun, I can go to war, I can vote, but I have to get permission from the administration...”

To open his mouth. This is what I would like Members on the other side to consider. I would like them to consider this.

Mr. Speaker, I have another article here and it says “Sculptor Fights City Hall and Wins”

“Internationally-known artist Paul Gorenium didn’t cave in when city officials in San Jose, CA threatened him with \$2500-a-day fines...”

It sounds reminiscent of this legislation. *[Laughter]*

“...for failing to remove his outdoor sculpture, *Space Dance for Peace IV*, from the front lawn of his own home. The 12-foot high sculpture, pictured here, had been on display for eight years in Los Gatos Civic Center before Gorenium moved it to his home. After several neighbors complained about its size, the city notified him that the sculpture’s presence on his property violated the San Jose Municipal Code—likening the display...to building a house without a building permit.”

Mr. Speaker, this man was charged by the municipality for erecting a sculpture on his front lawn.

“Outraged at what he perceived to be an assault on his art as well as his First Amendment rights...Gorenium contacted national anti-censorship groups and local and national press. His own eloquent defense of artistic rights of free expressions, and support from...”

A number of groups across the country.

“...persuaded the City Council to withdraw its action.”

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Mr. Speaker, I am just giving you some examples of how ridiculous this matter could get. Someone could have a sculpture outside his or her house and someone else could say that sculpture is offensive because it is in public since it is on a front wall. If this person is humiliated he or she could bring the matter before the commission which may or may not investigate the case. For example, a person could say that a sculpture offends his or her religion. Someone may have a sculpture on his or her front wall and under this clause that person could then be charged for encouraging racial and gender hatred and matters of that nature.

Mr. Speaker, I want us to be very careful about what we are doing. The amendment talks about acts committed in a “public place of worship” but someone may decide to put some religious expression on his or her front lawn or whatever, and someone who belongs to another religion may find it deeply offensive.

7.40 p.m.

This happens all the time, a painting, a sculpture, whatever; there may be some religious depiction of something that took place in history, and a man passing says, “I do not like that, that offends my religion; I am offended and humiliated,” and that is calculated to encourage racial, religious and gender hatred, straight before the commission.

Mr. Speaker, I have said my amendment will be to delete clause 7. I am not sure that the Standing Orders permit an amendment to delete an entire clause, but I certainly wish that the Government would understand what it is doing. This is an evil clause, it is going to create divisions in the society and the Government will find a monkey on its back that it is going to have a lot of difficulty getting rid of. It is going to pit neighbour against neighbour, brother against brother, religion against religion and so on. It will have artistes against the rest of society. We are going to have a wash of actions in the court dealing with infringement of constitutional rights and so forth, and this is going to become very messy.

As far as I am concerned, there is no place in Trinidad and Tobago for legislation of this nature. If you go through the contributions in the other place as it deals with clause 7—because I have contributions from the other place—you will see that the main focus was on clause 7, and this is what particularly disturbs me; this is what we are debating right now. I do not understand why the Government wants to push this clause, it would be to their detriment as well as everybody else in society. They are not going to get away. They are creating a monster which will be damaging to them as it is to anybody else in society.

I am simply asking for good sense to prevail. I cannot support this amendment. I ask for the entire clause to be deleted.

Thank you, Mr. Speaker.

Mr. Sudama: I thought you stopped talking in Parliament.

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I hear my colleagues on the other side objecting to my rising. I can take objection. I think I heard them say that I said I was not going to be speaking in Parliament, and they were so happy. [*Laughter*] They were so happy that they did not even listen to the context. I can put them to rest by saying that the term is still going on. What I said is that you are allowed five terms, when the five terms are ended the sixth one would be extras and you will not be allowed any extras, so we are still in the fifth term until Saturday.

That is why I think that in these last days of this administration, I should enter this debate tonight to put on record just a warning to the people who are just about to go out of office. The reason I said that I would not be participating in debates in here after Saturday is not because I was saying that the Parliament is irrelevant, it is because I have come to the conclusion that this Government is not prepared to listen to reason and it is not prepared to answer pertinent questions placed.

We had recent debates, we placed questions to the Government on matters of accountability and not a single person on the Government side chose to engage a single item of the specific questions raised. So inside the Parliament the Government is very clear: "We are not answering any questions," and what happened in the other place, as described by my colleague, only further confirms in my mind that seeking to get concessions out of the Government in the Parliament is a waste of time. We simply have to rely on the people on the outside to intervene in the process to restrain this Government from destroying Trinidad and Tobago.

Mr. Speaker, if we were in a situation as existed in the United Kingdom, where there was discrimination based on colour and class, and if you wanted an apartment and they tell you that it is not available because you looked a certain way, or there was a problem in the society and the nationals were saying that something had to be done about it, I could have seen the reason for the Government bringing a bill with a name like this and proceeding in this way.

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If we were in a situation like in the deep south of the United States where there were laws that were actually passed which said that you belonged in a certain place in a community, you could not use a certain bathroom or restaurant or you could not sit in a certain part of the bus, then you had to have something like that. If you were in South Africa where the law of the land determined who you could get married to, where you could be after certain hours at nights, what you could participate in in the country based on your racial complexion, then I could see us having this Bill. But this is Trinidad and Tobago where, by and large, we are probably one of the most complex societies in the world, where virtually all components of humanity are represented: race, colour, creed, and we have co-existed here for a long time.

We have been independent since 1962 and we have, by and large, lived peacefully, respecting each other. That is not to say that, as Dr. Eric Williams himself put it, we too do not have our ragamuffins. There are voices in the community who speak as they see it, and thank God they are in the minority, where they try to give the impression that all is not well with respect to their perspective of race, ethnicity, class, and colour; they are there. We would be fooling ourselves if we say that they are not there, but, by and large, the vast majority of voices in this country are for what we have experienced as a people.

In fact, contrary to what is happening in the source areas, I have a friend whose father is a Hindu pundit, and his mother was the daughter of an Imam. That happened here in Trinidad and Tobago and nobody even bat an eyelid. In some other places in the world that would have been cause to burn down the town, burn down the country and kill people; not in Trinidad and Tobago; it did not even make the news, because we see people in a certain way in this country.

That is why I am wondering what drove this process. Why is the Government so hell-bent on resisting the majority view, that even if it is going to legislate under the heading of equal opportunity, they have included some things which are not right and are causing some problems, where the majority have concerns? The Government is hoping to say that the Bill is named the Equal Opportunity (No. 2) Bill and who in their right mind can oppose equal opportunity.

In fact, my friend from Couva South is saying there is a political price to be paid: because you in the Opposition are opposing equal opportunity and I will tell the country that you are against equal opportunity, and that is somehow going to cause political pluses for the Government. But, Mr. Speaker, I want to take issue with the name of the Bill. Given the content of the Bill and the reaction to the content and the fears raised by certain aspects of the Bill, can one really say that this is about equal opportunity?

Mr. Speaker, if one takes names at face value, you can be grossly misled. During the worst period of excesses in the communist era there was a country commonly called East Germany. It was the most repressive and abusive state in Europe, and possibly in all the world, but do you know what the official name of East Germany was? It was called the German Democratic Republic, and you could have found everything in that country except one iota of democracy. Some countries that are extremely repressive of people—[*Interruption*] [*Crosstalk*] Mr. Speaker, you hear them talking about the people's—no, we are not going to try that tonight; the clock is there. We have got a clock. [*Crosstalk*]

PROCEDURAL MOTION

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): I thank the hon. Member for giving way. Mr. Speaker, I beg to move that the House continue to sit—[*Interruption*] [*Crosstalk*] Are there more than one Speaker, My Lord? I only know that there is one.

I beg to move that the House continue to sit until the completion of this matter and the Legal Professions (Amdt.) Bill. [*Interruption*]

Mr. Valley: I am looking, Mr. Speaker, at Standing Order 10(10). According to the Standing Orders at 7.50 p.m. notice must be given, and it is now later than 7.50 p.m..

Mr. Speaker: What time is it now?

Mr. Valley: Right now it is about 7.52 or 7.53 p.m. I would have taken about 30 seconds, Mr. Speaker, so I think the time has passed for that procedural motion.

Mr. Speaker: I would simply indicate that when the Attorney General got on his feet and while there was the exchange between yourself, the Attorney General and another Member of the House and, indeed, the Member for Diego Martin West—both clocks, in fact, are carrying a slightly different time. One is about one minute faster than the other. I am looking at that one and that; I give them the benefit of the doubt. It was, indeed, 7.50 p.m. at the time that he rose and made this Motion, so I would allow it.

Question put and agreed to.

Mr. Speaker: Would the hon. Member please continue.

EQUAL OPPORTUNITY (NO. 2) BILL

Dr. Keith Rowley: Mr. Speaker, I was making the point about names, that we ought not to take the Bill at face value as named. Very frequently, we hear countries named People's Republic of this and People's Republic of that, and usually you would find whenever there is a title that begins with the people as the name of the country, it is a country where the people usually count for nothing in the scheme of things, where human rights and opportunities are at the whims and fancies of those who lead.

In fact, this is a classic case—[*Interruption*—why did you join it?

The road to hell is said to be paved with good intentions, so when the Attorney General talks about the good intention of this Bill, which, obviously, cannot be opposed by any right-thinking person, it reminds me that there was a priest in Brazil in the very early days, in the 17th Century, a fellow called Bartholomew De Las Casas. He was around when the indigenous people were being abused by the Christians who represented Christ. They were so inhumane in their treatment of these indigenous people that the priest, Bartholomew De Las Casas, intervened and spoke to the people in Spain and said, “Look somebody has to defend these people,” and he defended them very stoutly.

7.55 p.m.

But, he made a recommendation as he defended the indigenous people; he recommended that they bring Africans from Africa as slaves, so as to save the indigenous people who, obviously, were unsuited for the kinds of hardships that they were being made to endure under the Spanish conquistadors. Here we saw good intentions for some, resulting in chagrin for others.

Mr. Speaker, I want to make the point tonight that, this country has no problem with legislation which spells out equal opportunity, but if the Government is going to do that it has to be very careful what the legislation contains, because as the Government sets about to make opportunities for A, it might create problems for B. This Government will do well to note that it stands alone in shoving this clause down people’s throat in this country.

In the other place, as structured under the Constitution, the appointment of Independent Senators was a well-thought-out component of our national protection; where our founding father said: “You will select from a wide cross-section of interests over and above the Government and the Opposition in the political arena. You will select nine people from a wide cross-section, expecting

that they will bring the points of views of the areas in which they are well versed to bear on Government's proposals in the House." That is in our Constitution, for precisely this moment. That is why we have six Opposition Members in the other place and nine Independents, appointed by the President in his own judgment.

This Government should take note; that on this very controversial Bill, on which there has been widespread public comment, largely negative, it has not been able to win one a single vote from the Independents. If nothing should tell this Government that it is going on a wrong course, that should. Whatever they might think of the Bill, whatever the original intention was, I am saying to the Government: back up and take note.

It is not sufficient to shove the debate into the dead of night; when the country is asleep, hoping that no one will notice, hoping that no one will see a television report as to what transpires in the Parliament, and you will pass into law, and then to govern whom? Who is the Government going to govern when it shoves a Bill like this down people's throats, in the dead of night, against the objections of those who should stand up for them? Okay, it will be passed, as it was last night in the other place. Tonight I am sure it will be passed because the Government has the majority. Let me tell the Government something: "You are playing with fire in this country."

The main objections to this Bill are twofold: the clause that threatens intellectual freedom, and freedom of speech for artistes; in a country where calypsonians are viewed as the conscience of the people. There are conditions in this Bill that are aimed as a dagger against the heart of free speech, calypso music, and other artistic expressions. That statement is no news to any of you; you would have heard those arguments before. That is why, when in the other place, an amendment came to give comfort to those who are so worried—if the Government was genuine in its attempt—when that amendment came which would have preserved intellectual artistic expressions as we know it, it would have seized on the opportunity, coming from an Independent Senator, to say: "Okay, let us amend the clause to make it abundantly clear that it is not our intention to attack artistes." Do you know what the Government did? It rejected it. Like a thief in the night, at 3 o'clock in the morning, the Government passed its original version. I say to my colleague from Naparima, he was in the art form—he still is an intellectual in the art form. I know him well enough; I know he does not support this. I know that!

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When an amendment comes to preserve, in the minds of the people and in law, that artistes will be free to express themselves—my colleague from Naparima is a playwright. He must know that there are times when one wants to write what one feels. In the artistic expression people's souls come out. Artistes lead. Sometimes the first time the nation would hear it, is when the artistes do what is politically incorrect, and introduce it to the people. This Government decides that even if there are fears, justified or unjustified, they are not concerned about our fears. They are saying: "What we will do is to pass it and if you are fearful for the rest of your life, that is your business." That is not the role of a government! The role of a government is to govern in such a manner as to instill confidence in people, so that we can have confidence in them.

In a government that is not trustworthy, there is a concern like this being raised about the need to preserve artistic and intellectual freedoms. This Government rejects an amendment like that. What does the Government want us to think about its objective, Mr. Speaker?

We saw an instance here where there was a government-sponsored function in the savannah. The organizers had invited a certain calypsonian to sing. While he was on his way to sing there, he was told instructions from the Minister of Culture and Gender Affairs said he cannot sing on the programme because his calypso is inappropriate. That happened here. We cannot say we do not know, and it will not happen. The Government has lost its creditability a long time ago. When it seeks to legislate frightening clauses, and then passes up the opportunity to ameliorate those fears, then we should take note.

The other area of concern in this Bill is from a religious standpoint. I think that is the main area of concern with respect to this Bill. Those who read the Bill, and know what is behind the Bill understand, very clearly, that what the Bill seeks to do, is to protect a particular status quo in an area where there are certain religious concerns. The Government is not fooling anybody.

Given the advocates of this Bill, and the particular offensive clause, it has been stated that the name of this Bill should really be "The Hindu Protection Bill." [*Interruption*]

Mr. Sudama: So you are against Hindus?

Dr. K. Rowley: Do not be stupid! I remember coming out of the tea room behind one of my colleagues—[*Interruption*] I can explain myself, you do not have to speak for me. One has to understand something: this is a country which is very complex, religiously. In the community we have a large body of Christians, Hindus, Muslims and others.

When this Bill was being debated outside, in public, one of my colleagues said to a Member of the Government whose father is very prominent in the Maha Sabha: "Why do you not ask your father to get the Government to remove clause 7, and the Bill would be passed with no real problems?" She said: "No, he cannot do that; he fought all his life for it." I said: "Oh, so he is the one who is asking for this?"

8.05 p.m.

Then I read in the newspaper an article written by a person who describes herself as the conscience of the Hindu faith, one Rajni Ramlakan, and I kept the article, very early in the days when this Bill came out. She said the Bill must be passed as is without any amendment and she congratulated the Attorney General for bringing the Bill at this time because it should have been brought a long time before and she advocated that nothing should be changed because—and these are her words—what the Bill will do is to provide protection for the Hindus in this country. She dismissed the other complaints about other people's concerns. And then I asked what is this Bill that is meant to do that? That is why I am asking why is the Government so hell-bent on forcing clause 7 down the road even though there are fears and objections to it, while advocates of the Bill are telling you very clearly that what it is meant to do—as Rajni Ramlakan said and as Virmala Tota-Maharaj says—is somehow meant to provide protection for the Hindus?

I am saying that is a very worrisome direction to go because if you do that, in a Bill that says that to trigger the clauses you have these two very subjective arrangements, humiliation and offensive, if anyone does something which another person or organization feels is humiliating or offensive then the clauses in the Bill are triggered.

Mr. Speaker, I think that is too loose an arrangement because humiliation is a feeling. What humiliates me might not humiliate you. What is offensive to me might not be offensive to you. One thing the Bill is very short on, is any definition of humiliation. It is very short on any definition of offensive. That means the widest possible interpretation can be placed on those two terms, and in the context of religion where skins are very thin, where emotions can run very high, very easily, people can take offence to the slightest of statements. Something might be done completely innocently but a person might think that is a humiliation to one because some symbolism has been offended. So you cannot have a law which is triggered so loosely about humiliation and offence bringing about a whole

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mountain of actions in a society where you have religious groups competing for space as they are in Trinidad and Tobago today and that is why I am of the view that whatever problem existed before the coming into being of a clause like clause 7, opening up the opportunity for sparing, trusting and parrying will imminently worsen the situation.

Mr. Speaker, those persons who view this Bill as providing protection for Hindus, as Rajni Ramlakan has written, seem not to understand that there is a fundamental difference between Christianity and Hinduism. There are quite a few but the main one is in Christianity, especially for those persons who view themselves as evangelicals, the people who are not just satisfied to sit and be a member and be carried along with tradition, but those groupings in the Christian group who believe they are duty-bound to go out there and win souls; they are responding to a fundamental order of their teaching which says “go ye into all the world and preach the gospel to every people”. They view that as an instruction of their faith so therefore—

Mr. Partap: It says the injunction was to preach, not to criticize, not to denigrate.

Dr. K. Rowley: You see, here we are being subjective. If I am preaching, someone like you could very easily take my sermon as a criticism with yourself. What is preaching as against criticizing? If you read the *Bible*, St. Paul, did he not criticize what was existing at the time? He was the greatest preacher, but he was the greatest critic of the status quo of the day. So what are you talking about? That is precisely what is going to happen because you are going to have the Christian Evangelicals following their order of faith to go out there and teach. How can I teach that “A” is better if I cannot compare “A” with “B” especially if I want to convert from “B” to “A”? I have to make reference to “B” and herein lies the problem. The minute you start to compare in order to make these comparisons and to influence one person to move from point “A” to point “B” you run into people like my friend from Nariva and this country is heading on a slippery slope.

There are a whole range of Evangelicals. There are those in the Jehovah’s Witness who believe that they have to do a certain hour of work every week and every weekend they have their bags walking from door to door. You have the Seventh Day Adventist, the Pentecostals, they believe that it is a duty to convert and you cannot convert without first identifying differences and making comparisons and as you make comparisons you say what is better than the other. That is religion. That is what we have known all our lives in this country.

On the other hand we have the Hindu religion in this country, very old religion, brought here and we have been co-existing. A very basic aspect of the Hindu religion is the recognition of a variety of Gods. In Christianity it is the opposite—one God. So you have a number of Trinidadians who resolutely believe that there is one God. There is another religion that says you can have any number of Gods you choose to. So clearly, there is a great difference in the basic tenets of the teaching. That is what we have in Trinidad and Tobago. In fact, it goes further in the Christian religion—

Mr. Ramsaran: Just to correct you a bit. Hindus do not believe in many Gods. We believe in the manifestations of the same God. We believe there is one God and only one God.

Dr. K. Rowley: Well, insofar as there are different manifestations, in the understanding of the Christians and in the worship of God, there are different Gods. *[Interruptions]* You will tell me that the Gods are not represented in some physical form. In some aspect of the Christian religion that is expressly forbidden. Thou shalt bow down to no graven image. I grew up in the Seventh Day Adventist Church and one of the strongest admonitions is you do not—these are the tenets of the religions of the people of Trinidad and Tobago. Therefore, when this Government goes to pass a law which says that if you humiliate or offend anybody without being very careful to define what it means and to ensure that the law does not create openings for abuse and to create sensitivities, and to create nervousness and to begin to put brother against sister, neighbour against neighbour, this Government does not understand what it is doing.

We have done very well so far in this country without this. I repeat, we have had those persons in the minority who have complaints but by and large as a people with these vastly differing views, we have co-existed very well in this country. This Bill, in attempting to make a crime and to impose punishment, has the potential to put people head to head along the lines of religious beliefs in this country. *[Interruption]*

Mr. Speaker, around the world some of the worst excesses of man's inhumanity to man and human ill-will to others are based on religious differences. I need only point to Northern Ireland where it is Christians against Christians; in the Middle East, it is Muslims against Jews; in the Balkans, it is not that we do not know the potential for mismanaging religious beliefs especially when the state seeks to play an overbearing role in the matter. Everywhere that religion is now resulting in conflagrations in the world in the middle is the state trying to play

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some role, it goes back to the Vatican too. At one time the Vatican was at war with everybody around. History has shown us that where the state seeks to organize religion, invariably it has resulted in the people destroying themselves. If I am to believe Rajni Ramlakhan, this is what the Government is trying to do. It is trying to appease extremists in this country who believe that there is a need for the state to protect them from other religious actions. And those of you who are threatening me, do not threaten me. What I am saying here now I could say outside and I will say outside. That is what the Government is trying to do. It is trying to provide state protection within the religious sphere and I am warning that is a dangerous development because when the Government begins to punish people, when this commission begins to levy its charges and to punish people for what they believe is their rightful religious action then—*[Interruption]* What places of worship? So a man standing by the roadside going into all the world to speak his gospel to every people, how is he covered by places of worship? So when a man stands up at a corner that is a place of worship?

