

*Leave of Absence**Tuesday, July 6, 1993***SENATE***Tuesday, July 6, 1993*

The Senate met at 1.30 p.m.

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

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Carol Mahadeo to be absent from sittings of the Senate during the period July 9 to September 5, 1993 as she will be out of the country during that time.

I have granted leave to Sen. Hydar Ali to be absent from sittings of the Senate, during the period July 5 to July 10, 1993. He would also be out of the country.

I have granted leave to Sen. Ainsley Mark, Vice President of the Senate, from July 4 to July 10, 1993 as he would be out of the country.

I have also granted leave to Sen. Diana Mahabir-Wyatt to be absent from sittings of the Senate during the period July 7 to July 24, 1993 as she would be out of the country.

I have granted leave to Sen. the Hon. Joan Yuille-Williams to be absent from sittings of the Senate on July 6 and July 13, 1993 and to Sen. Camille Robinson-Regis to be absent from today's sitting.

SENATOR'S APPOINTMENT

Mr. President: I have been advised that His Excellency, the President has appointed Dr. Eric Baldwin Anderson St. Cyr to be a temporary Senator with effect from July 5, 1993 and continuing during the absence from Trinidad and Tobago of Sen. Hydar Ali.

OATH OF ALLEGIANCE

Mr. President: Hon. Senators, a temporary Senator is required to take the Oath of Allegiance at this stage, and I invite all to stand whilst this is taking place.

Sen. Eric Baldwin Anderson St. Cyr took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General on the Accounts of the Trinidad and Tobago Unit Trust Corporation for the year ended December 31, 1992. [*The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith)*]
2. Report of the Auditor General on the Accounts of the Public Utilities Commission for the year ended December 31, 1991. [*Hon. L. Saith*]
3. Twenty-Sixth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago [*Hon. L. Saith*]

YOUNG WOMEN'S CHRISTIAN ASSOCIATION (AMDT.) BILL**Presentation**

Sen. John Rahael: Mr. President, I beg to present the report of the Special Select Committee of the Senate appointed to consider and report on a private Bill to amend the Young Women's Christian Association of Trinidad (Inc.) Ordinance (No. 29 of 1946) and matters incidental thereto.

ORAL ANSWERS TO QUESTIONS**Trustee of State Assets
(Disposal of)**

89. Sen. Wade Mark asked the hon. Minister of Finance:

Could the Minister state:

- (a) Whether the Corporation Sole, as trustee of state assets, has the authority to dispose of these assets without the permission of the President and the people of Trinidad and Tobago?
- (b) If the answer is in the negative, could the Minister indicate the exact form the permission of the President and the people takes?

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. President, in law, executive action i.e. by the President is signified by Cabinet approval. This common law principle is also found in statute, namely, the Constitution and the Interpretation Act. Section 80 (1) of the Constitution of the Republic of Trinidad and Tobago provides as follows:-

"In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister

acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act—

- (a) in his discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (c) in accordance with the advice of any person or authority other than the Cabinet.

Section 32 of the Interpretation Act, Chap.3:01, provides that where a function of the President under a written law is to be exercised in accordance with the advice of Cabinet, or with the advice of a Minister acting under the general authority of the Cabinet, the signification under the hand of the Secretary to the Cabinet, or the signification under the hand of the Minister acting under the general authority of the Cabinet, is sufficient for all purposes.

On the question of the permission of the people of Trinidad and Tobago there is no provision in the law requiring this. Cabinet, being part of the duly elected Government, acts for and on behalf of the people of Trinidad and Tobago.

Sen. W. Mark: Would the hon. Minister in the Ministry of Finance indicate what were some of the bases used by the Cabinet in disposing of some of the nation's assets? Could he advance to this Parliament in terms of what are some of the bases?

Hon. K. Valley: Mr. President, the Cabinet is guided by the manifesto of the People's National Movement on which it won the 1991 general election.

Sen. W. Mark: Is the hon. Minister indicating that the PNM manifesto of 1991 did indicate that they were going to sell out this country's assets and privatize it without consultation of the people?

Hon. K. Valley: No, Mr. President. I am indicating that in the 1991 manifesto—as a matter of fact it goes far back as 1988—the PNM outlined its policy with respect to state enterprises, in other words, Government's participation in the private sector, and set out quite clearly the basis on which it was going to approach the state enterprises sector.