Mr. Speaker, listen to the ridiculous explanation. The Government first resisted it, then they amended it and then they said you exclude places of worship. My friend from Nariva is now telling me that if a man is standing on the corner with a *Bible* or whatever on the pavement of this country and is espousing the views that I have described, that is a place of worship so the law covers him. That tells me the Government is not being honest. That has to be stupidity.

You only have to look at all the warning signs that are there. I am asking again, why would the Government even if it thinks it is right and there are enough safeguards, why in the face of the warning signs of the reaction to the Bill would the Government want to proceed like this? I bring you to the point, assuming one wants to say that the Opposition is playing politics, that is a decent one. Assuming you want to say that as they would say that I dare to mention Christianity and Hinduism that I am racist, how do you explain a situation where the Prime Minister of the country moves this Bill and the reaction of the country is one of trepidation resulting in the Prime Minister, in seeking to throw oil on the troubled water, meeting with the Inter-Religious Organization (IRO). The IRO in this country is the Inter-Religious Organization that includes virtually all the leaders of those groups that practise religion in this country. The Prime Minister met with them to describe what the Bill's intention is, to describe what the Bill's contents are, to allay their fears and to listen to whatever concerns they might have.

8:20 p.m.

[MR. DEPUTY SPEAKER *in the Cahir*]

Then the people who went to meet the Prime Minister are the people who are at the head of all the various religious groupings in the country. Having come out of the meeting, the Prime Minister's office announced that there was consensus at the meeting and that the IRO supports the Equal Opportunity Bill. That was the news item. It was published in the newspapers. It was carried on television. So it appears as though the fears were allayed and the problem would subside. Lo and behold, within 24 hours we started hearing individual spokespersons at the IRO saying one by one that, "We have not supported any consensus and in fact the concerns that we raised are still there".

We heard Father Christian Perreira speaking for a large body of Christians, the Pentecostals and the Baptists. One by one, within 12 hours of a statement from the Prime Minister's office that there was consensus on the matter, the leaders of those major groups came out and spoke for themselves and said, "No, there was no consensus. Our concerns remain the same". I am not making this up, Mr. Deputy Speaker. You were here. You read the newspapers. You saw that. That is what happened. I ask you, Mr. Deputy Speaker, why would the Government want to proceed in such a way and, attempting to proceed in a way as described in this Bill, the Prime Minister was made out to be a liar by no less a person than the head of the religious bodies? That is what happened.

When the Prime Minister's office said, "We have consensus and they are all in agreement", causing that to be published in the newspapers and carried on television, and then Father Christian Perreira and the other heads come out over time and say, "No, no, our concerns are still there", that is what they have done. They have said to us that the Prime Minister's word means nothing. So we have their attempt to speak for the IRO—that failed; we have the threat to the intellectual freedom—so we are getting objections from that quarter; then we have the Independent Senators *en bloc* objecting, then we have the Government surreptitiously passing the Bill at 3.00 o'clock in the morning, or some similar time, and we have them here right now hoping that we go into midnight when they will pass it. [*Interruption*] Whatever time. They will tell us, "All we are about is equal opportunity".

Mr. Deputy Speaker, I do not believe them. Do you know why?

Mr. Sudama: That is your problem.

Dr. K. Rowley: Yes, it is my problem and it is the country's problem too.

Mr. Sudama: The Member does not speak for the country.

Dr. K. Rowley: That is what he thinks.

Mr. Sudama: Do not fool yourself.

Dr. K. Rowley: Fool? He fooled a whole country that he “buy ah car”—look, look! “Look, leh we ent start that, eh”. He happened to fool the whole country that he got a taste for a Benz after he got the Government’s teak, right. All the years “he in politics” he did not have a taste for a Benz until he got the Government’s teak field.

Mr. Sudama: “How you build yuh house in Diego Martin? Through National Quarries.

Dr. K. Rowley: I could show the Member my Fincor mortgage. He did not get a taste for a Benz until he got the Government’s teak field. [*Desk thumping*] I will say too, before he got the car and the money, I was told how he was getting it.

Mr. Deputy Speaker: The speaking time of the hon. Member for Diego Martin West has expired.

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

Question put and agreed to.

Dr. K. Rowley: [*Interruption*] No, we will come to that eventually. I am not on that tonight. I will come back to that eventually. [*Interruption*]

Mr. Sudama: Say it outside, “nah”?

Dr. K. Rowley: Say what outside?

Mr. Sudama: Say it outside.

Dr. K. Rowley: That he did not get a taste for a Benz until he got the teak fields?

Mr. Sudama: Whatever I did to get a Benz.

Dr. K. Rowley: How come it is only when the Member got the Government teak fields, right—[*Interruption*]

Mr. Sudama: “Leh me lose you in jail”.

Mr. Imbert: Lose what in jail?

Dr. K. Rowley: I might meet the Member inside “dey”. When I come here and ask him why, you know—anyway, we will come back to that. [*Interruption*] He might have fooled them but he did not fool me, “eh”.

Mr. Deputy Speaker, what I was saying was, why I do not believe the Government, “eh”—[*Interruption*]

[MR. SPEAKER *in the Chair*]

Mr. Speaker, can I get protection from my friend, the Member for Oropouche, please?

Mr. Speaker: The Deputy Speaker was just in the Chair. I have just taken over and I am quite prepared to bring order back to the House. Please proceed. [*Interruption*]

Dr. K. Rowley: There was order, Mr. Speaker.

I was saying that the Government would have us believe that this thing is about equal opportunity and they are passionate about equal opportunity and I say I do not believe them, Mr. Speaker because the record does not support that famed passion for equal opportunity. The Government cannot be passionate about equal opportunity to the extent that they want to legislate dangerous clauses in a Bill that could have the effect of shifting the equilibrium in this country, social and intellectual, against all objections, and then the record of the Government is the opposite. I mean, we could take one example.

The Government was going to spend a lot of money building an airport terminal building. We have quite a few contractors in this country, many of them working outside of the country. You know, the Government went out of its way, the same Cabinet that is forcing this down our throats, to ensure that there was no equal opportunity for local contractors to bid on that project. The Cabinet forced Nipdec, by directive, to give the contract to a particular preferred contractor at prices way above the market prices. The Cabinet went out of its way to facilitate a situation where Nipdec amended its tender rules to create, for the first time, an opportunity for that agency to award a contract over a million dollars without inviting bids.

For the very last contract awarded in the airport there to Calmaquip, there was no bidding process. The equipment was bought and was laying in a warehouse in Miami for the last 13 months and then the Government forgot that they had given Nipdec authority to award those contracts, so a few months ago the project manager of the Airports Authority wrote to Nipdec telling them that they are removing from Nipdec control the authority to award the contract for \$183 million because Nipdec would have had to go for bids. So they removed it from

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Nipdec's control and then the Airports Authority awarded the contract to Calmaquip in their preferential way. How could a Government that has done that convince me that it is about equal opportunity? [*Desk thumping*] The Government's record has nothing to do with equal opportunity. It has to do with opportunity, yes, but opportunity on a preferential basis. That has been the record of the Government.

I mean, my colleague from Diego Martin Central had the opportunity last week to read into this parliamentary record a Cabinet Note from this Government which said, in effect, that the Royal Bank from here on in would no longer be considered for raising Government bonds on the local market—discrimination spelt out in the Cabinet Note. Mr. Speaker, I am not a wealthy man but I have a handful of Royal Bank shares, right, and there are thousands of persons around this country, pension plans and others—Unit Trust with “small-man” money, they have an interest in the Royal Bank.

The Royal Bank is the second largest bank in this country, operating throughout the region, a bank of which we can be proud as nationals of Trinidad and Tobago. What is the Government's position by way of this Cabinet Note? Because the Government is peeved that the Royal Bank did not do what the Government wanted, the Government accepts in a Cabinet Note that the Royal Bank will not be considered for other Government bonds. That is discrimination of the worst kind. [*Desk thumping*] It is not affecting the board directors, you know, it is affecting all the investors because if Royal Bank is denied access to Government bonds, what in effect is being denied them is the best money they can make in terms of raising money in the country, and all the little owners of shares in that bank, all those persons who own Unit Trust shares will suffer because the Government is being spiteful, vindictive and arrogant. So, a Government that does that would have us believe that it is passionately supporting equal opportunity to the extent that, “Regardless of what objections come in the way we are bulldozing our way with the Equal Opportunity Bill because we are about equal opportunity”.

I will come back. What I am coming back to is clause 26C in the amendments. I want to come back to the question about the religious aspect of the Bill and the concern for the practice of religion. Clause 26 C says:

“Insert the following new subclause (3):”

Listen to subclause (3).

“There shall be a panel of advisers to the Commission comprising representatives of every established religion in Trinidad and Tobago.”

So somewhere in this Bill there is going to be a panel based on religion. Why do they not have a panel based on gender? Why is there not a panel based on geography? Why is there not a panel based on race? Why is there not a panel based on sexual preference? No. Because, you know, when I said earlier on that the main tenet in this Bill, the backbone of this Bill, has to do with ordering religious practices in this country, they got upset. So why are they having a panel for religion? Let me ask you, Mr. Speaker, suppose I become a calypsonian tomorrow, as I very well might—[*Interruption*]

Hon. Member: You will get poor.

Dr. K. Rowley:—and I started to sing like Cro Cro or Aloes or Pink Panther or Gypsy, or somebody like that, and I find myself in front of a panel of persons of religion, what justice can I expect from persons [*Desk thumping*] who may very well have a completely different perspective as to what my morals should be?

8.35 p.m.

In fact, there are some people in this country who believe that carnival itself should be outlawed, but I am now to go before a panel made up of people of principal religions who will adjudicate on whether or not I have offended or humiliated anybody.

Mr. Speaker, after we win the Nariva seat, suppose I end up on a panel in front of my friend for Nariva who professes to be some religious person with his perspective on life; suppose a painter draws something that he has not seen before—a naked woman for that matter—what is he to expect from this panel? So those who do not want to believe that this Bill is about religious ordering you could close your eyes if you wish. It is about censorship of those artistes who dare to be politically incorrect.

Mr. Speaker, there are enough sycophants in the Cabinet who have demonstrated that they are thin-skinned, defensive and objectionable because in the five-year term of this Government there have been numerous instances of this Government taking objection to what otherwise would have been normal in Trinidad and Tobago. So, we know you for what you are. We know that with this Bill the Government is leading those spokespersons from the Hindu community astray by giving them the impression that they could legislate to suppress while legislating to liberate. The Government cannot do both. If you are going to suppress you are going to suppress. If you are going to liberate you are going to liberate. You cannot do both in the same thing.

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So those persons who have taken comfort in this clause 7, who believe that what is going to happen once the Bill is passed, that anybody who humiliates one in word or deed, will now have recourse to take that person before the panel. What the Government is doing is setting this country up for religious strife, and the peace and harmony that we have lived with even as we discussed our differences and glory in them, the Government will destroy that in a way that the fabric may not be able to be mended. I know what I am talking about because I have been across this country.

Mr. Speaker, I grew up in a household where my father is an Anglican and my grandfather an Adventist. I went to an Adventist church. I went to an Anglican school. I was headboy in an Anglican school not being a member of the religion and that did not bother a soul in that school. I came to Trinidad and I taught children of Muslim, Hindu and Christian religions and I never heard them parrying one another along religious lines. Never once! I taught at Arima Secondary School and I never heard one child abusing another child about his or her race.

Where does this Government get the impression that we have a problem in this country that requires ordering by legislation to provide protection for religious persons? It is not going to work. I advise this Government, I implore this Government to get off this horse that it has mounted. All this Bill is going to do is to create opportunity for ne'er-do-wells to create religious strife in Trinidad and Tobago. You have been warned!

Mr. Speaker, I heard my friend Gypsy on the radio yesterday morning—*[Interruption]* You would like to have him as a tool—he is my friend. I heard him giving a commitment when somebody asked him what is his position with respect to the Government's insidious attempt to censor calypsonians. He said he would have none of it and if he gets in with the Government and they attempt to do that, he will have none of it. I wonder if he is aware that they have already done so. I wonder if he is aware that an Independent Senator sought to have enacted into law for the avoidance of all doubt an amendment to ensure that artistic freedoms are preserved and the Government would have none of it. Calypsonians are artistes too, and when you start with calypsonians the next thing is somebody might paint my friend from Couva North with a horn on his head. And, that is a painter who gone too! Somebody might put a play horn, like my friend from Naparima. One day he will get back to pen and paper writing about his life and times in the UNC and when he writes that play and he expresses himself in an uninhibited manner, you would want to be there with this clause to jail him.

Mr. Speaker, I want to introduce to the Government again, the last resort, the same amendment that they rejected in the other place, those persons who were there, I offer it to them again. I want to put clause 7 out completely as my colleagues said. I want to adopt the amendments as offered by Sen. Martin Daly in the other place because I think that this Government is playing with matches.

I remember in the 1960s during the Turkish Slip-right riot there was a cartoon in *Time Magazine* and it went like this. There was a picture of a guy with a long beard sitting on a keg and the cartoon reads: Cyprus is a powder keg surrounded by a chain of careless smokers chief of whom is Archbishop Macarios. I think Trinidad and Tobago could be a powder keg and we have a number of careless smokers inside, chief of whom is my friend from Couva North. So I offer this to the Government again for their rejection, of course, because as I said before, I have come to the conclusion that this Government is not prepared to be advised; it is not prepared to compromise; it is not prepared to give way even if it thinks that it is right, but the wider community does not agree. It believes that public relations, naked lying and money will get them passed. This Bill is for election purposes to go out on the campaign and try to sell it as something good.

So, I offer the Government clause 7(1); to delete and replace with the following: a person shall not otherwise than in private do any act directed at the gender, race, ethnicity, origin or religion of any group of persons which is done with the intention of inciting gender, racial or religious hatred of the group or intimidating the group. That is what I am offering, just spell it out like that.

8.45 p.m.

I do not know why any government will resist putting that and prefers to put what we have here, which is open to the widest possible destructive interpretation. I want to add a new subclause (5). This is where the artistes come in:

“It shall be a defence to a complaint under this section to establish that the act complained of has redeeming artistic or social merit.”

That will protect the artistes. I want to add a new subclause:

“A complaint under subsection (1) shall not be accepted by the Commission unless it is made by a group comprising of not less than ten persons.”

What that does, it prevents the regular mischief-maker from running to the commission on a regular basis and creating mayhem. All that is needed is one person to be so obnoxious before this commission in this country to create the

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same kinds of hatred that they are thinking that they could stop. Did you see what happened with Israel this week? One man, Ariel Sharon, known for what he represents, went up to the holy site and his very presence there was so offensive and so humiliating—you remember those two words—to the Palestinians that it sparked a riot which is still going on now. At last count there were 30-odd people dead as a result of one individual whose whereabouts were well known. He went to a particular location and the emotion—because, you see, that is what religion is about, emotion.

So we are saying here, let us limit the opportunity for individuals to take individual action. Because if we want to protect groups from being abused, as you say you are doing, then let a group complaint come forward. I can do no more. I know I spoke for you, Mr. Speaker. To them, I have wasted my time.

Thank you, Mr. Speaker. [*Desk thumping*]

The Minister of Tobago Affairs and Minister in the Ministry of Finance, Planning and Development (Dr. The Hon. Morgan Job): Mr. Speaker, we live in a country that has struggled to obey the rule of law and, indeed, I think I can say that we have triumphed to a great extent in that regard. I remember on July 27, 1990, when the Leader over there could not be found and after one Morris Marshall and many of them were there with the Muslimeen mobilizing mobs and canalizing emotions, all of them were in and out of Parliament saying that Robinson was “wicked, vindictive, callous, heartless, take we COLA,” creating a kind of idea of a monster to be slain. Then when that event happened, I remember—and I say this to refresh your memories—on the Saturday morning , July 28, 1990, I said “we live by the Constitution and law here; we are not living in Africa. Whether you are in PNM, in Club 88, whether you are Hindu, black, white, we should all support the Constitution and the law.” I said that.

I have in my hand a copy of the Constitution and in Part I, page 15 it deals with the rights that are enshrined in the Constitution. I quote:

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

What this means is that, as far as I understand it and maybe the Attorney General could give a better explanation, you cannot pass any law in this Parliament that vitiates the substance or the imperatives of the Constitution. You can do that if you change the Constitution.

So that if, indeed, the right of freedom of thought and expression and the right to freedom of conscience, religious beliefs and observance are enshrined in the Constitution, this argument about Clause 7 is otiose; it is irrelevant. It must be. Because it cannot be enacted into law if, in fact, this Constitution says that we have freedom of conscience and religious belief; we can worship how we want; we can think what we want and express those thoughts.

I went into a mosque on the invitation of the Member for Caroni Central—and I am sure he can get up after me and deny that I said so—and I said, “Listen, we are in Trinidad and Tobago; we are not in Afghanistan. If I was in Afghanistan I cannot say, and expect to live for very long, that the Prophet Muhammad was a sodomite. I cannot say that for very long. There are parts of the world where, if I said the Virgin Mary was not a virgin but a whore, a similar thing would happen.”

The point I wanted to make, which I think everybody understood, is that in Trinidad and Tobago nobody is going to kill you for expressing your thoughts. However, I did say: “is it right that somebody should come into this Mosque with a hog head and feel that they are under no restraint in law to do something like that? Or is it right that somebody should go into a Roman Catholic church and express the opinion that the Virgin Mary was a whore?”

I am making the point that I am not part of a government that has any intention to undermine, to subvert or to vitiate the constitutional imperatives of freedom of conscience; freedom of thought; freedom of expression. Much of what the opposite Members are saying is mere propaganda. I want to repeat again. When I said that the English word, “propaganda” is really derivative from an institution that was set up some time ago—I cannot remember which century—by the Roman Catholic Church, called in Italian, *Sacra Congregatio de Propaganda Fide*, the Sacred Congregation for the Propagation of the Faith, a lot of what I hear in this Parliament reminds me of that.

The Member for Diego Martin East is a mathematician, you know, and he must know one of the first things you learn in primary school is that you cannot divide horses by cows; you do not add snakes to donkeys; you do not add Balisier to roses. You cannot do that. But he comes in here, takes up a series in a document, *The Review of the Economy*—[*Interruption*] But I must be still on it because this is what propaganda is all about—saying things merely to get it in the press to confuse people who do not know better. He divides a current price series by a constant price series and, presto, the debt is 150 per cent of the national income. And that goes into the media, and everybody says he is right.

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In the same way the Member for Diego Martin West sat here, heard me, not for my third time, say once, twice, three times, four times, five times, “it is not true that the only people in this country who commit crimes are of African ethnic origin” *[Interruption]* This is what they do all the time.

Mr. Speaker: Order, please.

Dr. The Hon. M. Job: It is not true that the only people in Trinidad and Tobago who commit crimes are of African descent. But he gets up immediately after I advertised it to the world, and says that, “Morgan Job says the only people in Trinidad and Tobago who are committing crime are black people.” This is what they do all the time. They deliberately spread this kind of fascist, Nazi propaganda to confuse people.

I have in my hand a copy of the Laws of the Republic of Trinidad and Tobago. There is an Act called the Sedition Act that was passed in 1971.

Hon. Member: Who was in government?

Dr. The Hon. M. Job: It was not the UNC in government and it was not the NAR in government.

Mr. Speaker, if you listen to what has gone on here this evening, they are talking about feelings and words and how this Bill is to use the idea of feelings and words to lock up people; lock up calypsonians; to censor the press. I am reading from the Laws of the Republic of Trinidad and Tobago. It says here in the Interpretation:

“ ‘publication’ includes all written or printed matter, and everything whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of or extract from any publication;

‘publish’ in relation to a seditious publication, includes publish the publication, either by itself or as part of a newspaper or periodical or otherwise than as part of a newspaper or periodical, for distribution to the public;

‘seditious publication’ includes every publication, whether periodical or otherwise, having a seditious intention;

‘statements’ includes words spoken or written or recorded electronically or electromagnetically or otherwise, and signs of other visible representations.”

This law says that it is going to prosecute people, actually jail them. This Bill that we are talking about here, the Equal Opportunity (No, 2) Bill, does not provide jail for anybody, as far as I can understand. But this one here, the Sedition Act, says it is going to jail people when they do things, and I quote section 3(1)(d):

- “ (d) to engender or promote—
- (i) feelings of ill-will or hostility between one or more sections of the community on the one hand and any other section or sections of the community on the other hand; or
 - (ii) feelings of ill-will towards, hostility to or contempt for any class of inhabitants of Trinidad and Tobago distinguished by race, by colour—“

Mr. Speaker, would you believe it?

“—religion, profession, calling or employment.”

You could also get into a lot of trouble if you, and I quote section (3)(1)(e) of the Sedition Act:

- “ (e) to advocate or promote, with intent to destroy in whole or in part any identifiable group, the commission of any of the following acts, namely:
- (i) killing members of the group; or
 - (ii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.”

It goes on to say in clause 4 (2):

“Subject to subsection (3), a person guilty of an offence under this section is liable—

- (a) on the summary conviction to a fine of three thousand dollars and to imprisonment for two years; or
- (b) on conviction on indictment to a fine of twenty thousand dollars and to imprisonment for five years, and any seditious publication, the subject matter of the charge, shall be forfeited.”

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Now this \$20,000 fine and five-year jail term is merely for singing a calypso or writing an article that is judged to promote feelings of ill-will or hostility between one or more sections or between classes or religion.

This is the Law of Trinidad and Tobago. Apparently these people do not know that. They get up in this Parliament; they ignore the Constitution and they continue to do these things which are dedicated to the purpose of giving glory to fascism, to spreading propaganda. I am not misquoting anybody. I am quoting the law. Go and get your copy and read it. This is what they have been doing in this Parliament and getting away with it, and I have to deal with those issues in a way which the record will show that they do not know what they are talking about.

The Member for Diego Martin West comes in here and says that Hinduism is about a multiplicity of gods, many gods. I do not claim to be the world expert on Hinduism but I have spent most of my adult life studying and reading Hinduism since I met Hindu boys in my class at Queen's Royal College and got interested in the Kamasutra, and the cultivation of the mind, and the Bhagvad Gita and these kinds of things. *[Laughter]* That is the truth. I have never stopped reading the thing since then. I can read a little Sanskrit and all that. So that I do not know from where he gets this idea that Hindus believe that there are many thousands of gods. That is not true.

In fact, to edify the hon. Member on the opposite side, the lower orders in any society have a fantastic and, should I say, primitive view of religion. Some people call it animism. They believe every stone, every tree has a spirit in it. You find that all over the world. You will find it in Africa. It was in Europe. There you had the Druids. If you read Julius Caesar, he talks about that.

9.00 p.m.

Do not blame Hinduism for things that are not necessarily Hinduism. I think it is very unfortunate when the Member says that the Government wants to protect Hinduism and he calls the Maha Sabha's name. I want to repeat for the record what I said. I am sure that the entire Cabinet of this country would concur with what I am saying. The Cabinet is not a Hindu Cabinet. Sen. The Hon. Kuei Tung, Sen. Dr. Phillips, and Sen. The Hon. Mark and I are not Hindus. I do not know that Dr. Nanan and Hon. Harry Partap are Hindus. They are Christians. We have Muslims here, but in India Muslims are low caste. Do you understand? This is how they think about them. I can go on. This is one of the unfortunate things that has happened in this country since this Government has come into power: the Opposition and people in the media have sought to unite this Government with the Maha Sabha and Hindu fundamentalism. That is unfortunate.

Mr. Speaker, I want to repeat, one of the most unfortunate associations that has been embedded in people's minds is these so-called Hindu journalists in the *Express* and the *Guardian* who are there every week provoking people with their nonsense about Hindu greatness, Hindu tribalism. This is not a Government programme. To come here and put it in the record so that it will get in the media, as if this Bill is about protecting Hinduism is false and flawed. It is not true!

This Prime Minister and this Government gave the Orisas the right to marry. The PNM did not pass the Orisa Marriage Bill. The Baptists got many acres of land, a public holiday and all kinds of things. To say that the Government is particularly concerned about preserving Hinduism is flawed. Mr. Speaker, I can give my own opinions about that. I am sure, in my mind, that the kinds of attitudes that they are raising are general among people in these post-colonial societies that have identity problems.

Christians say that they have to go into the world and preach the Gospel. I understand that and I agree with that. I do not know that in any way, this Bill is going to prevent Christians from going into every nook and cranny of Trinidad and Tobago and shouting "Jesus". I do not know that this Bill is dedicated to that purpose. If it were, I do not know that I could stand here this evening and talk in its defence. I cannot agree that any restraint should be put on the people who believe that they have a right to go and use their constitutional guarantee of freedom of conscience, or freedom to believe what they want to do or share their ideas with other people.

What is even more important is, there is a gentleman called David Hume; I have most of his works in my library. I know he was a friend of Adam Smith, I cannot remember when he died. Adam Smith wrote in 1776, so he must have died around that time of just after. One of the points that Hume was making is that people do not understand sufficiently well enough that one cannot have freedom of choice or individual freedom, where people are not allowed to deny religion. There is nothing in this Bill that says that I cannot be an atheist or I cannot say the Maha Sabha, Pentecostals, Jehovah's Witnesses, or the Roman Catholics are all a band of con men exploiting people's weaknesses and ignorance, the better to impose their kind of power.

One Member spoke about the Spanish inquisition, which was a dreaded organization after which many of the fascist organizations in the 19th and 20th century took shape. The inquisition was not alone; there are many other things like that. Fundamentally, in this country we have a constitutional guarantee that

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gives people the right to deny religion, to say that they do not believe in any one of them. I have not seen anything in this Bill to say that it is going to persecute or prevent me from believing what I want to believe, including believing that all religions are bogus. The idea to come and pin this kind of empty accusation and create hysteria, that this Bill is a Hindu Bill and call Sat Maharaj and his daughter's name, is part of a general PNM policy to link religion with politics in Trinidad and Tobago.

Mr. Speaker, in the election of 1991—I do not know if people remember well—the Leader of the Opposition went from Temple to Christian churches, to every Pentecostal church declaring himself to be a born-again Christian. He deliberately did that. In chapter 18 of Machiavelli's, *The Prince*, he said: "One of the things that a prince must do is to pretend to be religious, because the mass of the people do not know any better." Once you say that you are religious they would believe whatever you do is the hand of God leading and directing you. That is what the Leader of the Opposition did. That is what they plan to do for this next election: to go to every nook and cranny of this country and associate themselves with Christianity and God, bringing God into PNM comess. That is their idea.

The whole plan is to use this Bill to bring Jesus Christ, God and Mary into contempt, as defenders of the PNM. This cannot be true, we have to start now to make sure that the next election is not about Ram, Lanka, Rawan, Krishna, Jesus Christ, the Father, the Son or the Holy Ghost. This election must be about who is the best government to govern Trinidad and Tobago. The Member said Hindus believe in many Gods.

If the Member understands religion well, the Muslims have denied that Jesus Christ is God. If one goes to Iran and talk about Christ as God, one would be stoned to death. If you go to Afghanistan and say that Christ is God, you will die. You cannot go to Kabul and talk about the Father, the Son and the Holy Ghost—at all! Except if you are willing to die. The Members opposite do not know what they are talking about. They are bringing all these spurious, unnecessary arguments, and displaying the substance of their ignorance. They should not talk about religion when they come here, because they do not understand it.

Mr. Speaker, I have to divaricate into all those areas because we are talking about truth, freedom, artistic representation and the question of calypsoes. The Opposition spends a lot of time talking about offensive language.

9.10 p.m

I have heard many people say Gypsy is a traitor because he joined the UNC. Michael Als is a traitor because he joined the UNC, Dr. Griffith and Dr. Lasse are traitors because they joined the UNC. I am yet to hear anybody say that Sen. Nafeesa Mohammed is a traitor for being in the PNM or that Mr. John Rahael is a traitor for going up for the PNM, or that the Member for Arouca North is a traitor. There is a question here that we in this country have to be very careful about, and this time I am agreeing with the Member for Diego Martin West, that it is very easy in a multi-ethnic, plural society like ours to sow in the public's mind symbolic mischief that in the end can come back to haunt us. It is like when they were saying that "Robinson is wicked, heartless and vindictive and he is a massa come back and he wants to bring back the massa with the whip and white people domination." They knew it was a lot of nonsense but you know what happened? They ended up getting Mr. Des Vignes killed and the then Prime Minister, Mr. Robinson, shot. How many people died? Twenty or thirty people, I do not know. Corporal, inspector, all kinds of people; one policeman was blown up in the police station because of the passion of emotions, the intensity of emotions that are whipped up for people who believe that anyway to get political power is a good way and so therefore you can say anything that is not historically correct, that does not make any sense.

I heard the Member opposite say that Africans were recommended by Las Casas to come here and then they suffered the horror of slavery. I read in the newspaper this morning that the Member for Diego Martin West is passionately devoted to his conception of what Dr. Williams and the PNM did for this society and how that is the reason he is staying in politics.

Mr. Speaker, I want to advise—in the context of what we are talking about here, freedom of expression and some of the ideas he brought in when he was talking about slavery—the only permanent condition is change and when you do not change you die like dinosaurs. The problem with the PNM is it is riveted in an idea which was born in 1956, a certain conception of society which is no longer relevant and he does not understand this. The Member wants to be the leader of the PNM. I have been observing him and I feel so sad that he cannot understand, he has to unhinge himself from the ideas of Dr. Williams, he has to create his own vision of the possibilities of Trinidad and Tobago. If he wants to lead the PNM, he cannot lead the PNM with the ideas and the manifestos and the words of Eric Williams in 1956. Do not be an epigone. Dr. Williams came and if you read my

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book—I have a book of essays—I paid tribute to Dr. Williams. I said that Dr. Williams is one of the master politicians of the Caribbean in the 20th Century. I said that too many people do not credit Dr. Williams for keeping the society together. The fact that I said all those things about Dr. Williams does not mean that I want Dr. Rowley, as some future Prime Minister, to try to run Trinidad and Tobago with Dr. Williams' ideas. It does not make sense. To come here with slave talk undermines what the real truth was.

It has been written by many people when they look at the records that people who left Europe and went to Australia, New Zealand, and Argentina in the late 19th Century they got a certain wage. Let us say it was ten shillings a day. So when you looked at an immigrant in Australia in 1895 and you saw his minimum wage which was ten shillings per day, when you looked at some rubber plantation in Malaya or some other place where there were migrants coming out of India, you found they were getting two shillings a day, maybe as on a sugarcane plantation in Trinidad, people shout “racial discrimination.”

Much of what is called discrimination and much of what is explained as white racism has nothing to do with that. It has to do with objective realities that people do not understand. F.A. Ade Ajayi was one of the authors, one of the architects, of a seven-volume history of Africa published by Unesco. I have two of the volumes and one of his essays states clearly that people do not deal sufficiently honestly with this question of slavery. He said long before, since Jesus Christ was a baby and before, Africans were exporting Africans as slaves to all parts of the world. Africans hunted, bound and sold their own people [*Interruption*] You were the one who raised it so I am dealing with what you were saying. I am saying they use these emotive things without putting them in a proper economic and historical context and then they mislead innocent people who do not know better because it can create the kind of symbolism in the mind that Las Casas and the white people did not like black people so they recommend that they make them into slaves. Nothing of that is true. You had a market for slavery and when you look at the wage structure of the labour market in Europe or in India or in Malaya, it explained the differences in wages of the migrants who came out of there and it had nothing to do with racism. The question is they tried to bring white people to the Caribbean plantations but you had a labour shortage in Europe plus the fact that African labour already was into agricultural production in the sense that you were doing agricultural production down here. All these things have been written about. So to introduce some kind of innuendo about white people and black people and race is not good, especially in the context where they are accusing the Government of protecting a particular ethnic group and a particular religion.

We need to disabuse ourselves of all those kinds of ideas and I am really serious that this election campaign be conducted in a manner that does not deflect our ideas from the necessity to understand that we need coalitions, we need political parties, institutions and we need leaders that are leaders for everybody. We need leaders to focus the mind on the travails and the pains and the possibilities of all the people of the country; not particular ethnic combinations. This is the baneful influence that has been destroying Africa, Nigeria, Sri Lanka and to a lesser extent India and the Balkans and all those places. Much of the discussions by the Members for Diego Martin East and Central are focussing on how this particular piece of legislation is devoted to fracturing the society or to putting a wedge in the simple fractures that the society has, and nothing can be further from the truth.

Mr. Speaker, when the Member is talking about Sat Maharaj and the Maha Sabha, we must understand in this country we also have combinations of people that are what you call pan-Africanist, so if you have some people who are pan-Hinduist, I think that is their legitimate right. However, I want to warn that all these “pan” things have an inherent danger in them like pan-Germanism, like pan-Slavism, like pan-Hinduism, like all of them. They are ideas that are constructed by people who have a particular kind of insecurity and identity problem. If you look at it, Adolf Hitler and the leadership of the pan-German movement in Germany, they were from that class of people who were disoriented socially and they felt that to articulate their possibility they had to talk about the great German, Deutschland uber alles. They had to organize a political system to bring that into place. Pan-Africanism was not invented in Africa, it is something invented out here by people who have these peculiar and particular identity problems.

In Africa people do not care about that. They care just like the Member for Diego Martin West was telling me, he looked at television and saw in Rwanda a fellow went into a hospital and he lifted up the sheet over somebody who was supposed to be a corpse and that one looked dead, so he passed on; another one looked dead, so he passed on. He lifted up the sheet; this one looked alive, so he took a cutlass and chopped off the neck. That is what they are doing in Africa. They do not care about pan-Africanism. That is why the continent is how it is. So that if you have people in India who are inciting rebellion against Christians and burning them and so forth, that is the VHP, maybe, and the RSS and other people are behind them and who knows, there might be people in Trinidad who believe they can download these Hindu fundamentalist ideas from the Internet and talk about them here, but why are you associating this Government with those people?

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They have computer and Internet and if they want to download it and write about it and call themselves Rajni Ramlakan, or whoever, that is their business. Why are you associating this Government and this legislation with those people? I think it is invidious, unfair; I think it is not necessary and it only serves the political purpose of going out there and saying that this Government is dedicated to using clause 7 to protect Hindus from conversion, and that is not the case. Leave the people in the media and in the Maha Sabha or wherever who have been articulating their defense of clause 7 for their particular parochial purpose. I think you need to logically separate these things in the public's mind and do not blame the Government for that. Do you understand what I am saying? [*Interruption*] Do not blame the UNC for the stupidities of so-called "Hindu journalists".

I do not care what Sat's daughter said. That is not a problem for me. I am dealing with a piece of legislation, I am dealing with the Constitution, I am dealing with the laws of Trinidad and Tobago and with the Sedition Act and this is what we have before us. You cannot make law on the basis of innuendo and making these kinds of invidious associations that are dedicated to tarnishing the good character of people who have no interest or intention in protecting any religion. I have no interest in protecting Hinduism. I have a most favoured attitude to all religion. They are equally valuable to the people who worship in them. And as far as I am concerned to the people who do not care about them, that is their right too, so do not come here and pretend that you are being so profound and so philosophical and so devoted to truth and so devoted to everything else by saying this Bill is about protecting one particular religion.

In particular reference to clause 7, there is an amendment which is going to say that this section does not apply to acts committed in a place of public worship and this means that once you define a place as a place of public worship you can say what you want there. If you read the old testament, for example, it says a lot of things that you can construe as—Thou shalt have no other Gods but me. I think that is the first commandment among the ten in Exodus. So that in the same way I said for Muslims you cannot say Christ is a God, you cannot talk about the Father, the Son and the Holy Ghost in any Muslim country especially the fundamentalist one, they will stone you. So that in that sense Exodus is saying the same thing. You cannot really pass a law to tell a fundamentalist Christian that he should not say that the first commandment that talks about having no other gods but me he must be prohibited from proclaiming or preaching or anything like that. I think either in Isaiah or Ezekiel they made a lot of condemnation about Baal worshippers and the Canaanites and the whole thing in the book of Kings was against Canaanites who were doing human sacrifice and worshipping other Gods than the God of the Hebrew people.

I am saying all these things to make it clear that it is of supreme and fundamental importance that we disabuse the Opposition from going out into the election campaign with clause 7 as an instrument of ethnic mobilization, as an instrument of mobilizing Christians and fundamentalist feelings against the Government. I do not think it is fair and that it will pass because I am going to quote that passage from Machiavelli and remind people what happened in 1991 when the Leader of the Opposition was going from church to church and proclaiming himself as a standard bearer for Jesus Christ when he wanted to be a Prime Minister in a multiethnic society. If you want to be a Prime Minister of Trinidad and Tobago you are Prime Minister of Hindus too and you are dedicated by law to defending Hindu rights, to defending all the rights that are enshrined in the Constitution, that are the rights that the Constitution says Hindus must have. So every Prime Minister, including Mr. Manning if he becomes Prime Minister, has to do that, but do not go into an election campaign and tell people because you are a Christian you are against Hindus and you are against protecting Hindus and that the Equal Opportunity Bill is a Hindu Bill. This is the logical implication.

Mr. Speaker, we have to understand that politics in the world today—this is not a Trinidad and Tobago problem and it is not a problem of the year 2000. Throughout history, people have used the ignorance and the weaknesses of the masses to mobilize them to destructive purposes, all over we know that. Many people are not going to read any book and study logic like I have done. They are not going to analyze a sentence and talk about the excluded middle and implication and propositional calculus and so forth. They do not understand these things and will never understand them so you will have to appreciate that much of what goes on in the public mind out there is about feelings, is about how you convert an idea into a feeling. Like when people are saying as I did say, that Gypsy is a traitor. Why is he a traitor and Nafeesa Mohammed is not? These things are about feelings and not about logic. When people are articulating a belief that this Government has no right in this place, this Government is an Indian Government—I heard Leroi Clarke say that when he looked at the Cabinet he thought he was in Pakistan, early o'clock.

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I am sure people remember that statement. You understand what I mean? Then Kwame Ture said, “How come when Williams was there nobody said this Government was a Nigerian government?” It is important for us to go back to all

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these simple things. They look simple but they have profound implications in terms of domestic harmony and peace, because a leader with credibility can easily mobilize people merely based on a supposition, a hint, a symbolic word.

Then there are people who have grievances that they do not know where they come from—like, Mr. Speaker, they are talking about censorship. I would not “call name” but I have a letter from the Unit Trust where they wrote Ken Gordon saying that they are not going to sponsor a radio programme that I am on, and they were not going to even sponsor in the *Express*. You understand? When I came into this Parliament I asked the Member for San Fernando East, “But why were you calling Ken Gordon every Monday morning to complain about my programme?” He said that he has people who he has to represent, and he is the Prime Minister, you know, and he had to do that because it is in his interest and he thought that he was being firm! He was the Prime Minister, censoring me, caused my programme to be closed down yet they are coming here complaining about censorship.

Since this Government has been here five years now I do not know that any newspaper has been closed down. I do not know that any laws have been passed to close down any newspaper or any TV or radio station or any radio programme. I cannot imagine that if this was done they could not go to court and challenge it. Why have they not gone to court and said that the Government wants to censor the press and they want to close down this radio station? I do not know that anybody has done that. So that to come here, against the evident fact that I know that a programme was censored, closed down, abandoned, because of the intervention of a PNM government, that is not conjecture. That is fact. You understand?

So why are they coming here and causing all this hysteria and making hasécara about what this Bill plans to do about censorship? We are not talking about “We plan to do”. I am talking about what happened under the Manning PNM ministry. You understand? So that, Mr. Speaker, we have to understand how our words can inflame the passions. You know, when the Member for San Fernando East came in—or somewhere I heard him say how an African writer said that things fall apart and things are falling apart and things like that, no African writer said that. Achebe was quoting William B. Yeats’ *The Second Coming* where he said:

“Turning and turning in the widening gyre
 The falcon cannot hear the falconer;
 Things fall apart; the centre cannot hold;
 Mere anarchy is loosed upon the world,
 The blood-dimmed tide is loosed, and everywhere
 The ceremony of innocence is drowned;
 The best lack all conviction, while the worst
 Are full of passionate intensity.”

That is what we are hearing here, a passionate intensity dedicated to ingraining in the public mind a false idea that this Bill is about protecting Hindus from conversion.

I do not see any way that this could be construed from the legislation and, worse yet, it is not true to say that this Cabinet is devoted to protecting any particular religion. I have been in the Cabinet for three years now, you know. I have not missed many Cabinet sessions and I know, as a matter of fact, that there is no motive or force, no leitmotiv, no intention, no wilful purpose to use the Cabinet to protect any particular religion. I have not seen that in any document or any behaviour or heard it in any discussion. You understand? So that I feel very strongly that we should be very careful not to use the opportunity that this Bill offers for a debate to start an election campaign issue, going out there and misleading the public about the true purposes and intentions of this piece of legislation.

Mr. Speaker, I am very careful in many of the things that I say in Parliament and I say them out of goodwill for everybody, even if they cannot discern it. When I was lecturing here on the question of crime I did say—and the Member for San Fernando West did not listen to me—“You cannot say the PNM caused Mano Benjamin”. The PNM was in power when Mano was digging out people’s eyes. You cannot say the PNM caused Sewell Gordon or the PNM caused Raffique Poolool. The PNM did not cause Dole Chadee. I said so. There are so many things that people scurrilously accuse somebody of doing something, as indeed we are wont to do here this evening, and when we are dealing with public policy and Government and politics, we have to be careful.

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I have said—it is on the record—what we can blame the PNM for is abandoning the people in the lower classes with poor education from certain communities and not doing enough to help them to pull themselves out of that. In the same way I am appealing now, let us try our best to raise the election campaign to a level where we can explain to people about poverty, deprivation and those kinds of feelings that go with them, the feeling of alienation and the feeling of hurt. You know, when people do not see a Prime Minister who looks like a member of their ethnic group or they do not see an attorney general who looks like a member of their ethnic group, or some other high official, and they feel that it should be otherwise, you know, we are uncomfortable with that. We cannot use this kind of legislation to reinforce those kinds of feelings, and this is the sense I am getting. I am feeling very confused because I do not want that to happen.