1.40 p.m.

Sen. W. Mark: Could the hon. Minister of Finance indicate to this Senate, in a period of people's participation, whether the Government of Trinidad and Tobago intends to introduce any new formula to arrive at a political consensus before embarking or engaging in any further sales of the nation's assets?

Hon. K. Valley: By way of people's participation, the Government intends to have the widest possible participation in its divestment. Very shortly, Government would be announcing divestment in which it would expect to have the widest possible participation of the people of Trinidad and Tobago.

Sen. W. Mark: Could the hon. Minister indicate what form this divestment process will take?

Hon. K. Valley: As is known, whenever we have a company to divest, we would come to the Parliament and outline the modalities. We would do so when the time comes.

Corporation Sole (Various Assets)

90. Sen. Wade Mark asked the Minister of Finance:

- (a) Could the hon. Minister outline in detail, the various assets which he holds as Corporation Sole on behalf of the people of Trinidad and Tobago, and could the Minister further state the estimated value of these assets?
- (b) Could the Minister further give a breakdown of any changes on the portfolio of assets on a year-to-year basis over the period 1981-1993?

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. President, the various assets which the Minister of Finance holds as Corporation Sole are in respect of his shareholding in various enterprises. As at June, 1993, the Minister of Finance (Corporation Sole) holds shares in some 83 companies as follows:

Wholly owned companies	32
Majority owned companies	19
Minority interest companies	15

Indirect Holdings (where a company owned by the state owns shares in a subsidiary)	17
Total	83

The par value of the shareholding of the Minister of Finance (Corporation Sole) in the 66 entities in which there is direct shareholding is \$5,879,232,235 as at June, 1993.

The breakdown of the portfolio of assets of the Minister of Finance as Corporation Sole over the period 1981-1993 is as follows:-

Year	No. of Enterprises	Par Value Shareholding \$MN
1981	64	1,526.28
1982	65	1,656.70
1983	65	2,730.08
1984	66	2,781.31
1985	68	3,222.16
1986	68	4,226.01
1987	68	4,260.13
1988	68	4,944.17
1989	68	5,331.70
1990	71	5,387.82
1991	71	6,418.41
1992	69	6,438.35
1993	66	5,879.23

With respect to any changes in the number of enterprises in Government's portfolio of assets, the following changes are to be noted:

During 1982, National Hospital Management Company Limited was added to Government's portfolio.

Oral Answers to Questions
[HON. K. VALLEY]

Tuesday, July 6, 1993

During 1984, National Poultry Company Limited was added to the portfolio.

In 1985, the following companies, which were under the management of the National Energy Corporation were established on a stand-alone basis:

- (1) Trinidad and Tobago Methanol Company Limited;
- (2) Trinidad and Tobago Urea Company Limited.

During 1990, the change in the portfolio was as a result of the following:

- (a) the establishment of:
 - (i) Trinidad and Tobago Free Zones Limited;
 - (ii) Youth Training and Employment Partnership Programme Limited;
 - (iii) Small Business Development Company Limited
 - (iv) National Helicopter Services Limited; and
- (b) the liquidation of the National (Secondary Roads) Development Company Limited.

During 1991, although the overall number of companies in the Government's portfolio did not alter, the following changes occurred:

- (a) the merger of TEXTEL and TELCO into one company, Telecommunications Services of Trinidad and Tobago Limited (TSTT);
- (b) the liquidation of National Hospital Management Company Limited;
- (c) the establishment of National Agricultural Marketing Development Company Limited; and
- (d) the acquisition of a majority interest in Taurus Services Limited.

During 1992, the Government's portfolio was reduced by two companies as follows:

- (a) the disposal of Government's shareholding in National Brewing Company Limited;
- (b) the absorption of National Energy Corporation by the National Gas Company of Trinidad and Tobago Limited.

During 1993, Government accelerated its divestment programme which has resulted in the divestment of the following companies:

- (i) Fertilizers of Trinidad and Tobago Limited;
- (ii) Trinidad and Tobago Urea Company Limited;
- (iii) Trinidad and Tobago Printing and Packaging Limited; and
- (iv) Farrell House (1975) Limited.