People can sincerely, honestly pursue a course. You know when they say the way to hell is paved with a lot of good intentions, there is a way that seemeth right unto a man but death is the end thereof. We have to be careful to eschew, to abandon all those innuendoes and all those unnecessary connections that, in fact, can incite ethnic passions, feelings that, “Well, if you leave this Government in place we will never come back to power”, and all this kind of nonsense. Let us try our best to raise the debate to another level and deal with the facts. If, in fact, this legislation is dedicated to censoring artists more than the law that we have there, the Sedition Act—we have a law on the books now called the Sedition Act that clearly is seeking to prevent calypsonians from singing what they want to sing and to prevent writers from writing what they want to write.

Mr. Speaker, the reason nobody, as far as I know, has been prosecuted under this is the same reason, given our Constitution and given the way that these committees and commissions will be set up, nobody is going to be persecuted unduly and unfairly, and I will tell you why. The judges or the judge or the person at the level of who is going to be chairing that commission is someone who understands this Constitution.

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

Motion made, That the hon. Member’s speaking time be extended by a further 30 minutes. [*Hon. R. L. Maharaj*]

Question put and agreed to.

Dr. The Hon. M. Job: [*Desk thumping*] Thank you very much, Sir. Mr. Speaker, I was on the point of saying that the judges, whichever side they are on—there is a lot of confusion going on in this country right now and I do not see any reason to feel bad about it. All the arguments between the Chief Justice and the Attorney General and the Government and all of them, that is what democracy is all about. One does not want to constrain the flood of opinion that is dedicated to uncovering and to unfolding those pathways that we need to make us evolve as a more transparent and a more responsive democracy, responsive to the needs of the people. That is what we are all about.

One does not want a system that is closed up where people are afraid to talk like in Haiti and the Congo. One of the reasons that Hitler and Stalin and most of those dictatorships in Latin America and Africa eventually folded up, succumbed and became extinct was exactly because of that. People did not have the opportunity for free expression of alternative opinions. The fact that there is this continuing debate about the Judiciary says that our democracy and our freedoms are alive and thriving and well. I do not understand how, in the midst of all that, people are accusing the Government of censorship!

For five years now, I remember I was not in the Parliament but I was hearing people say, “This Government ain’t go last tree months”. When it lasted three months, “It ain’t go last six months”. When it lasted six months, “It ain’t go last a year”. Well, it has lasted for five years, and every time they were saying that it was consistent and concurrent with, “The Government going to do this, they going to suppress people, they go lock up people, dey go jail people, dey go deny dey freedom, dey go close down the press”. Five years after we see the evidence. It is all innuendo, it is all suggestion and it is not based on anything more than a fantastic, a burning and a passionate desire to get back into power, which is legitimate. This is what democracy is all about. One must contest openly and use all legal means to get into power.

So therefore I say, to the extent that we can do that without sowing the seeds of strife, let us do that. So if the Members over there feel that they have to say that this Government is protecting Hindus because of the burden of evidence that they have, say that, but I do not see the evidence and they have not provided it this evening. So therefore I have to say they are just being mischievous, they are just being, should I say, a little heartless and a little careless because they are not construing the danger that is inherent in that path.

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Furthermore, Mr. Speaker, I was talking about the Constitution and the fact that these judges are aware of how the Constitution must work and how these rights enshrined here are to be protected which is why, under the Sedition Act, no calypsonian who has sang against Eric Williams or Chambers or even Mr. Manning had been so prosecuted, and the same process is going to work. If one of those judges in this commission makes a decision that somebody does not like, they will have the right of appeal all the way to Privy Council. So there is no way that—given this Constitution and the freedoms that we have, they are saying that a kangaroo court is being set up which will deliberately squelch and frustrate the delivery of justice and deny people that justice which we hold so dear and to injure the innocent. We have all the legal remedies that are open to everybody in civil proceedings.

I want to remind people that this Equal Opportunity Bill does not provide any criminal penalties or jail terms for anybody, as indeed the Sedition Act does, and even though it does not provide any criminal penalties for anybody, all the remedies in law that a citizen can apply for in order to get justice are there. None of them are blocked off. There is no frustration put in place, there is no hindrance or opposition to a citizen seeking every constitutional remedy for any injustice that these commissions or this Bill might engender.

So, Mr. Speaker, I have stood here this evening purposefully to deal with the sort of intellectual basis of the argument against this Bill and especially those arguments and those objections which are saying that this is a Bill directed against calypsonians and it is a Bill directed towards the purpose of protecting Hindus as a particular religion from conversion by Pentecostals and other people. Those two particular objections which are so fundamental to the Opposition argument to me are spurious. They are lacking substance, and the arguments brought to bear to support them are very dangerous if we understand the possibilities in this election season for mixing up religion with politics in a sense that the people who are Christians will align themselves with the PNM, seeking to understand or to support the belief that this so-called, this alleged, Hindu Government, is surreptitiously trying to deny people who are Hindus their freedom, their constitutional right to abandon Hinduism and become Catholic or Pentecostal or Jehovah's Witness, or whatever they want to be.

There is no such hidden agenda of which I am aware and I can read pretty well, Mr. Speaker. I have read the Bill and I do not discern any Hindu agenda in the Bill. In my relationship in the Cabinet I do not see a Hindu purpose being articulated, so I do not understand why I should not allow myself to use the

opportunity to disabuse the Members of the Opposition from pursuing this dangerous course. It is indeed a dangerous course. We saw how it operated in 1990. We do not want it to be used again in this election in a situation where, like some of us have heard said, this will be the “mother of all elections”, the “mother of all battles”, and, you know, the feelings and emotions of people can run away with them.

We have a society where there are all kinds of convergence, Mr. Speaker. People who understand Trinidad and Tobago, you know, there is no such thing as “roti” in India. One can go to Delhi, Karnataka, Mumbai or Kandahar and wherever one goes in India, one cannot get “roti”. Someone cannot go to those places and ask for a chicken “roti”. Nobody knows that. They do not make those things there. We have them in Trinidad. Many of the things that we have in Trinidad are indigenous, like chutney. Chutney music is not an Indian thing, it is a Trinidad thing, just like how we use calypso and soca.

So that, instead of talking about all these areas of convergence that are slowly uniting people, we want to focus on those things that divide us and those things that can incite people to rivet themselves in these ethnic Bantustans without understanding the value to this country of what all of us here are doing, to make Trinidad and Tobago a better place where one does not identify people by the straightness of their hair or the colour their skin with any political party. This is what we should be doing, and understanding carefully that we cannot and we must not and we shall not use this Equal Opportunity Bill as an occasion to reinforce in the mind of many people who, through no fault of theirs, grew up in homes where they learnt racism. I have often said, Mr. Speaker, that racism is something one learns from one’s mother’s breast. It is not something that governments impose.

Williams did not teach people racism. Mr. Manning did not teach people racism. Mr. Chambers did not teach people racism. Mr. Marshall and the PNM accused Robinson of being a racist and he was not, you understand, [*Interruption*] but when they were saying these things that Robinson is “Massa” come back, “Robinson bringing back white people to put back black people in white people’s kitchens” [*Interruption*]—Marshall wrote that. I have it in his book. He has a book called *In Defence of the People’s Interest* and all that is in there. [*Interruption*] Morris Marshall. [*Interruption*] Yes, he said so. It is in the book. You see they forget their things.

Dr. Rowley: That is not there.

Dr. The Hon. M. Job: It is not there?

Dr. Rowley: No.

Dr. The Hon. M. Job: Next time I come I will walk with it. I will make a photocopy of the excerpt for the Member. [*Interruption*] Exactly. “He bringing back Massa” and “putting black people back in white people kitchen”. “He is a symbol of Massa”. “He want black people to go back to scrubbing white people underwear”, and all kinds of nonsense talk. It is all there, you understand.

So we have to be very, very careful to separate clause 7 and our objections to clause 7 from the idea that this Government or this Bill has a particular sinister purpose, a devious purpose, which is to protect a particular ethnic religion and another devious purpose, as articulated by the Member for Diego Martin West, which is to censor calypsonians in particular, not so much people who are sculptors and painters as indeed calypsonians, because he did say calypsonians are very important people in the society.

I did mention to him, I do not know if he was here, but there was a time when I used to have my radio programme and for years after, if five, six, seven, eight, nine or ten calypsonians did not sing a whole calypso or two verses on me, they did not sing any, and I never complained. I let it pass in stride. They “get fed up” now, they “doh” sing on me again. That is the way I deal with that. Let them sing. I am not going to get down to the level of ignorance and stupidity with a set of ignorant calypsonians who have bought a song. Many of them are not literate people. They cannot compose two verses together. Yet these are the kinds of people who want to sing “ah set ah dotishness, so wha you worrying about dem for?” I am not. I never did. I will not do so now.

9.40 p.m.

Mr. Speaker, but in the context of our society, it is a kind of institution that people love, people want. I go to calypso tents when I have the feeling to so do. I do not know that this Government—or the devil could take their mind away and, therefore, the Cabinet could come together to abolish calypsonians or censor them and/or to do anything like that. I honestly think that we should be very fair, very objective and very concerned to not use the opportunity to criticize this Bill to plant wrong ideas in the public mind as the way the Member for Diego Martin East is used to doing; the way the Member for Diego Martin West has a habit of doing in my particular case.

The Member got up one evening and said I said Dr. Williams was a racist. I never said any such thing and I will not say such a thing. I admired Dr. Williams. I do not agree with his idea of economics. I do not agree with his idea that it is the profit from slavery that developed capitalism in Europe, and as an intellectual person who has studied these kinds of things, I use my constitutional right. The Constitution guarantees me the freedom to say that I do not agree with Dr. Williams' economics, and that is what I do. But I admired the man as a politician. I think he did a great job while he was around to keep the society together, and I also think that he did not provide the framework that would give the so-called Africans an incentive to strive more to compete in the world of Trinidad and Tobago. And we are suffering from the lagged effects of that failure today.

Mr. Speaker, when I articulate these things it is not because I am against Dr. Williams, because he was doing that in good faith. It is because of his own limitations from the background that he came from he could not understand these things. I remember in the late 1960s telling people all these things. When we got into the 1970s and they were talking about building up black banks, I was in the public service and I warned them. I told them they were treading on a dangerous path because those kinds of attitudes, when you put them into policy—when you convert grievance into policy—you will develop a set of incentives that are going to haunt you and I have lived to see that my predictions have come to pass, not because I am against Dr. Williams, or against the PNM or against black people, but because I am intellectually honest. I have always said so.

Mr. Speaker, when Sat Maharaj was my friend and he got up and talked his foolishness on TV calling me a madman, I had to call a press conference and criticize him and say that “some of the most ignorant people that I have known in the world are these Hindus here in Trinidad who are talking about India this and India that and they do not understand anything about India. They do not understand that every day in India hundreds of languages are being spoken. When the Indian government tried to make Hindi the only language, people in Karnataka and South India started to riot and burn and the army had to come out. In fact, most of the upper class Hindus in Northern India, those Brahmins, their children from yay high, from down on the ground, are lectured to, go to school where English is the language of communication. That is a fact. I did not invent that. That is how it is down there”.

I went to India and talked to little children in Agra. They are five, six years old and they are speaking perfect English, better than me. But the people here do not know that so they are into this kind of Hindi frenzy and this kind of foolishness when most of the people in Trinidad and Tobago what they need to do

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is to get a greater competence in English. I am not saying people should not learn Hindi, or Sanskrit or German or Spanish. I have struggled with all these languages and I am pretty competent in most of them so, therefore, my idea is clear, if people want to learn Hindi let them learn Hindi, but the truth must be told that there are parts of India where the mother tongue for thousands of years was not Hindi, so to come and tell people in Trinidad everybody talking Hindi in India is bogus nonsense.

I say the same thing about the people who are these Pan-Africanists. They do not understand Africa and we cannot come into the Parliament and spread these particularistic nostrums that have no basis in fact to confuse people, to align in people's mind the idea that this Government is a Government with a vengeful, deceitful, hidden agenda to push Hinduism and Hindi and India on this country. It is not so. The evidence, let us look at it and be honest and talk to people and if you see the evidence; give it to everybody and I will support you too. I will do the same thing I did to Sat Maharaj and all of them. I will call a press conference and denounce the Government. I promise you I will do that if I see the evidence; bring it to me.

Mr. Speaker, in my closing remarks I want to say that when they talk about corruption—this is another problem we have with the way they use this Parliament to make allegations of corruption that are, in fact, emotive appeals to the ethnic consciousness of a particular combination. There is a police group that is set up—I am sure that it is operating now. We had meetings with Acting Commissioner of Police Grant. I do not know that anybody from the Opposition has gone to Mr. Grant with any information as yet. All these legislations that we are passing in terms of freedom to get into and to ask questions, even this very Bill, would provide opportunities for people to bring these questions of discrimination, corruption and unfair treatment in a legal way so that we can deal with it.

I would like to see more efforts being made to undermine the credibility of the Government if it looks like they are passing legislation they do not really believe in or if they are creating institutions that cannot work or will not work or are dedicated merely to camouflage to provide a mirage. Let us deal with that, but do not focus the mind on these petty and narrow things that are really invoking in a certain community, the feeling to band together; as they call it in South Africa to circle the wagons, because you have to protect the tribe.

There is only one tribe here, the tribe of Trinidad and Tobago. I did say when you looked at the stadium when we played that match against Canada when the fellow from Laventille scored the goal, Latapy, in combination with Yorke, I saw 30,000 people, 30,000 red people; you could not know who is Indian, Chinese, Dougla, Quadroon, Octoroon, or Syrian. Everybody was there for tribe Trinidad and Tobago and this is how we need to look towards the future.

When we are doing the Parliament business we have to be always conscious and I am warning everybody here on the election campaign let us try our best and if I hear anybody on this side trying to incite racist appeals in order to defend themselves, to defend the UNC, I am going to denounce them because I passionately believe that we ought not to tolerate any kind of politics in this country that is exploiting the weakness of the masses; that kind of narrow-mindedness that they inculcated in the narrow communities from their parents, from their villages. Children hear these things and they internalize them and they become adults and have them in their heads. It is not the politicians fault; it is not the Member for Diego Martin West's fault; but it is his fault if he goes out there and tries to exploit it deliberately and consciously. It is my fault if I do that. It is the fault of Mr. Nanan if he does that. We ought to be very mature in our attitude to these things.

Mr. Speaker, I think I have made my points especially in the light of a PNM law on the books called the Sedition Act that does more than this Bill is ever seeking to do concerning punishing feelings of ill-will as expressed in the electronic media, by calypsonians or by publication, and this Bill does not seek to do any of these things. So I rest my case by saying that the arguments I have heard here this evening are without any substance. Many of them to me seem to be bordering on the malicious and deliberately dedicated to provoking a kind of ethnic hysteria that we can do without in the country.

I thank the hon. Members for extending my time so I can express myself in the full and I hope that my message and my plea will fall on fruitful ground on the other side. [*Desk thumping*]

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, I had planned to make two short points in this debate because I feel confident based on what I have heard in the initial debate, when these proposals first came to this House, of course, before it went to the other place and coupled with what I heard this evening from the Members for Diego Martin East and Diego Martin West, I am satisfied that the points that we sought to bring to the Government were well

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made. I was impressed by the passionate way in which, particularly, the Member for Diego Martin West made those points in the closing part of his contribution, pleading with the Government to take its time, think again. This Bill is clearly very unpopular and if only for that reason this Government for its own preservation should be a little careful.

9.50 p.m.

There must be some very compelling force or forces driving this Government to want this legislation to go through, notwithstanding the totality of the objections that have come from the Senate, religious organizations, political organizations, the Opposition, the trade union movement, from individuals nationally and internationally. But the Government is determined to go ahead and there must be some compelling force. What is it? Only God knows.

But before I make the two points that I propose to make in this debate, I must respond very briefly to some things that the Member for Tobago East said in this debate. He gave the impression, first of all—and he said it on several occasions—that the PNM must be the only unit in this country that has opposed the provisions of this Bill and in particular clause 7.

When the Prime Minister met with the IRO and the IRO declared the truth less than 24 hours after the Prime Minister told us that there was consensus, there was no member of the People's National Movement, no politician of the PNM on that team that met the Prime Minister. That alone demonstrates that it cannot be correct to say that it is only the PNM that is objecting to this. The objection to this clause 7 is nationwide. It is only the Government—and it is remarkable and revealing to me when one considers that of the nine Independent Senators, eight voted against the legislation and one who had piloted the objection was absent. So in effect, every one of the President's men, so-called, as independent thinkers, bringing intellectual and independent thought to the debate, objected to it. But the Government continued.

Mr. Speaker, the Member for Tobago East—and he was encouraged by the Member for Couva South; and it was said in the initial debate in this House—made mention of the fact that there is in the laws of Trinidad and Tobago on the law books, the Sedition Act. That was first enacted in 1920 in the colonial era, and in 1971 it was amended. Everyone in this country knows 1970 was a historic year in this country and the events leading up to 1970, and 1970, demanded of the government of the day a response, and there was an amendment to the Sedition Act. You, Mr. Speaker— I looked at *Hansard*—took part in that debate.

So you will recall that the idea was to deal with some of problems that reared their heads in the early 1970s in this country. So that the Sedition Act is, indeed, in place, but it was there since 1920. What was remarkable about the Sedition Act—and the Member for Tobago East, supported by the lawyer, the Member for Couva South, put the existence of that legislation in the context that the PNM criminalized certain things: religious hatred, and so on, and there are fines and jail sentences to be awarded, if I can say so, in the event of a breach of the Sedition Act. The fine is \$20,000 on indictment and I think five years' imprisonment.

They are trying to tell the Parliament and the country that we are protesting against clause 7 which does not apply any jail terms or severe penal sanctions, that we are complaining about clause 7, whereas the PNM in 1971 put a \$20,000 fine and a sentence of five years in the Sedition Act. That is the point they were seeking to make. But what they did not tell you is that the Sedition Act—and the Attorney General as a lawyer ought to know this—while the concept of sedition is there, the Sedition Act in terms of the debate—and the Attorney General knows full well that *Hansard* can now be referred to in the interpretation of an Act—it was quite clear from the person who piloted the Bill, and even in the Senate by various of the Senate speakers—and I shall quote in a short while—that one is free to criticize under the sedition law. You are free to criticize. The problem comes when you go beyond mere criticism and incite racial or any other type of hatred.

That is the contra-distinction between the Sedition Act as it now exists and the pernicious clause 7 as offered to the country by the UNC. That is the difference. [*Desk thumping*] In order to be guilty under the sedition legislation one has to go beyond mere criticism. One has to go to the point of inciting racial hatred. Let me run a little quote here from the Attorney General of the day in that debate, to give a sense of the point I am making. In fact, the Attorney General of the day—and this is Friday, November 5, 1971, said in the Lower House, and I quote from page 351:

“This particular subsection occurs in different forms and we chose to adapt the Canadian Criminal Code section 281(1) and incorporate it here in this bill. Subclause (v) reads as follows:

‘to advocate or promote, with intent to destroy in whole or in part, any identifiable group, namely—

- (i) killing members of the group; or
- (ii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.’

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What is this saying in simple terms? I think it is saying what we always felt in our hearts and what we must continue to feel in our minds not only as decent citizens, but as right thinking inhabitants of a multi-racial community, that you cannot say, kill all X and Y because they belong to a particular class, nor must you be permitted to say, kill all X and Y because they are doing a particular sort of job. Nor must you say, for instance, that you must subject a particular race or class of the community to such conditions of living with the intent to destroy them. In other words, genocide.”

This, in my view, makes the point that the intention of the sedition legislation is to deal with persons who go beyond mere criticism and incite the conduct that I recited in that short passage. I want to quote one Senator M. T. I. Julian, and this debate took place on Tuesday, November 16, 1971, the very amendment to the sedition legislation. He was looking at the same subsection. Section 3 (1) of the Parent Ordinance reads as follows:

“A seditious intention is an intention—

- (a) to bring into hatred or contempt, or to excite disaffection against the person of his Majesty” et cetera.

Subsection (2) reads as follows:

“ But, an act, speech or publication is not seditious by reason only that it intends to show his Majesty or this or any Government has been misled or mistaken in his or their measures, or to point out errors or defects in the Government or Constitution as by law established, with a view to their reformation, or to excite his Majesty’s subjects to attempt by lawful means the alteration of any matter in the State by law established, or to point out, with a view to their removal by lawful means, matters which are producing, or have a tendency to produce—

- (a) feelings of hatred or ill-will between different classes or races of his Majesty’s subjects.”

So I really quoted that yet again to demonstrate, I hope, very clearly that there is a serious distinction between the sedition legislation and what is before us. What is before us? A pernicious clause 7 which makes it an offence simply if one believes that he is offended, insulted, intimidated or humiliated. So there is a subjective element where an individual who may be a thin-skinned individual, who may be a malicious individual, who may be an individual who is listening to a speaker from

another political unit, that is to say, I may be from the PNM and speaking to a UNC person who wants to be malicious and he says, "I feel offended by what Mr. Hinds has to say," or believes sincerely that he is offended. Then he goes to the commission and the procedure ensues. The commission now must apply an objective test and decide whether, in fact, the person who claimed to feel to have been offended, intimidated, humiliated, was really treated in that manner. So therein lies the significant difference. And because of the troubles with that, one feels—and this takes me to one of the points I want to make—that in the definition section of this legislation, there ought to be more thought and definitions, for example, to take in concepts such as intimidate, religious hatred and that sort of thing.

I suspect that the reason those definitions were not attempted in the definition section is because immediately the Government realized that it would put itself in further trouble; it is difficult to define. It is as simple as that. Because the thing is so subjective, so fluid, so difficult to grasp intellectually, even with the sincerest of attempts, that they did not attempt to define it. As a result, they are forcing legislation. One does not know, for example, what the Act means by "religious hatred". That will have to be decided upon on the facts of the case, the circumstances surrounding the matter complained of. That will be decided, when one takes a closer view, by the way the listener felt when he heard the statement or the act was perpetrated, or the way the commission feels about the thing when the complaint reaches it.

So I understand why they would not attempt those definitions. They find them very difficult. I want the Member for Siparia—she is a lawyer and she served briefly as the Attorney General; she can communicate with the current Attorney General—to explain, when we talk about religious hatred and I call for a definition. Does religious hatred mean hatred of the person's religion? Or does it mean, of persons because of their religion? There is a difference.

Let me repeat it. Does it mean hatred of the person's religion? So you hate Christians or Hindus or Seventh Day Adventists or Baptists or Orisa devotees? Or does it mean you hate the person because of his religion? It may sound difficult to grasp, but it demonstrates how hazy and how difficult the whole thing is and it shows some of the inherent problems with this legislation.

Mr. Speaker, I feel that we should see, at least, an attempt to define these things, although I recognize that there would be some difficulty. It was already mentioned in the course of this debate by the Member for Diego Martin West that clause 26 (3) deals with the question of principal religions.

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It is in here we saw the empanelment of a group of persons who represent principal religions. Immediately, the Government is deciding, and the commission will have to decide, which religions are principal religions, and which religions are not. But, this is supposed to be, according to our Constitution, a multi-religious society. However big or small, all religions are of equal importance, according to our Constitution. When we take it upon ourselves to decide immediately and in law, which religions are principal and which are not, the very concept of equal opportunity is under immediate threat. Those persons who the Government decides do not belong to principal religions, will immediately feel offended because they will believe that they do not have a voice on the very panel. What is worse, the views of those who sit there because they belong to principal religions, will take and inform the decisions of the commission. It may very well be to the detriment of those who were not classified by the Government as belonging to principal religions. We have a problem.

Of course, the Member for Diego Martin West pointed out immediately that by deciding that there will be a panel of religious persons, it shows the focus—though the Government will not admit it—of this legislation is to deal with religious issues only. The Member raised the point—and I want to reinforce it—that if a calypsonian sings something that someone considers offensive—the Prime Minister found certain calypsoes were offensive—and that person is taken before the commission, the commission now has a panel of persons advising it, but these are religious persons. How would they interpret and understand the business of calypso? If the issue before the commission is a racial one, how would the religious persons relate to that? [*Interruption*]

Mr. Maharaj: But Rowley said that already.

Mr. F. Hinds: I am just reinforcing the point, because I share the sentiment entirely.

Mr. Maharaj: You are saying the same thing he is saying.

Mr. F. Hinds: Absolutely. What it demonstrates is that because it matters how often you hear it, you continue. The statements and the records will show. When we come back, and we amend this and wipe away clause 7 in the future, we would be able to justify that to the nation and say we told them so. The Government will not be able, in opposition then, to come and say they never said that, it is on the record.

I want to deal with two other little matters. I was out of the country but I understand that a child approached a primary school, I think it was, the child was not Rasta, but the child had his hair braided. The principal of the school was adamant that that child not be permitted entry. I understand that there was an intervention by a member of the Government, and the situation was resolved and good sense prevailed. That, of course, would not have been a religious issue like the hijab because there was no identifiable religious pursuit with anyone: anybody could plait his or her hair.

I understand that the Prime Minister went on to say that that child would have been able to benefit from the provisions of the equal opportunity legislation. That is what I found nauseating. It is either he does not understand his own legislation, or he is again attempting to fool people in the country; looking for friends and for votes. Nowhere in this Bill does the question of somebody's dress, attire or hairstyle matter. It is about religion, sex, race, class and status. How does a child with plaits benefit from this in the circumstances? I would like someone to tell me—the child was not claiming to be Muslim, Rasta, or saying: "I was not allowed in the school because I am an Indian, Chinese, African, male or female"—how does it apply? If the Government cannot show me that, it must ask its Prime Minister to stop fooling people and speak the truth.

All that did was to remind me when the Bill was first piloted in this House. A Rasta woman in an audience asked the Prime Minister whether Rastas would enjoy protection under the Bill. Again, the Prime Minister quite glibly went on to say "Yes". He went further to say that Rastas were a distinct ethnic group. I knew that he was not speaking the truth, but I did not rely on my own thinking, I immediately went to the dictionary. When I looked at the meaning of the word "ethnic", it was quite clear to me, from the meaning of the word "ethnic", that Rastafarians can, by no stretch of the imagination, be considered a separate ethnic group. For those of you who want to dispute it, let me read the meaning of "ethnic" in the *Collins Concise Dictionary*, which we have here in the Chamber:

"ethnic 1. of or relating to a human group, having racial, religious, linguistic and other traits in common."

[*Interruption*] Yes, Catholics are an ethnic group. The Member for Chaguanas is embarrassing. Just listen and let me continue.

"2. relating to the classification of mankind into groups, especially on the basis of racial characteristics.

3. denoting or deriving from the cultural traditions of a group of people.

4. characteristic of another culture, especially a peasant one."

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When one listens to all those meanings, one realizes immediately that it is either he does not understand the meaning of the word "ethnic" or in his usual sly way, he simply tried to fool the person to whom he was speaking and by extension, the nation. Rastas are no separate ethnic group. The point I am making is simply this: this Bill does not offer any particular protection to Rastas.

Hon. Member: Yes it does.

Mr. F. Hinds: It does not! The Constitution of Trinidad and Tobago talks about religions, but we follow the common law of England, to the extent that our statute law does not take us there. Of all the cases involving Rastas that went before the tribunals or the English courts, they never once agreed that Rasta was a religion, they always said it was a cult and all of that. I do not agree.

The 1972 case of *R. and Jones*: a case in which Jones argued as a Rasta in the prison in Birmingham, he said he was being fed a diet of pork, beef and all that, and as a Rasta he should not, he should get a special diet. Hindus did not get beef and Muslims did not get pork. When the matter reached before the court, he was rejected. In a tribunal there was a man called Dawkins and the same thing was held.

We will be forced to adopt the common law of England in those cases unless we put into our Constitution that Rasta is a religion. I am simply saying, as a matter of legal analysis that it is not correct to say that Rastas enjoy protection under this Bill. Where the word religion is used here, Rasta according to the common law under which we operate in this county, is not regarded as a religion.

This statute law does not bring the Rastafarian movement within its ambit either, so it was incorrect for the Prime Minister to say so.

10.15 p.m.

Mr. Speaker, I do not propose to be longer than this. I merely wanted to point out those two issues, so if the Government is sincere about affording protection under this legislation to the Rastafarian community, as the Prime Minister told the woman publicly, it does, then this is its opportunity to correct that, otherwise never be heard to say so again. With respect to the child in the school, again, the Prime Minister must be reminded, this legislation does not, in fact, afford that child because he had his hair plaited in any way or in any wise.

Mr. Speaker, to that extent I have said my bit and I thank you.

Mr. Kenneth Valley [*Diego Martin Central*]: Mr. Speaker, I join the debate at this time because I am, frankly, very disturbed about what is happening. I think as a fact, in Trinidad and Tobago, we have, first of all, to realize that we have a blessed country. In spite of the fact that as we look around the world, we see divisions based on race, religion and what have you, we ought to know that we could be different in Trinidad and Tobago. As a fact, yes, we have it with India and Pakistan; the Palestines and the Jews; Greeks and Cypriots; English Canadian and French Canadian, but we can be different here, Mr. Speaker.

If we remember, Brett in 1995, the hurricane that was coming to hit Trinidad and Tobago; that contracted and passed between Trinidad and Tobago and then expanded and went on to lick up Venezuela, or, just over this weekend, Joyce, that was heading to Trinidad. As a fact some people said that when they realized the Government we have in Trinidad they said, “no, I am not going there that Government is stealing wind.” Mr. Speaker, that is really being facetious, but that is the reality. We have a blessed country. [*Desk thumping*] We know that there is a choice in every situation: to use a negative approach to deal with the problem or find a positive approach. To me this clause 7 is a very negative approach to deal with what is a very sensitive issue. It is an approach, as my colleague has said, which has the potential of causing division in our society; a society that up to now has exhibited a very high degree of tolerance; of coming together and of sharing together.

My friend, the Member for Tobago East, spoke about our roti, chutney and so forth that is fundamentally Trinidadian. We see from time to time and we hear the music that is developing in Trinidad and Tobago. We admire the beauty in our diversity, yet we find time for clause 7.

Let us first of all admit, yes, there is a problem, but ought we to take a negative approach to deal with that problem? What is the problem? To my mind, the problem is, first of all, as Lloyd Best said sometime ago, that in Trinidad and Tobago somehow we all manage to feel as second-class citizens. More importantly, I think it is a lack of understanding and appreciation of each other's culture and way of life.

I was in New York a month ago for an August 27 function and I met a young lady—a good fund-raiser—Dr. Gopaul. She has a black background as well as East Indian and she was telling us that when she talks to her East Indian relatives, they feel, as a fact that they have been discriminated against for a number of years. They feel that they had never received a fair chance in Trinidad and Tobago and honestly, I can tell you, I am from Couva, I sat there amazed, how

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could people feel that way in Trinidad and Tobago, but at the same time I empathize—*[Interruption]* Maybe, and I am prepared to admit it. Listening to her I had to empathize because she was very emotional about it and was making the point that the blacks in Trinidad and Tobago do not understand East Indians and East Indians do not understand the blacks.

I remember as a little boy—and I am sure you would also, Mr. Speaker—the West Indian Reader where one could have had an appreciation of the cultures of the different groups in Trinidad; reading about the Hindu wedding and all these things. I will admit, however, that even though I grew up in Couva, I have been to a number of East Indians functions but I do not have an appreciation of the culture. That is the reality. I think, as leaders in the society, as a Government and realizing the problem, that rather than taking the approach of clause 7, emphasis ought to be placed on developing institutions and so on, so that we can share; we can appreciate.

I think this is what the Member for San Fernando East had in mind when, as Prime Minister, he set up a weekly session with different groups; they met on a weekly basis, Mr. Speaker, discussing the issues—*[Interruption]*

Mr. Speaker: Member for Chaguanas, please, allow him to finish. Allow him to say his piece. I will call on you afterwards if you want.

Hon. Members this may be a convenient point at which to take the break for dinner. I am told that it is here and it is served. We will suspend for 45 minutes.

10.25 p.m. *Sitting suspended.*

11.23 p.m.: *Sitting resumed.*

Mr. K. Valley: *[Desk thumping]* Mr. Speaker, when the suspension was taken I was making the point that to me the Bill is a negative approach to a very sensitive issue, and I am recommending that instead we attempt to use a positive approach. The positive approach, Mr. Speaker, would obviously take longer. We are an evolving society, a society that has moved from colonialism to independence to republican status but as a fact, Mr. Speaker, we have still got to achieve nationhood, and that is obviously our quest.

To my mind, a Bill of this type—clause 7, rather, because I think all of us will agree that legislation on equal opportunity can assist but not clause 7, Mr. Speaker. As a matter of fact, it seems to me that clause 7 is really directly opposed to the whole concept of equal opportunity, because, while we talk about equal opportunity, clause 7 attempts to take away the right of an individual—as the Member for Tobago East said, the freedom of thought, the freedom of expression and so forth. So that, in a sense, it takes away equal opportunity to persons, to groups.

There is already legislation on the books, Mr. Speaker, that if one was to go too far, he can very well face existing legislation. The Member for Tobago East, rather, mentioned the Sedition Act of 1971. Of course he stopped short because while the Sedition Act caters for certain things, there is a savings clause. Perhaps we need to put that on the record. The Member for Tobago East dealt with clause 3 subclause (1) and stopped there but there is also clause 3 subclause (2) and this is what it says:

“But an Act, speech, statement or publication is not seditious by reason only that it intends to show that the Government has been misled or mistaken in its measures, or to point out errors or defects in the Government or Constitution as by law established, with a view to their reformation, or to excite persons to attempt by lawful means the alteration of any matter in the State by law established, or to point out, with a view to their removal by lawful means, matters which are producing, or have a tendency to produce—

- (a) feelings of ill-will, hostility or contempt between different sections of the community or;
- (b) feelings of ill-will, hostility or contempt between different classes of the inhabitants of Trinidad and Tobago distinguished by race, colour, religion, profession, calling or employment.”

So that, Mr. Speaker, that is a sort of saving provision similar to the amendment that was attempted in the other place and moved by my colleague from Diego Martin West to the effect that the new subsection (5) would say:

“It shall be a defence to a complaint under this section to establish that the act complained of has redeeming artistic or social merit.”

You see, so that there is need for some saving element, Mr. Speaker.

The other thing that we need to note about the Sedition Act is that it was passed by a special majority because even at that time, way back in 1971, before our republican Constitution, Mr. Speaker, the freedoms established in sections 4 and 5 of our republican Constitution were part of the 1962 independent Constitution, and therefore the legislation required a special majority, a three-fifths majority.

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Mr. Speaker, if one was to look at the debate—because one would recall that by December of 1971 the Government had already been elected, the election having been held in May of 1971, and the PNM at that time, as you know, won all the seats in the Lower House. But in the Upper House, Mr. Speaker, the vote was 17 for, nobody against, and one abstention. So you would see that the Bill received unanimous passage at that time. That is some 29 years ago, and legislation exists to deal with persons who would want to go too far. The issue today is, given where we are, given our quest for nationhood, why can we not look for a positive solution? Why can we not attempt to create an environment so that we can learn from each other and appreciate our diversity? Why can we not do things really to demonstrate to the world that in Trinidad and Tobago there is that oneness?

It is happening, Mr. Speaker. Those of us who have eyes to see can see. It is not necessary. We do not need this clause 7. It is going to take us back. We have to remember, as my friend from Princes Town mentioned outside to me, all decisions have consequences. We can take one of two roads. We can be negative and set up legislation to cause divisiveness in our society or we can attempt to build institutions that are going to provide the environment to move forward as one people. Because, you know, Mr. Speaker, in politics the perception is the reality, and it was our colleague from Tobago East who reminded us that it is really very dangerous to develop policy out of grievances. I am sure we have grievances. As I said, we are all feeling that we are second-class citizens, but should we use that to develop national policy?

So Mr. Speaker, what is also important is the fact that since this Bill is not being passed by a special majority it is not going to go anywhere. The Sedition Bill of 1971 was passed by a special majority because it interfered with freedoms. This Bill is interfering with our freedoms. There is no requirement that it be passed by a special majority. So do you know what is going to happen, Mr. Speaker? As soon as an individual takes it to the court it is going to be deemed null and void and be of no effect so that, in a sense, we are wasting our time.

What, then, is the purpose of the legislation? The same as the legislation that we had earlier today. Was it the small landholdings? It is for the same purpose, to tell some particular interest group that we are doing something to attempt to fool the people of Trinidad and Tobago, because, like that Bill, Members will note that this Bill also says that it is going to come into effect on a date to be proclaimed by the President. I mean, we are at best three months to an election, so that, while on the campaign trail they want to be able to say “Yes we have passed this”. But I will tell them that it is not proclaimed, that it is of no effect and, even if it is proclaimed, once one goes to court it will be struck down, and that is the reality.

In this election period we believe that we should play games rather than deal with issues affecting Trinidad and Tobago, and while we are doing that we are playing, as my colleague said, with fire. We are striking the match to gasoline. I would counsel my colleague from Couva South, even at this time, really, suggest, but I am sure—you know, one has a feeling when his mind and soul are not in something and I know his mind and soul are not in this. He is being asked to do this but I think he should really counsel his Prime Minister that this is not in the best interest of our society at this time. I thank you, Mr. Speaker. [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, in the comments made by the Opposition they have been very critical of the Government in respect to this policy, and their comments are in effect saying that the measure which is being passed would bring discredit to the Government and to the people. I think I would like to confine my comments just to clause 7. I just want to make it clear that nowhere in the Constitution would it be found that there is a law or that the Constitution authorizes anyone to express an opinion so that it would incite racial hatred.

11.35 p.m.

Mr. Speaker, as a matter of fact, the freedom of speech which is in the Constitution, it has been decided by the highest authority that no freedom in sections 4 and 5 is obsolete. That has been decided. What this Bill does in section 7 has been totally misrepresented. As I understand it, the Opposition is saying that it is all well and good for the criminal law to say if anybody:

- “(a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) communicates any statement having a seditious intention;
- (c) publishes, sells, offers for sale or distributes any seditious publication;”

And it goes on and defines a seditious intention in clause 3(1)(d) and it says:

“to engender or promote—

- (i) feelings of ill-will or hostility between one or more sections of the community on the one hand and any other section or sections of the community on the other hand; or
- (ii) feelings or ill-will towards, hostility to or contempt for any class of inhabitants of Trinidad and Tobago distinguished by race, colour, religion, profession, calling or employment;”

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Mr. Speaker, so that if at any time it is felt that under the existing law people have said or published things which amount to this, there is a court in Trinidad and Tobago to determine whether a criminal offence was committed. So, if the Mighty Sparrow, the chutney singer or any singer in Trinidad and Tobago sings any tune, for example, and it amounts to this, and the person was prosecuted, a court, a judge, a magistrate and jury would determine this having regard to all the circumstances, and to see whether these ingredients have been committed.

Mr. Speaker, what the PNM is saying is that it was all well and good in 1971 for the PNM administration to pass this law—and I have no problems with it—that could be sedition. I think a government is entitled to pass laws in order to promote a unified society and in order to ensure that it is not broken up, as the hon. Member for Diego Martin Central said that there must be institutions and one must build on these institutions. So it was all well and good for the PNM to have done that in 1971, in order to ensure that the courts would act as an institution to ensure that people do not break up the society, and to make it a criminal offence in which people could be jailed.

Mr. Speaker, the Opposition is saying that it is wrong in 2000 for this administration to pass legislation—not to lock up anybody—but to create what is called civil action damages—to prevent people from doing it and to have a court, a tribunal, headed by someone in the same way that a judge is appointed by the Judicial and Legal Service Commission, and then for it to go to the Court of Appeal. There are three judges to determine not only whether a publication on chutney is rising.

Mr. Speaker, what has happened with this Bill is that the PNM decided that they did not want this Bill and, therefore, decided that they were going to tell the population that this Bill is to prevent calypsonians from singing.

Mr. Valley: Mr. Speaker, if the Member would give way. I just want to ask the question: whether the Member for Couva South does not appreciate the uselessness of the legislation, given that the Sedition Bill is there for 29 years and nobody has been charged with a criminal offence under that Bill for inciting racial hatred or any of these things that could be done that you want to do now via civil action? Does it not suggest the uselessness of the legislation? Do you see that the Bill could cause divisiveness in the society?

Hon. R. L. Maharaj: Mr. Speaker, I will deal with all of that. The Member had his opportunity of speaking but I will deal with it. What the PNM decided to do was to in effect instigate the feeling that this Bill was against calypsonians.

What has happened is that the Senate did not vote against clause 7. As a matter of fact, what the Senate voted against, was the amendment to clause 7. That is how the Opposition misleads. Nowhere in the *Hansard* record you would see that Independent Senators voted against clause 7 of the Bill.

Mr. Speaker, just before clause 7 was determined, Sen. Dr. Eastlyn Mc Kenzie said “Mr. Chairman, before you go to a division, when I made my contribution, I asked the Hon. Attorney General to substitute the words ‘is reasonably likely’ to ‘intended to’ but when I look at clause 7(1)(c), I saw where the intention was covered, so I think that sort of covers what I intended, so I withdraw the suggestion I made.”

Mr. Speaker, let me take some time to explain because I want it put on the record, so that future generations of Trinidad and Tobago would read to see how the Opposition is trying to mislead the population. Bearing in mind, what Sen. Dr. Mc Kenzie said, a very distinguished Independent Senator, “...that is taken care of because I see ‘intended to.’” Mr. Speaker, it is not if anybody publishes chutney is rising or says anything about anybody as the hon. Member for Diego Martin East said, if a calypsonian sings a song that would amount to any offensive behaviour under the Bill.

Mr. Speaker, I will read it closely so that you will see that there are about seven, or let us say five main ingredients before a civil offence is committed.

“A person shall not otherwise than in private, do any act which—
(a) is reasonably likely...”

So “reasonably likely” is one of the ingredients. I will come back to it.

“...in all the circumstances...”

“Reasonably” there, to any lawyer has an objective test.

“...to offend, insult, humiliate or intimidate another person or a group of persons;”

So the first matter that one has to get over is whether what was said or done.

“...is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or group...”

Mr. Speaker, the second ingredient is whether what was done or said—I quote:

“...because of the gender, race, ethnicity, origin or religion of the other person or of some or all of the persons in the group...”

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So, here it is and I quote:

“...reasonably likely, in all the circumstances...”

And that is not all and it continues:

“...to offend, insult, humiliate or intimidate another person...”

And I quote:

“...is done because of the gender, race, ethnicity...”

And it goes on and I quote:

“...which is done with the intention of inciting gender, racial or religious hatred.”

So there must be an intention.

Mr. Speaker, let us take an example. If a man kills someone in self-defence and he puts forward a defence of self-defence, the defence of reasonable self-defence would be what he did, having regard to all the circumstances, and whether what he did was reasonable in all the circumstances, having regard to the fact that he was attacked and was in imminent fear he retaliated and killed in self-defence. A court has to consider all those circumstances and in Trinidad and Tobago a jury will consider that also. So that what has to happen is an objective test, what is reasonable in all the circumstances, considering the intention and all these matters to incite racial hatred.

So, is the PNM saying that it is all well and good for a magistrate to determine whether a person does or says anything or publishes anything to engender or promote feelings of ill-will or hostility between one or more sections of the community, on the one hand and any other section of the community?

11.45 p.m.

Mr. Speaker, is it okay, as far as the PNM is concerned, for a magistrate or a judge to determine that, but it is not okay for a tribunal or the Court of Appeal to determine whether a person with all these ingredients, with intention. As a matter of fact, it goes on again, what they are saying is that it is okay for a magistrate or a judge to determine if a person says or publishes anything and it engenders or promotes:

“(ii) feelings of ill-will towards, hostility to or contempt for any class of inhabitants of Trinidad and Tobago distinguished by race, colour, religion, profession, calling or employment;”

It is okay for that, but it is not okay for the judges of the Court of Appeal to determine—not jail, not a criminal offence—a civil matter.

What has happened here is that, obviously, the PNM has found itself in a position in which it does not want the Government to pass this legislation, and it wanted to get something to hold on to, to divert public attention from what is the main issue. The main issue is that the People's National Movement has recognised that it needed these kinds of institution, but it did not have the courage to come forward and take the steps to set up these kinds of institutions; that is the problem. The best thing for them to have done was to come here and admit failure.

Mr. Speaker, I do not think there is anybody in Trinidad and Tobago who likes calypso more than I do. As a matter of fact, every year I go to calypso tents, whether I am in Opposition, Government or whatever it is, and I enjoy calypsoes which criticize the Government or me; I enjoy it. As a matter of fact, the last time I went there, when the calypsonian saw me he had finished the calypso, and as soon as I walked in he said that he was going to start it over again, and it was attack left, right and centre. I applauded him and I went in and had drinks with them afterwards. As a matter of fact, I will not support any law which attempts to take away the rights of calypsonians, but this law does not take away anybody's rights; it does not.

How does it take away rights? If this law takes away people's rights, then the PNM is admitting that it took away the rights of calypsonians by criminalizing their songs. [*Interruption*] The worst thing is to have a bush lawyer. He reads "special majority"—do you know why this Bill was passed with a special majority? If one reads section 5 of the Sedition Act one sees that the President was given the power by the PNM administration to ban the publication of a lot of material. As a matter of fact, the President was given the power to ban and to suspend publication, to take away the freedom of the press, not by any court order but by Executive order. It is in this law.

He is talking about special majority, let me read some of the things that are in the Schedule which were banned by Executive order: *West Indian Clarion*, *Caribbean Clarion*, *West Indian News*, *Caribbean Challenge*, *Caribbean Gazette*, *Caribbean Advocate*, *Caribbean Review*, *Soviet News*, *The Mask is off!* They banned them, and that is why it needed a special majority.

We paid tribute in our hearts to a great Caribbean man, the Prime Minister of Dominica, the hon. Mr. Rosie Douglas. Do you know, Mr. Speaker, that he was banned by the PNM administration from coming to Trinidad and Tobago; he was banned? He was banned because of this. [*Interruption*] He was banned because of what? He was banned by you because of what? [*Crosstalk*] He was banned by your government because of what? Am I not correct? The Minister of Foreign Affairs does not want to answer me. Am I not correct?

Mr. Maraj: Yes.

Hon. R. L. Maharaj: It is a part of the record that he was banned. They are coming to talk about fundamental rights and freedoms. As a matter of fact, Mr. Speaker, when I met Mr. Douglas recently at a Caricom meeting and he said that he was coming to Trinidad and Tobago, we said that we were going to meet him at the airport and remove that ban. Are we not correct, Minister of Foreign Affairs?

Mr. Maraj: Yes.

Hon. R. L. Maharaj: So what are you talking about fundamental rights and human rights! I am sure they would come here on Wednesday and get up and praise him, and say what a great man he was, and that he fought for rights, liberties and freedoms. That is the hypocrisy which exists in this country! And here they come today and are saying that this debate is disturbing. We have been accused for this Bill of some of the worst things.

As a matter of fact, we have been accused of this being censorship, Hitler tendencies, treachery, dangerous. Mr. Speaker, I listened the other night to a statement made by a lady who speaks from her heart; a lady who is religious, and she is from Laventille, the Right Rev. Archbishop Gray-Burke. She documented how the People's National Movement administration had promised the Baptists land and they did not get it. Although they knew that the Baptists were being discriminated against, the PNM, for one reason or the other, did not give it to them. She documented how the Orisa movement fought, begged, pleaded, and the PNM recognized that they were being discriminated against, but they did not get it. [*Crosstalk*]

I am at a loss to understand how it is that anybody cannot recognize that this is really a sin. It is a sin for us to have a situation in Trinidad and Tobago in which you do not have appropriate mechanism to determine whether people feel discriminated against, or they feel as if an offence is being committed against them because of their race, religion or ethnicity. I agree with the hon. Member for Diego Martin Central, our duty is to create institutions and also to build upon institutions. What this Bill is doing by clause 7 is adding to the fact that in respect of these matters you can have the institutions.

To demonstrate the fact that the Member for Diego Martin East did not read this Bill: the Equal Opportunity Commission does not determine any matter. One of the functions under the Bill for the Equal Opportunity Commission is to conciliate, mediate, and if it does not work then the commission takes it to the tribunal, and the tribunal determines the matter, then it goes to the Court of Appeal.

I think it is the Book of Proverbs which said: Righteousness exalts a nation, but sin is a reproach to any people. This is about right conduct. It is the duty of a government to ensure righteousness, right conduct, otherwise we would be promoting sins by allowing discriminatory conduct in order to be promoted.

I regard the Opposition comments as really an attack on the Judiciary, because they are saying they have no confidence in the Court of Appeal of this country to determine these matters. They are saying that they do not believe that the Court of Appeal, the Judiciary of Trinidad and Tobago, can determine these matters fairly in the interest of the people of Trinidad and Tobago, and that is a serious indictment against the Judiciary.

Mr. Speaker, I would just like to end by reading some of the words of Father Christian Perreira with respect to the importance of this Bill, and how important it is for us to have this Bill. This clause as you know had to do with an amendment in which we acceded to the request of the spiritual bodies. We recognize that the spiritual bodies are in a special class; we cannot class the churches, mosques, and the mandirs with any other institution in Trinidad and Tobago.

Father Perreira said:

“We recognize the responsibility of this or any government to propose legislation for the good of the nation. We are in support of the Bill’s general purpose to outlaw all forms of discrimination and to protect persons who are being discriminated against. Fostering and deepening respect for persons who differ from us is necessary in our society, which is being plagued by an increasing lack of tolerance.

We insist especially that as a church we must continue to preach the gospel with clarity and love and, at the same time, to maintain our respect for other religions. This is the constant teaching of our church and, in particular, our Holy Father, Pope John Paul. He repeated it recently in his Pentecostal 2000 quoted in the *Catholic News* of July 9. We must avoid some of the same mistakes that we have made in previous times.

We accept that there is a need for some form of legislation to deal with discrimination. We need to set boundaries that must not be transgressed, especially in light of our history. Discrimination has been part of the fabric of our society from the beginning of the colonial period.

As a member of the international community, Trinidad and Tobago is a signatory to certain international and regional instruments in defence of human rights, all of which contain a clause on non-discrimination. These require that legislation passed locally conform to international standards. We have no option in the matter.”

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All that I can say is that the Opposition in one breath is saying that this Bill is not necessary and in another breath they are saying that they would support the Bill without this clause. I do not know how to construe it. It is my duty to merely put on record that the Joint Select Committee which was appointed—this is not a Bill that came overnight, there was a process. The Joint Select Committee which was appointed consisted of Independent Senators, Government Senators and Opposition Senators. In the report they all recognized the need for this kind of legislation and for a starting point.

Mr. Speaker, there was a lot of talk today about Rome and what was in Rome. I cannot think of any better way to end my contribution but by quoting the words of the Apostle Paul when he said: Finally brethren, whatsoever things are true; whatever things are just; whatever things are pure; whatsoever things are lovely; whatsoever things are good, if there be any virtue and if there be any praise, speak these things.

I think we all have a duty, that in remembering the words of the Apostle Paul we must recognize that if these things here are good, we should not deny our conscience the right to support them.

12.00 midnight

Mr. Valley: Mr. Speaker, we have a circulated amendment to clause 7.

Mr. Speaker: May I see it? The procedure on amendment in Standing Order 59(3) states:

"When the House proceeds to the consideration of Senate amendments, each amendment shall be read by the Clerk and may be agreed to, or agreed to with amendment, or disagreed to. Upon any such amendment being disagreed to, an amendment may be made to the Bill in lieu thereof, but no amendment may be proposed to a Senate amendment save an amendment strictly relevant thereto, nor may an amendment be moved to the Bill, unless the amendment be relevant to or consequent upon either the acceptance or rejection of a Senate amendment."

We are on an amendment to clause 7. We have completed clause 3. There is a list of amendments proposed to clause 7 and 7(1)

“7(1) Delete and replace clause 7 with the following:

A person shall not otherwise than in private do any act directed at the gender, race, ethnicity, origin or religion of any group of persons which is done with the intention of inciting gender, racial or religious hatred of the group or intimidating the group.

7. Add a new subsection 5"

What is meant by "add a new subsection 5"?"

Mr. Valley: Mr. Speaker, there was an error in the typing.

Mr. Speaker: Add a new subsection 5 which states:

"It shall be a defence to a complaint under this section to establish that the act complained of has redeeming artistic or social merit."

The Member for Diego Martin West, in making his contribution on this, in fact said that he proposed to seek an amendment. According to Standing Order 59(3), there is provision for amendments to be made which are relevant to the relevant section. In the circumstances, first of all I will put the proposed amendment of the other side, and then I shall put the Senate amendment.

Hon. Members we have before us the amendment from the Senate, and we have a proposed amendment to the amendment from the Senate. I shall put, first of all, the proposed amendment to the amendment of the Senate. If that does not succeed we will then put the other.

Mr. Maharaj: Do you intend to put the Opposition's amendment first?

Mr. Speaker: Yes.

Question, on amendment, [Mr. K. Valley] put.

Mr. Speaker: There has been circulated a proposed amendment to this, in which there is a clause 7(1), to delete and replace that Senate amendment with the following:

"7(1) Delete and replace clause 7 with the following:

"A person shall not otherwise than in private do any act directed at the gender, race, ethnicity, origin or religion of any group of persons which is done with the intention of inciting gender, racial or religious hatred of the group or intimidating the group."

Could 7(1) come before 7? The first one you have here is clause 7(1), then you have 7, unless you intend that to be 7(2)

Mr. Valley: Mr. Speaker, that is really 7(5). We are amending 7(1) and we are recommending that we add a new subsection 5 in clause 7.

Mr. Speaker: The second one is that it is suggested that there be a new subsection to clause 7 which reads:

"7. Add a new subsection 5"

It shall be a defence to a complaint under this section to establish that the act complained of has redeeming artistic or social merit."

Amendment negatived.

Question put and agreed to.

Clause 13.

Senate amendment read as follows:

"Delete sub-clause (2) and substitute the following new sub-clause:

'Notwithstanding sections 8 to 10, a family business may employ relatives in favour of non-relatives.'"

Mr. Maharaj: This clause has to do with clarifying that the Act does not regard the hiring of family members in a family business over other applicants as discrimination.

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

Question proposed.

Question put and agreed to.

12.10 a.m.

Mr. Valley: Mr. Speaker, I hear the hon. Attorney General say that family business is defined and I am trying to find a definition in the Bill without luck.

Mr. Maharaj: *[Inaudible]*

Clause 15.

Senate amendment read as follows:

Insert before the words "An educational establishment" in sub-clause (1), the words:

"Subject to any agreement or practice between the State and any educational establishment, Board or other institution."

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

The purpose of the amendment is to preserve agreements which have been existing between the state and any educational board or other institution so the section would be subject to those agreements.

Question proposed.

Question put and agreed to.

New clause 18A.

Senate amendment read as follows:

New clause 18A

Insert after clause 18 the following new clause:

“Unjustifiable Hardship 18A.(1) For the purposes of this Act, in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including:

- (a) the nature of the benefit or detriment likely to accrue or be suffered by any person concerned;
- (b) the effect of the disability of a person concerned; and
- (c) the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship.

(2) Section 15 does not render it unlawful to refuse or fail to accept a person’s application for admission as a student at an educational

establishment where the person, if admissible as a student, would require services or facilities that are not required by students who do not have a disability and the provision of which would impose unjustifiable hardship on the educational establishment.

(3) Sections 17 and 18 do not render it unlawful to discriminate against a person on the ground of the person's disability if the provision of the goods or services, or making facilities available, would impose unjustifiable hardship on the person who provides the goods and services or makes the facilities available."

Mr. Maharaj: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Mr. Speaker, under the Bill as passed in this House, the defence of unjustifiable hardship was allowed in the field of employment. After the Bill was passed, following discussions which were held—and I should say “unjustifiable hardship” is a defence in all these kinds of legislation and it provides a defence on the grounds as mentioned. Following the discussions, it was thought that the representations which were made, the Government agreed that the defence of unjustifiable hardship would be extended in the fields of education accommodation and the provisions of goods and services.

Question proposed.

Mr. Valley: I want to make a small point with respect to the discrimination in clause 18. Just recently the Government bought some new buses and one would have thought that having regard to the fact that this equal opportunity legislation is being considered that those buses would have been outfitted to allow for disabled persons.

I understand rather than that, the Public Transport Service Corporation has one bus for the disabled. The disabled would like to travel freely and if we are serious about equal opportunity then we would cater for the disabled by providing public transport so that they can be accommodated also. I understand more importantly, that the costs of so outfitting those buses are not very much more than the ordinary buses.

I really want the Government to look at that in the provision of public service to ensure that the disabled are taken care of.

Question put and agreed to.

Clause 26.

Senate amendment read as follows:

- 26
- “A. Insert after the word ‘Commissioners’ occurring in sub-clause (1), the words ‘including a Chairman and a Vice-Chairman’.”
 - B. Renumber sub-clause (3) as (4).
 - C. Renumber sub-clause (4) as (5).
 - D. Insert the following new sub-clause (3):
 - (3) There shall be a panel of advisers to the Commission comprising representatives of every principal religion in Trinidad and Tobago.”

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

Mr. Speaker, the insertion of the word “Commissioners” occurring in subclause (1) is to ensure the appointment of the Chairman and Vice-Chairman by the President. Apart from the renumbering, in respect of religious matters which are before the commission, there would be a panel which the commission would consult and I would deal with that in clause 27(2).

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Mr. Speaker, this is a matter in which the Government's decision is that it accepted what the religious leaders signed and we agree that matters involving religion should be put on a different basis having regard to how important it is.

As a matter of fact, in determining religious matters the commission would have to consult with this panel. The principal religions would be obviously the principal religions in Trinidad and Tobago and there is always a list which is registered with the Registry under the marriage religious matters and there would be consultation also with the religious bodies; so all effort will be made to have all the principal religions as part of the panel.

Question proposed.

Mr. Valley: Mr. Speaker, clause 26(1) provides that the commissioners would be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition, but having so appointed the commissioners, it seems that the Minister is free to appoint the chairman. It would seem to me that if the President has the authority to appoint the commissioners, that the Chairman and the Deputy Chairman should also be appointed by the President under similar consultation. Therefore, I want to suggest a further amendment to the effect that the Chairman and Deputy Chairman should be appointed by the President after consultation with the Prime Minister and Leader of the Opposition. I think clause 3 should be amended to say so.

Mr. Maharaj: Mr. Speaker, the commission is not the tribunal, it is the body in which the Minister would be accountable in any event, and there is no problem with the Minister appointing the Chairman and Deputy Chairman. This was also considered, not only subsequent to the matter, but in discussions and there is no pressing need for it to be appointed.

Mr. Chairman, we are very sorry we cannot accept the Opposition's request.

Question put and agreed to.

Clause 27(2).

Senate amendment read as follows:

Renumber clause 27 as 27(1) and insert a new clause 27(2) as follows:

“(2) The Commission shall whenever considering a complaint of discrimination on the grounds of religion consult with and consider the opinions of the panel in making its decision.”

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

Mr. Speaker, this is to put an obligation on the commission which is the body that is trying to mediate in the complaint to consult and consider the opinions of the panel in making a decision on any matter in which there is a complaint on the grounds of religion.

Question proposed.

Question put and agreed to.

12.25 a.m.

Clause 28.

Senate amendment read as follows:

“In sub-clause (2) insert after the word ‘terminated’ the words ‘by the President after consultation with the Prime Minister and Leader of the Opposition’.”

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

Mr. Speaker, this amendment is to make the method of termination consistent with the method of appointment. So I beg to move.

Question proposed.

Question put and agreed to.

Clause 30 A.

Mr. Speaker: In respect of clause 30, there is also a suggested amendment from the Member for Diego Martin West which is circulated. It is:

“Add a new subsection

A complaint under subsection 1 shall not be accepted by the commission unless it is made by a group comprising of not less than ten persons.”

So this we will do before we get to the Senate amendment.

Question put.

The House divided: Ayes 4

Noes 16

AYES

Valley, K.

Rowley, Dr. K.

Narine, J.

Hinds, F.

NOES

Maharaj, Hon. R. L.

Lasse, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Rafeeq, Dr. The Hon. H.

Job, Dr. The Hon. M.

Khan, Dr. F.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Ramsaran, Hon. M.

Sharma, C.

Singh, Hon. D.

Persad-Bissessar, Hon. K.

Amendment negatived.

Senate amendment read as follows:

- “A. In subsection (1) insert after the word ‘section’ the words ‘6 or’.
- B. Delete the word ‘twelve’ occurring in subclauses (2) and (3) and substitute the word ‘six’.
- C. Delete the words ‘on good cause being shown’ and substitute the words ‘in exceptional circumstances’.”

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

Question proposed.

Question put and agreed to.

Clause 44.

Senate amendment read as follows:

“Delete sub-clause (5) and renumber sub-clauses (6) to (10) as (5) to (9) respectively.”

Mr. Maharaj: Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment. It is purely renumbering, Mr. Speaker.

Question proposed.

Question put and agreed to.

Clause 45 (1).

Senate amendment read as follows:

“Insert after the words ‘its orders’ the words, ‘, the entry on and inspection of property’.”

Mr. Maharaj: Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment. Mr. Speaker, the amendment speaks for itself.

Question proposed.

Question put and agreed to.

LEGAL PROFESSION (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister for Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That a Bill to, amend the Legal Profession Act, 1986, be now read a second time.

Mr. Speaker, the purpose of this Bill is to remove the discrimination practised by the Caribbean Council of Legal Education against Trinidad and Tobago nationals who have qualified as lawyers in the United Kingdom. The quota system for entry to the Faculty of Law of the University of the West Indies allows

Trinidad and Tobago 34 places for its nationals. This means that large numbers of Trinidad and Tobago nationals who wish to study law must seek their education elsewhere. Many seek admission to English universities. Having obtained their law degree in England, these nationals then complete the professional stage of their legal education in England. They have no choice.

The admissions policy of the Hugh Wooding Law School is to the effect that students holding University of the West Indies law degrees, that is, graduates from the University of the West Indies, gain automatic entry to these law schools operated by the Caribbean Council of Legal Education. As a result of this, non-University of the West Indies graduates are only admitted if they pass an entrance examination. Even then, admission is subject to space being available. Over 200 nationals of Trinidad and Tobago with LLB degrees, those who have got those degrees in Trinidad and Tobago, are currently waiting for admission for the professional stage of their legal training. We have estimated that approximately 300 nationals of Trinidad and Tobago who have gained their LLB degrees abroad are also waiting for admission to the professional stage of legal training.

This discrimination, Mr. Speaker, has caused considerable hardship to many nationals of Trinidad and Tobago who wish to qualify as lawyers. It breaches their inherent right as nationals of Trinidad and Tobago to pursue the profession of their choice. It is at odds with the Government's policy that nationals must not be denied education at primary, secondary or tertiary level. It effectively stops qualified nationals who have, in many cases, been forced by circumstance to qualify as lawyers in England from being able to return home to practise their profession in Trinidad and Tobago. This denies the country a valuable skill resource. Trinidad and Tobago nationals are therefore forced at times to work abroad and are at a disadvantage to come home to work.

Mr. Speaker, Trinidad and Tobago nationals who choose to qualify as lawyers in England fall into two groups—one, those who have passed their professional lawyers' examination and also completed their professional training in England, and those who have passed their professional lawyers' examination in England but wish to return to Trinidad and Tobago to complete their professional training. Clause 3 of the Bill amends the Legal Profession Act, No. 21 of 1986 to insert a new section 15, subsections (1) (a) and (b) to deal with nationals who fall into the first category. This group comprises nationals who have passed their professional examinations and completed their professional training in England.

Under the English system, Mr. Speaker, students who wish to become barristers study the Bar Vocational course at one of the institutions validated by the Bar Council of England and Wales. Those who wish to become solicitors study the Legal Practice course at institutions validated by the Law Society of England and Wales. Upon successful completion of these professional examinations, students then undertake a period of professional training. In the case of barristers, this comprises of a pupillage of at least six months' duration. Such a person, after being called to the Bar, would then be entitled to practise and have full rights of audience before the English courts. In the case of solicitors, this comprises the completion of a training contract in accordance with the training regulations of the Law Society of England and Wales. Such a person would then be qualified to admittance to the Roll of Solicitors and be entitled to practise as a solicitor in England and Wales.

If nationals who qualify decide to return to Trinidad and Tobago, they must, under the current system, try to get in at a six-month course at the Hugh Wooding Law School before they are eligible to be admitted as attorneys-at-law in Trinidad and Tobago. There are grave difficulties in people getting in because of the space problems and, Mr. Speaker, it is anomalous that persons, many of whom have considerable practical legal experience, must wait and not be able to practise their law if they are nationals of Trinidad and Tobago and they would then have to subject themselves to a six-month course at the Hugh Wooding Law School. Under the proposed new section 15 (1) (a) and (b), such nationals would be eligible for immediate admission to practise as attorneys-at-law in Trinidad and Tobago—that is, those who have got their professional training and have passed their professional examinations.

Clause 3 of the Bill amends the Legal Profession Act to insert a new section 1 (a), (c) and (d) to deal with nationals who fall into the second group. This group comprises nationals who have passed their professional examinations in England but have not yet completed their professional training. Upon successful completion of their professional examinations, these nationals may choose to return to Trinidad and Tobago. At present, these nationals must attend a six-month course at the Hugh Wooding Law School. Students who have undertaken this course in the past have expressed considerable reservations about having to wait, *et cetera*, before they get in. The new section 15 (1) (a) (c) and (d) and (e) provides that such nationals may, instead of undertaking a six-month course at the Hugh Wooding Law School, undergo an attachment to chambers doing work relating to the practice of law for a continuous period of not less than six months and obtain a certificate to this effect from the head of chambers, being an attorney of not less than 10 years' standing.

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The Bill, Mr. Speaker, would also remove another anomaly that has disadvantaged Trinidad and Tobago nationals in the past. In England it is possible for graduates with non-law degrees to qualify as lawyers by obtaining Common Professional Education qualification—CPE. With this qualification, usually taken over one year and comprising the six core legal subjects, students are eligible for admission to the Bar Vocational course or the Legal Practice course. In England, many of the top law firms and solicitors' and barristers' chambers prefer students with the CPE qualifications for the fact that having studied for a degree in subjects other than law gives them a broader range of experience which can make them better lawyers in practice.

The Caribbean Council of Legal Education could accept that those without degrees in law could become qualified to practise law. In the past, Trinidad and Tobago nationals who have qualified as lawyers via the CPE route in England have been refused admission to the six-month course at the Hugh Wooding Law School. Instead, because they do not have law degrees, they have been made to take the full two-year course leading to the legal education certificate. Such persons will now be eligible to qualify for admission to practise as attorneys in Trinidad and Tobago without this encumbrance.

12.40 a.m.

Mr. Speaker, clause 4 amends section 26 of the Legal Profession Act by including in the definition of law officers in subsection (3), legal officers employed by the state on contract. This will mean that a contract law officer employed by the state will in the same way—as an attorney at law holding office in the Judicial and Legal Service Commission established by the Judicial and Legal Service Act—be deemed to be the holder of a valid practising certificate and a practitioner member. Legal officers employed by the state on contract will accordingly be exempted from paying the annual subscription to the Law Association and an annual contribution to the Compensation Fund.

Mr. Speaker, when this administration took office, one of the matters we started looking at was the whole question of legal education. This is only part of the remedy, because the other remedy would be the question of the students who have LLB degrees and cannot enter the law school in Trinidad and Tobago, bearing in mind, there is a limited number of places Trinidad and Tobago can get every year which is 34.

At the present time, the Government of Trinidad and Tobago is discussing the possibility of a College of Law. Discussions are almost completed for the setting up of a law school in Trinidad and Tobago so that students from Trinidad and Tobago who are unable to get a place at the Hugh Wooding Law School would be able to attend this other law school in Trinidad and Tobago. Mr. Speaker, we in the government has made our position known to CARICOM. As a matter of fact, we have indicated that the policy of the Government of Trinidad and Tobago is not to deny persons of an education.

Mr. Speaker, I think, I should put on the record that there are two children of mine who are lawyers in the United Kingdom. I want to say quite clearly that those two children do not need this Bill, but what I would say is that I have about 400 children who are nationals of Trinidad and Tobago and need this Bill. We have had consultation with external law graduates and the Law Association of Trinidad and Tobago held a symposium, and the consensus in Trinidad and Tobago among nationals was that the Government must do something in order to provide relief for nationals of Trinidad and Tobago who are qualified and cannot get into the law school here; or the University of the West Indies in Trinidad and Tobago; and who take an LLB degree, for them to be able to practise law. Mr. Speaker, here there is a situation because of the lack of space, people are being denied the practise of law.

Mr. Speaker, although this Bill is to deal with the first problem, and that is for nationals of Trinidad and Tobago who are qualified; who have the practising certificate; and who are entitled to practise law in England to be able to practise law in Trinidad and Tobago—it only applies to nationals—and those who do not have the practising certificate for them to be attached to chambers in Trinidad and Tobago for a period of six months. That is the first limb of it and we shall be coming back to Parliament to deal with the other aspect of the problem, in which we are hoping there will be a law school in Trinidad and Tobago, in addition to the Hugh Wooding Law School, so that the 400 or 500 students who are unable to gain admission will be able to get training to practise as lawyers and they would be able to get accommodation.

Mr. Speaker, may I mention that at the CARICOM level, there are certain countries which have indicated to us that if we have that law school they would be prepared to enter into bilateral arrangements with Trinidad and Tobago, so that their students would be able to practise in Trinidad and Tobago and Trinidad and Tobago lawyers, really, would be able to practise in that particular country. One disadvantage would obviously be that these lawyers, the nationals of Trinidad and Tobago who are admitted to practise under this scheme, would not be able to practise in other countries of the Caribbean.

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In any case, when one looks at the statistics one sees that 95 per cent of the lawyers who are admitted to practise in Trinidad and Tobago do not practise in any other country in the Caribbean. So this has had the full blessing of the External Lawyers Association, and we have consulted with the Law Association; we have consulted, in effect, with Heads of CARICOM; we have indicated what is our position; and we have made it quite clear that we do not see this as breaching any term of the treaty because it is a matter of nationals of Trinidad and Tobago practising law in Trinidad and Tobago.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, later this morning, when some citizens of our country hear about this piece of legislation, they will wonder, like me, where did this come from in the dead of night, and we will have to tell them that this is a typical UNC ploy. Certain very controversial and far-reaching bits of legislation are piloted in the dark of night hoping that no one will hear and see what is afoot. Mr. Speaker, fortunately, the record of *Hansard* will be here for all to see at any time.

Mr. Speaker, the legislation that the Attorney General has just piloted—as I indicated a second ago—has far-reaching consequences. The Attorney General, though he denied that he has any personal interest in this legislation—

Mr. Valley: He is trying to fool people.

Mr. F. Hinds: As my colleague is saying, he is trying to fool people in this country. The Council of Legal Education was established under treaty with other governments in the Caribbean and, as far as possible, one ought to try to respect and honour the terms of these arrangements. Trinidad and Tobago found it necessary to go contrary in some ways to that treaty expectation and the provision a long time ago.

Mr. Speaker, the idea of the treaty and the Council of Legal Education were to indigenize—if I can say so—and bring a Caribbean face to what was traditionally English training, practice and systems of law. After the establishment of the treaty in the 1970s and the establishment of the Council of Legal Education in 1973, we said that anyone who was trained outside of Trinidad and Tobago before 1984 would have been able to return to Trinidad and Tobago and practise without any training as offered by the Council of Legal Education. Some of our counterparts in the region took offence but that was our position.

12.50 a.m.

The last of the students who would enjoy that facility were those who trained outside of Trinidad and Tobago before 1984. We find today in this legislation that the Government is now taking us to the position prior to 1973, a very retrograde step, particularly since we are now embarking upon the establishment of a Caribbean Court of Appeal, where Caribbean training, Caribbean principles, Caribbean jurisprudence, is of very great importance.

This is being done, as the Attorney General boldly told us, to facilitate a very small group of persons who, because of the situation, are affected by it—a small group, 400, in the scheme of things. I say so because the approach the Government is taking to resolve the problems of that very small group—a legitimate concern in many cases, if not all—could be resolved otherwise.

Mr. Speaker, 34 places are available to Trinidad and Tobago nationals at the professional stage of their training at the Hugh Wooding Law School. What has happened is that because of the shortage of places you have to have allocation on the basis of these quotas. One would have thought that as we developed in the region, as the respective countries enjoyed better resources, we would have been seeking to resolve this problem, which we have foreseen some time now, by expanding those places, expanding the opportunities.

This reminds me of what is happening now in terms of education from primary to secondary level. Rather than work towards qualitative improvement, we are seeing now quantitative improvement. What has been happening in Trinidad and Tobago has not been happening in other countries around the region, really, because in Trinidad and Tobago today some of the owners and managers of the private law schools are generating a lot of foreign-trained—well, locally-trained but on the basis of foreign qualifications; well, let me say, non-university degrees. They have been popping up around Trinidad and Tobago almost on a monthly basis. This thing is now commercially driven. *[Interruption]* I am not saying anything is wrong, I am just describing the fact. What is happening now is that you have a number of private institutions offering the external law degree, University of London degree, externally, but they are operating right here in Trinidad and Tobago.

So when you hear the Attorney General talk about we are being denied resources from outside, he is not telling you that some of those persons are trained for their degree right here in Trinidad and Tobago. I am not sure but it would not surprise me, whether the bar vocational course is not also now available in Trinidad and Tobago. I stand corrected on that.

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What is happening here is that you now have this commercially driven situation where a number of persons are doing law degrees in private institutions on the external LLB programme. The difference with law and other subjects is this. When a person does a law degree, law being a specialist area and the degree exclusively law, then the legitimate expectation is that they will ultimately become lawyers. But as I explained a while ago, the places at the law school is a limited state of affairs, limited places, and therefore there is something of a bottleneck.

In order to allocate the few places that are available, the Hugh Wooding Law School established an examination to permit all those who wanted to enter, an equal opportunity, and those who perform best in the education were allowed places. That did not resolve the problem in its entirety, because as I indicated, places were inherently problematic and short.

So here we have this situation. What is the Government doing? Rather than sit with the Council of Legal Education and talk about qualitative improvement, talk about investing more resources into the Caribbean institutions of the law schools so as to create more places, the Government has decided to come here at 1.00 a.m. and change the entire system by way of legislation.

I am telling you, Mr. Speaker, the people at the Council of Legal Education and at the Hugh Wooding Law School are not entirely happy about this. They are concerned. It reminds me of what had happened some time ago with the Dental Association, the body that was responsible for the professional stage of training of dentists who were trained locally.

I remember we came to this Parliament—and the Minister of Health—and they asked this Parliament to amend that legislation. They ended up changing the board, changing the legislation, and at that time no one got up to deny that they were to enjoy any personal or any Government operatives, Senator or otherwise—any personal benefit from it. At the end of the day, dental training in this country and the dental board are in a tailspin, because we heard more about it after that.

So this morning we have a similar situation with the Attorney General coming with this legislation. Now, of course, those 400 to 500 persons, as I said, have a legitimate expectation; they have done a law degree and they want to become professionals; they want to become lawyers, to practise. No one has a problem with that. They deserve that. But the solution that the Government is taking this matter is not the way to go, because he assured us that this behaviour is not averse to the treaty; it is not going counter to the treaty. No provision of the treaty is

being breached, but the spirit of the thing is certainly being affected. His argument is that it is not being breached because the lawyers who will benefit from the system that he is providing for, will be practising in Trinidad and Tobago. So it does not affect other jurisdictions. That is the approach he is taking.

He has told us, as well, that there are other Caribbean countries that are prepared, when he eventually comes to Parliament and establishes a parallel legal arrangement—so that the Hugh Wooding Law School which does the professional phase of legal training in this country, because some people are unable to find places there, for whatever reason—they are going to come with legislation to establish a college of law which is effectively a parallel institution. He tells us that some other countries in the region are prepared to enter into bilateral arrangements with the Government of Trinidad and Tobago in order to train some of their students as well.

Now he says that, but we do not know if that is true. We will have to wait and see. So we see now, in addition to changing the qualification to practise in this country by legislation, we are seeing that they intend to establish a parallel law school also by legislation and certainly without the co-operation of other countries in the region under the system of the Council of Legal Education and under that institution. So the Attorney General is proposing to take us to the situation we were in prior to 1973 and calls it progress; he calls it an advance.

I remember, because I myself studied law in England. I did all my training. I did my Bachelor of Law degree in England; I did my Master's degree in England; I did my bar training in England; I was called to the bar at Middle Temple, and then I came home. Having done all of that after 1984, I was obliged to do the six-month programme that was mandated through the Hugh Wooding Law School in Trinidad and Tobago. From personal experience I would like to say that one benefited very greatly from those six months. Because while I had heard that word "Constitution" prior to leaving Trinidad and Tobago to study law, I was a police officer. When I was a recruit I came first in criminal law; I got the award for being the first in the batch in criminal law. Then I was an insurance salesman. I paid fleeting attention to politics and the Constitution, but I really did not study those instruments. I knew nothing about the Constitution of Trinidad and Tobago, at least nothing substantial. It was when I returned to Trinidad and Tobago and underwent that six-month programme that I had my first formal exposure to the Constitution of Trinidad and Tobago. We were required to look at it and do some research and writing on the Constitution of Trinidad and Tobago—very important.

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The system that the Attorney General is now establishing permits someone to train outside and come and practise here without even having that exposure. Not only the Constitution but—as I said I studied in England—in many cases the civil rules, the criminal rules, procedural rules are very different indeed. In fact, while I was there, there were five of us who had come from England; we went into lectures that had nothing to do with the programmes that we were obliged to do. We were interested in learning about what they call “status”, where you learn about the ethics of the profession as it operates in Trinidad and Tobago.

I did my bar training in England and all that I have said, but we did not go into accounting and various aspects of the ethics of the profession in England. So it was while I was doing the six-month programme we had that exposure. And it was of great consequence indeed. I only wonder what would be the case when persons are allowed to come in here and practise without any exposure to that whatsoever. What will the Law Association, the disciplinary tribunal, be saying to one of those lawyers who is now in a position to tell them, “you have called me to the bar in Trinidad and Tobago, but you have not put in place a system where I must be exposed to knowledge about the ethics of the practice in Trinidad and Tobago, how can you accuse me now of a breach of ethics?”

In most of the states in the United States, if you had to practise at the bar in New York or in California or in Miami—in most of the 50 states—one must do the particular bar examination. Not all, but most of them. It means that they recognize as well that it is important to get grounding in what is happening locally before you practise there. You have to teach people standards if you have to demand those standards of them.

So this is a very serious situation indeed. What is the need for this? First of all, I recall that there were students from Malaysia who got government scholarships to study law in England while I was studying there, and towards the end of our training the Government of Malaysia decided to cease giving scholarships for law. It was because the Government of Malaysia was monitoring all the time the need for lawyers in that country and they got to a point where they felt that there were sufficient lawyers and the Government decided, “you could study law if you want, but not with government’s assistance. We will now direct those resources to training that we believe the country needs.” That was instructive to me. That demonstrated a government that was focusing on development, planning and doing things on the basis of need and on the basis of those plans.

In England recently they raised the academic standards required for lawyers to go to the Inns of Court. I think they raised it to an upper second class degree, or something like that. That was as recent as, I think, about five years ago. That, too, was because they were finding themselves in a situation where there were too many lawyers. Lawyers were training and not being able to get pupillages, which is the practical aspect of the training that was necessary, as you well know, Mr. Speaker, after one was called to any one of the Inns of Court and, therefore, the bar.

The Attorney General did not tell us a word. It certainly cannot be that on the Attorney General's mind. So what is being done here is not because we have a shortage of lawyers. I am sure that the position of the law school is not that they are trying to keep out lawyers because the Council of Legal Education believes there are too many lawyers in Trinidad and Tobago or in the region. It is simply about resources and the unavailability of places. Without a consideration of that, the Attorney General comes with this legislation.

1.05 a.m.

Another point is this: while he claims to be assisting 400 or 500 persons, most certainly he might be—on an individual basis they would be quite happy to be called to the Bar without the, as they see it, obstacles that are now in the way. In respect of England, we are now going to be able to take persons who studied in England only. Clause 3 of the Bill speaks specifically about the Law Society of England and Wales, and the Supreme Court of England and Wales. The Bill does speak about Commonwealth jurisdictions.

Insofar as England and Wales are concerned, we are now going to be taking students who obtained their professional training over there. The same cannot happen with respect to Trinidad and Tobago students going to England. The Attorney General and many other lawyers, trained as we might be, will not be able to simply walk into England and appear before the Bar. One would have to be called to the Bar there.

I know as a fact, some of the attorneys who have come here to assist the Government, particularly over the last five years, were not required to do any training here. They would come and go through the formality of being called to the Bar. We cannot go to England and practise, so there is no reciprocity in the process. I feel, small as we might be—we are at the stage now; years after our independence the Council of Legal Education was established in 1973—we are moving towards establishing our own system, our own jurisprudence and our

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Caribbean Court of Appeal. We would have “caribbeanized” the law we practise here in its totality when that comes into being. We should be standing, though small, head and shoulders with England and Wales. If the Government could send students here and they do not require further training here, equally, we should be able to send students from here to practise in England as well. That is the pride and ambition of those who established the law school and the Council of Legal Education in 1973. That is not the ambition of the Attorney General. The question of reciprocity does not trouble him.

We have a situation where—just like those who are now moving from primary schools to secondary schools, so-called—people are coming to the Bar of Trinidad and Tobago, when they are not ready. Readiness is an important concept. We told this to the Minister of Education.

Again, I benefited so greatly from the trip that I made recently. In the United States now, they are grappling with the question of readiness. They had a system where children were moved from one grade one right up to grade nine before they went into university-level training in those states. Now they realize that many of the children, just like we have discovered here, have gone forward and are not ready. They have just introduced an examination called "FCAT" to ensure that the children are ready before they move on. Right as they are doing that, Trinidad and Tobago opened all the doors and pushed all the children forward, in the way that they are now trying to avoid.

As I said earlier, we will now have a situation where people will be before the courts of Trinidad and Tobago, representing people whose freedom, liberty, money and other well-being is at stake, without knowledge of the Constitution of Trinidad and Tobago, without knowledge of the local laws, and without knowledge of the ability to research. The foreign students who train in England run in a separate system from those who are citizens of England and are going to practise there. [*Interruption*] That is quite true.

One of the approved schools that the Attorney General speaks about in this legislation: a school that is called BPP/Cadmus offered two programmes for the Bar finals in England. The people who train in England do a Bar that can cause them to practise in England, and there is a separate Bar education for those who are foreign students who will be going back to their home countries, who will not be practising in England. Those who study in the latter system cannot practise in England without more study. That is a fact. Did you not know that, Mr. Attorney General? Even those who the Attorney General said studied in England, would not have had exposure to many things, because there are many private institutions out there.

When I went to England I did my first year as a law student in a private institution called Holborn's School of Law. I did so well in my first year—I am not like the Member for Tobago East, I am not boasting—that I was able to enter from the private system into the University of London proper, internally as a student, where I completed my LL.B.

Hon. Member: You did not pass the Common Entrance Examination.

Mr. F. Hinds: All of that. But God is good.

Mr. Speaker, that is the state of affairs. You will find that we will be watering down the brandy—to use a term that we have come to know—all with the noblest of intentions to assist a group. I remember the Attorney General having much to say. He went to a seminar at the law school and criticized the law school for wasting resources. He said a large part of the resources of the law school is spent on lecturers who go off on holidays and sabbaticals on administrative expenditure, and not enough was being spent on legal training. All that time he was gearing up to establish a parallel system of legal training. This legislation is a large part of that.

I am advised, while the Attorney General talks about other Caribbean countries wanting to participate in his parallel education system, Trinidad and Tobago is the only country in the region that has gone forward with the kind of legislation that the Attorney General is now bringing; not another. That is my advice. Trinidad and Tobago is behaving like a runaway horse: threatening the spirit of the treaty that has established the Council of Legal Education.

It does not surprise us, because the way one behaves in one's home is the way one behaves when one goes outside. We know how the Government behaves. The equal opportunity legislation is evidence of this Government's bullyboy behaviour. That is what the Government is doing at the regional and, of course, international level. Here is where we are.

1.15 a.m.

While the Attorney General claims not to have any personal interest in this maybe persons who are close to him have a personal interest in it, much like what happened with the Dental Board. The Attorney General's son—he said it, I did not introduce that. I would not like to see us go the way of the United States of America politics. Some matters are private and ought not to be brought into the realm of publicity in politics and we should desist from getting into people's

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private business about who pay mortgage and who did not pay, and who have pipe and who do not have pipe. All these things are people's private business, but the Attorney General raised the question of his son, but he did not tell us he may have colleagues who may be very close to him, whose children may very well be beneficiaries of this and we do not know. We will wait and see.

We must reinforce the point that the law school was not trying to keep out anyone or to discriminate against anyone. The law school's predicament is that there are a limited number of places so that the solution would have been expanding—more than 20 years after the Council of Legal Education was established the solution was by way of expansion rather than setting up this new and parallel system and wind up perhaps with watered down training, and with people who do not understand anything about the Constitution, anything about local laws, anything about local ethics, which are so important. But UNC behaviour if you please.

One would have thought that we would have heard something tonight about the view of the Law Association on this; perhaps when the Attorney General is winding up, he will tell us whether he consulted with the Law Association, and what was their response to this and whether he consulted with the Council of Legal Education, the Hugh Wooding Law School in particular, and what was their response to this. I would like him to tell us clearly what those things are all about. I also want him to bear in mind that from my own experience, and I gather it happened in many cases—because when we came back we had to do criminal procedure, we had to do accounting, we had to do the Constitution of Trinidad and Tobago and a couple other things.

We had to go to the Legal Aid Clinic and, of course, that is taken care of because according to this Bill those persons who did six months pupillage in the United Kingdom could come to practise without any further training, and those who got a certificate from some lawyer of at least ten years' standing here, that would be in lieu of the Legal Aid Clinic. We had to go to the Legal Aid Clinic and get a hands-on experience in dealing with clients and with the issues that lawyers are confronted with over one's career. The effect of this no doubt—and I know it is unwitting—would be in some ways to devalue what is happening at the Hugh Wooding Law School, much as they did with the Dental Council and threatened to find other ways to bring dentists on the scene whether Dental Council liked it or not. The whole concept of local and regional training is now devalued and as I said, taking us to a position where we were prior to 1973, perhaps with the best intentions. No doubt, the Attorney General probably sees in

those 400 or 500 persons some votes, some popularity, and he is championing that, so he is probably after it. In fact, I am told that one law school principal said that the students—it is a business. He said that flatly, this is a business. It is something like a cash crop, you just get them in and churn them out. For him it is commercially driven and then we wind up in the situation we are in.

Just to talk about the way the numbers have expanded because of this, ten years ago you had roughly 60 to 65 students at the law school at any one time. Now you are talking about 130 students so it is the establishment of these private law schools and I want to tell you this candidly. When I went to the internal university in London I had the opportunity of meeting some of the lecturers who corrected the papers for persons who were doing it externally, and I say in the spirit of truth some of the lecturers explained that from the time they read—because they did not have names, they had numbers on each of the examination papers. One or two of them told me, from the time they read responses to questions they could actually tell that this student was an external student or writing the external degree from another island and to be corrected in London. The quality of the answer was significantly different. I make that point not because I am criticizing anyone, but because in some ways quality is sacrificed, believe it or not. It is when you went internally you had an opportunity to research thoroughly. You had access to all the materials then. *[Interruption]* So in some ways quality might be watered down.

We want to make it quite clear: We are not suggesting on this side that students must be discriminated against. We are saying they must have a legitimate expectation to professional training, that yes, if a person does the LLB whether internally or externally, he or she deserves professional training and the solution therefore is in expanding places rather than the course for which the Attorney General is opting. It has all kinds of pitfalls in this and while it will make that group of students particularly happy as individuals, it may have an overall negative impact on the entire practice of law in the country. It will certainly have a debilitating effect on the spirit of the treaty and it is not the way forward; when we should be binding closer, we are rendering the thing asunder and we need to watch that.

So, I ask the Attorney General to give consideration to these matters. I know that it would not deter him. He is committed to it. He has already promised that constituency that he will do something about it and he is here tonight to do something about it, but the records will show we have indicated our concerns and I would like him, in particular, to tell us what was the Law Association's reaction to this and indeed, the Council of Legal Education, if they had an opportunity to respond to this development.

Mr. Speaker, I thank you.

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I just want to ask a couple of questions and to make a few observations on this matter. The Attorney General did tell us in his presentation that he did have some consultation with the group of students involved, and one expects that they would be in support of this and he did have consultation with the Law Association and I presumed the Council of Legal Education. He did not tell us the position taken by the latter two.

I am not surprised by this development at all but I am very disappointed in what I am seeing here. Let me make it very clear that I am 100 per cent in support of that part of the argument of the Attorney General which says that we should get as many people trained as possible and to facilitate them where there is need to facilitate. So if there is a problem with respect to persons getting into an institution, then it behoves the Government to intervene and try to solve it. I support him up to that point. I do not believe that there ought to be a fixed limit on the number of persons who can become lawyers or any other profession for that matter. We should be able to get in as many people as possible without having an artificial bottleneck as exists now and has existed for a little while. My problem is how the Government has gone about precipitating this situation and what the Government is offering as a solution to the problem. I have a serious problem with that.

Mr. Speaker, we cannot accept that only 34 persons can go into the law school to go into the profession. That limit is artificial, it is hard and I could see the difficulties it is creating for persons. Even before that, he made the point about persons who want to get into the law school and the number of spaces available is limited, and therefore some students who were qualified to get into the law school cannot get in. But in typical Trinidad style he jumps from there to raise the specter of discrimination and alludes to malice. It is not that, because the same argument that is raised for lawyers in that position, that is, A'level students who want to do law, only a certain number of persons can enter the law school so some are outside with space being the constraint. By the same token, those who get into law school elsewhere and qualify, only a certain number can enter the Hugh Wooding Law School. The same thing applies to other professions, especially medicine. So how come one is beating a drum for discrimination against lawyers where there is, in fact, probably a surfeit of lawyers in this country, but there is a great shortage of doctors?

I remember a number of people who are saying that we do not have enough doctors and there are some hospitals, and I can name Tobago and Sangre Grande, where there is a chronic shortage of doctors and there is a greater demand in this country as a nation for doctors than there is for lawyers. So it cannot be that you are simply saying because you are not getting into the law school there is some active discrimination against lawyers. That is not a sound argument at all. The argument is that our capacity to absorb students is limited both in the area of medicine and in the area of law and before that, engineering.

We had a similar situation with respect to engineering not too long ago. How did the Government of Trinidad and Tobago deal with it then? It did not deal with it by coming to Parliament one morning at 1.30 a.m. and changing the law to allow people like the Minister of Works and Transport who works as a mechanic somewhere in some shop to declare himself an engineer. It dealt with it by allocating funds to the commitment that is the University of the West Indies, to expand the ability to take in more students. It did not undermine the concept of the University of the West Indies. It did not water down the qualification of persons becoming engineers. If you had students who could not get into university and you had a need for engineers and you wanted to be true to the commitment of that institution called the University of the West Indies, the Government of Trinidad and Tobago funded a two-fold expansion of the University of the West Indies engineering department with World Bank support. We expanded and we took in the students.

1.30 a.m.

What is this thing about coming here and talking about, "There is discrimination at the university and therefore we are going to create a parallel institution"? This does not surprise me at all because when I saw the conduct of our Attorney General with respect to the Council of Legal Education and that unseemly attack on that Jamaican who is President of the, whatever it is, accusing him of mismanaging funds and wasting funds, it was a very unseemly attack, unbecoming of our Attorney General; and I knew where he was heading. He was heading right here, because the persons to whom he has given commitments to run the parallel law school, they too are talking because they were making the case, "Let us train students because the university is not doing it", and the university was being cast in a light as though they were discriminating; and the word is being used, discriminating against students.

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That is very unfair, it is very wrong and it is undermining the integrity of probably the only thing of which Caribbean people can still be proud, because we are on our way to losing the cricket team. We had two things in this region that were Caribbean, West Indian—the cricket team and the University of the West Indies. The less said about the cricket team the better for the moment, and now this is threatening to undermine the University of the West Indies. The same resources that are going to be used to support this parallel Mickey Mouse law school of persons who have already identified themselves so to do, if they are made available to the University of the West Indies, they will do the same thing.

It is a question of space and resources, and I dare say it might very well be cheaper to expand the intake at the University of the West Indies than to create a new situation. Because if there already is a pool of lecturers, there already is a library, there already are some common services, it should take less to add to that to bring in additional students on an ongoing basis than to create a new arrangement somewhere else. But the Attorney General is a very—how should I put it? I do not want to be uncharitable but when he gets his teeth into something he loses focus. He gets tunnel vision. He falls out with the law school. He insults the people who are running it. He raises red herrings.

He creates smokescreens and then he comes to the Parliament at 1.30 in the morning and, in the name of students who are suffering and being discriminated against, we raise this Bill, a Bill which says we are going to bring people in from outside, contrary to what we have been doing before, which is trying to support a—so in other words, all that we have done so far with the Hugh Wooding Law School and the Norman Manley Law School, something is wrong with that now. All of a sudden we suddenly found that the way to deal with lawyers is, they can be trained anywhere, get on a plane, come back home and practise in Trinidad and Tobago. That is what we are saying. The law school at St. Augustine, the Hugh Wooding Law School, all that it used to be, something is wrong with that thinking now. We found a short cut so we will use that.

Mr. Speaker, in a time when Caribbean people, especially our people who should be leaders in the Caribbean, are talking about a single-market economy, wanting to stimulate that Caribbean pride, that drive to become what we can be, at a time when we are talking about a Caribbean Court of Appeal, this is not the time to allow our Attorney General to do this. We understand the problem he is trying to solve, but this is not the way to do it. This is undermining the University of the West Indies. [*Desk thumping*] That is what he is doing. When you bear in mind, Mr. Speaker, that this is not a singular act, you must see it in the context of what my friend from Laventille East/Morvant mentioned—the dental situation.

There were students who, by all reports, could not have measured up to an acceptable standard of dentistry, a standard to which we had become accustomed in this country, and there were relatives of members of this Government who were falling below the line. There were published documents about the low standard at the dental school and, instead of treating with that, do you know what the Government did? The Government came here and amended the law to allow the Government to appoint the majority of the board so as to carry out the Government's instructions to change the *status quo*. [Interruption] Not true?

When they had the election for the new board, they had to have armed guards at the election, and the Hon. Minister is telling me it is not true? After the Bill was passed, when they had the election, the established people who were there, somehow the Government felt they were fighting a war, it was the first election with the dental council which had armed guards by the gate. [Interruption] Anyway, the bottom line was, people who could not pass their exams under the *status quo*, the Government used this Parliament to change it to allow them to pass. As if that was not bad enough, Mr. Speaker, what happened was, the dental school, instead of addressing the problem of the low standard that was beginning to become inherent in the system, they used the Parliament to get their favourite— whoever they wanted to get through, got through.

The end result of it, is, where is the dental school today? [Interruption] Do we have a dental school? If my memory serves me right, a few days ago I saw an article in the newspaper which said that the dental school had virtually been closed down because it was unsanitary and dangerous for practice. That did not bother the Government. It was not a question of treating with the problem that these students were not being trained at the level to which we had become accustomed, it was a question of, do not raise the bridge, lower the river. That is what they did. So the dental school is as good as dead, but the individuals the Government wanted to facilitate, namely students of members of the Government, they got through the system. Even while the reports were saying that they had, in fact, failed, they were qualified by this Parliament—we did that here—and the medical school is heading in the same direction. There was an article in this week's newspaper alluding to the fact that the UWI Medical School at Mount Hope may have to close. Tell me that is not so, Minister. Does the Minister want to tell me that is not so? I will give way.

Dr. Rafeeq: I thank the hon. Member for giving way. When we came to office we found a problem in the dental school. We dealt with it in a particular way and I want the Member to give this honourable House the commitment tonight that if, for some reason, God forbid, he gets back into office, that he will repeal the amendment that we made to the Act. I want him to give that commitment.

Dr. K. Rowley: I do not know what he is talking about, you know. I thought he was going to tell me I was wrong, that the dental school is not closed and the medical school is not heading there. What commitment will I have to give? *[Interruption]* Repeal what? They used the Parliament to qualify people who the reports from the university—they brought in a foreign expert to look at the standard of performance in the dental school and the report was that those students who had failed had, in fact, failed because they had not measured up to a certain basic standard. They came to the Parliament and changed the board to allow the new board to give them their certificate. *[Desk thumping]* What is he asking me now?

They qualified them by parliamentary edict and, as a result of that, they did not—and do not come and tell me about when they came into office, because they did not come into office to have a good time. They came into office to address problems. They have been there for five years. When they got there they met a problem, they met a report on the dental school. They did not address the dental school problem. What they addressed was qualifying that crop of students, and even within their time the dental school died because they took no action to rectify the problem. I say to him, if he wants to deny that now, I will give way. I thought he was going to deny that, instead he is telling me about not repealing.

I say the same thing, Mr. Speaker. I read a report this week on the medical school that is heading in the same direction. He got up; I gave way to him. I thought, I hoped, that he was going to contradict me and say, that is not so. He did not do that. Mr. Speaker, here we are as a small nation, we had a dental school, a law school, an engineering school and a medical school. During the so-called boom era when we had this demand for engineering services, a responsible government treated with the university by expanding the ability to intake more students by providing more resources—building physical things. That is how we dealt with it. *[Desk thumping]* This country did that. I did not do that, he did not do that, this country did that, so we know what to do.

We could not get enough doctors trained in Jamaica so we started training some in Trinidad. We have our own medical school. They are allowing it to die. We initiated the vet school and the dental school. They are dying. So how come—well, let me ask the question differently. What is so special about the law students that only their case ends up in this “midnight cowboy” approach where they are going to change the law and are telling me about other Caribbean countries want to participate in their private parallel law school? In other words, we are not only undermining the university here, we are encouraging other Caribbean entities to assist us in undermining the university.

Mr. Speaker, I am sorry. I am a believer in the University of the West Indies. I have spent a number of years there as a student and as a member of faculty and I honestly cannot sit in this Parliament and see this being presented as some way out to a very real problem. I cannot support it. [*Desk thumping*] The Government had another option and the first option was to work within the system of the University of the West Indies. The Attorney General went there, “he pick fight” with everybody in there; stopped going to the meetings; started sending his junior staff to insult them and then he insulted them himself publicly—humiliated them in public here. Then he came and told us, virtually—these are not his words, I am just interpreting—“I have abandoned the effort of getting more students into the Council of Legal Education of the Hugh Wooding Law School. I am now working on a parallel initiative to get more students trained in such private arrangements”, and it is already done.

There are people already talking about their intake, based on commitments given by the Government. How could this Government be doing that when they want to take the lead? We have a great interest in ensuring that we succeed with the single-market economy. Trinidad and Tobago has a lot to gain and a lot to lose if we do not go that way. How can we succeed, especially in a timely fashion, if we take this position, this very anti-Caribbean position? We undermine the very platform from which we speak from an initiative standpoint.

We must take a leadership role in the Caribbean and we must take the high road, and we must do it with moral authority. We lose that moral authority to speak as Caribbean leaders in Caricom when we behave like this. If those who sit there do not see that, they do not deserve to be called honourable or to hold the offices they hold. Mr. Speaker, I cannot support this. I am opposed to it. I thank you, and good morning. [*Desk thumping*]

[Members of the Opposition walked out]

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I know they would have left because they have come here and spoken a lot of untruths. They are prepared to allow Trinidadians and Tobagonians who are being discriminated against, even though they have first-class honours with an LLB degree which they have taken outside, to be denied entrance to the University of the West Indies. Mr. Speaker, they are saying, no matter what the position is, the Government of Trinidad and Tobago must, in effect, promote discrimination.

The position, for the record, is, the quota system of entry to the Faculty of Law, University of the West Indies, Trinidad and Tobago is allotted only 34 places per year. Once the quota is filled, no more Trinidad and Tobago citizens are admitted. So in spite of the fact that we are paying contributions to the University, Trinidad and Tobago are only given 34 places per year and every year there are about 200 students who would like to do this degree. Mr. Speaker, these unsuccessful students must now study abroad for their law degrees or study as external students, usually at the University of London's external programme.

1.45 a.m.

Mr. Speaker, in 1997, 462 students from Trinidad and Tobago registered with the University of London, External Law Degree Programme. In July 2000, 200 law graduates, holding non-university LLB degrees applied to take the Council of Legal Education Entrance Examination. Mr. Speaker, 162 of those students actually took the examination and of that number, 42 candidates passed and were given places. So there are 34 places per year at the University of the West Indies and approximately 40 places at the Hugh Wooding Law School, but the PNM is saying, Trinidad and Tobago must position itself to be competitive in the world.

Mr. Speaker, this was not a measure that was in the dead of night. For example, the Government has been talking about this measure for the last three years. A Bill was introduced and discussions were held. As a matter of fact, the Government of Trinidad and Tobago went to the Council of Legal Education and said that this was a problem. Other governments of the region went and discussed the matter with the Council of Legal Education and the Council of Legal Education said that it would continue that policy and governments could not change it. This position was reported so that heads of government could intervene. The Council of Legal Education was saying that it was not even calling a special meeting to discuss the matter.

In the Georges Committee Report, it was stated that Trinidad and Tobago had a special problem. At a symposium held by the Law Association of Trinidad and Tobago, the Prime Minister of Grenada, in his address, said that he was not prepared to support any programme which would exclude persons from being entitled to pursue their profession. So the Government of Trinidad and Tobago has to deal with a problem for the nationals of Trinidad and Tobago.

Mr. Speaker, it costs the taxpayer approximately \$4 million every year to finance the Hugh Wooding Law School. It costs the taxpayer of Trinidad and Tobago approximately \$10 million a year, I am told, to finance 34 places at the University of the West Indies for a degree in law. So it is costing the taxpayer of

Trinidad and Tobago \$14 million for 34 places at the University of the West Indies and 40 places at the Hugh Wooding Law School per year. I am told that with \$10 million the College of Law could operate for four years and train approximately 400 students a year.

Mr. Speaker, what option does the Government of Trinidad and Tobago have? Does it sit down, perpetuate and allow this matter to go on, as the Opposition wants us to do? Or, do we do something about it? That is the difference between the Opposition and the Government. The difference is we decided that we are going to act and history would record whether we were right or wrong. The position of the Government of Trinidad and Tobago is that this matter does not destroy, undermine or subvert Caribbean or West Indian unity. On the contrary, I think that any measure to promote equality and give people an entitlement to pursue their legal professional training to become lawyers should be strengthened and built on democracy and the rule of law, and not to subvert or destroy it.

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 5 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.

ADJOURNMENT

The Attorney General and Minister of Legal Affairs: (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, before I move the adjournment of the House, there was a matter which was deferred for later in the proceedings and that was the College of Science, Technology and Applied Arts of Trinidad and Tobago Bill. So I beg to move that the next stage be taken on Wednesday, October 4, 2000.

Agreed to.

Adjournment

Monday, October 2, 2000

Hon. R. L. Maharaj: May I just put on record the matters which we would debate on the next occasion. They are: Bill No. 12 to amend the Petroleum Act Chap. 62:01; Bill No. 13 to provide for the establishment of a Sentencing Commission and for other related matters; the College of Science, Technology and Applied Arts of Trinidad and Tobago Bill; and Motion No. 3.

“Be it resolved that this House take note of the Report of the Dispute Resolution Commission appointed under section 56 of the Tobago House of Assembly.”

I beg to move that this House do now adjourn to Wednesday, October 4, 2000 at 1.30 p.m.

Question put and agreed to.

House adjourned accordingly.

House adjourned 1.55 a.m.