At the same time, in 1993, the restructuring of Trintoc and Trintopec resulted in the formation of Petroleum Company of Trinidad and Tobago Limited otherwise known as Petrotrin. Until a final determination has been arrived at with respect to the merging of these entities, the three companies remain as part of Government's portfolio.

Sen. W. Mark: Could the hon. Minister of Finance indicate to this Senate what is the total value of the individual companies that comprise the energy sector in Trinidad and Tobago?

Hon. K. Valley: Mr. President, I do not have that information with me, but if the Senator wishes, and he files the appropriate question, we would have that answer for him.

Sen. W. Mark: Could the hon. Minister indicate to this Senate whether the Government intends to dispose of further assets owned by the state on behalf of the people in 1993 and beyond? If so, which assets it intends to dispose of?

Hon. K. Valley: I do not know whether that question follows from the one before us. I do not have that information. If the Senator wishes and he files an appropriate question, I am sure that we would be prepared to supply the information.

Sen. W. Mark: Could the hon. Minister indicate to this Senate when he would be able to supply in detail, as the question requires, the breakdown of the nation's assets owned by the Corporation Sole. I sought to get a detailed breakdown of all the companies and the par value of all those companies. He has not provided that information. Can he tell us when he would be able to do so?

Hon. K. Valley: Mr. President, we interpreted the question in a certain manner. I apologize to the Senator if he intended some other interpretation. However, I can assure the hon. Senator that we can provide the necessary information 21 days after an appropriate question is filed.

Oral Answers to Questions
[HON. K. VALLEY]

Tuesday, July 6, 1993

The following question stood on the Order Paper in the name of Sen Wade Mark:

Enron
(SECC Stake)

- 92.** Could the hon. Minister of Energy and Energy-based Industries state:
- (a) what was the basis for the 95 per cent stake granted to Enron in the South East Coast Consortium (SECC) as it relates to the Kiskadee, the Oilbird and the Ibis?
 - (b) the economic cost involved in the production of 1000 cubic feet of natural gas in the Kiskadee field?
 - (c) whether the 3-D seismic survey reported to be conducted by Enron has been completed and at what cost?
 - (d) the extent of the reserves of gas and condensate in the Kiskadee, Oilbird and Ibis Fields?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, I seek, with the approval of Sen. Wade Mark, a deferral of one week on this question.

Sen. W. Mark: Mr. President, we know that the Parliament is going into recess very shortly and I hope that the hon. Minister would be able to bring the package of questions. You may have to give him leave of the Standing Orders to have all those questions answered. This is the second occasion that he is seeking leave for two weeks conscious of the fact that we have—

Mr. President: This is not the time for statements and it will be the Senate which will have to give leave.

1.50 p.m

Sen. W. Mark: Mr. President, are you saying before this Senate goes into recess, we would have to seek leave so that the hon. Minister could answer all those questions in order that they would not lapse?

Mr. President: We will cross that bridge when we come to it. We should not anticipate problems like that. I have not been given a date for the recess as yet.

Question, by leave, deferred.

**Government Remand Centre
(Young Female Persons)**

102. Sen. Carol Mahadeo asked the Minister of National Security:

- (a) Is the hon. Minister aware that there is, to date, no Government Remand Centre or Home to house young female persons between the ages of 16 and 18 years, pending the hearing and determination of their criminal cases?
- (b) If the answer is in the affirmative, would the hon. Minister inform the Senate what, if any, measures are being instituted so to do, and if so, how soon may we expect such plans to be formulated and put into effect?

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, the Youth Training Centre has been proclaimed an Industrial Institution for Young Offenders (male) between the ages of 16 and 18 in accordance with section 2(1) of the Young Offenders Detention Act, Chap. 13:05. There is no parallel institution for female offenders of the same age.

However, it has been the practice, over the years, for the courts to remand such category of offender to the Women's Prison at Golden Grove. The Government recognizes that the practice of associating these young female offenders with their more seasoned criminal counterparts is not desirable, when one considers that the majority of females at the Women's Prison have been held for drug-related crimes.

However, every effort is made to ensure the rehabilitation of these young persons within the existing facilities at the Women's Prison. They are trained in such areas as sewing, cooking and cosmetology to equip them for employment at the end of their period of incarceration.

The Government is fully cognizant of the need for an institution to accommodate young female offenders between the ages of 16 and 18 but is constrained in its efforts to provide such a facility at this time because of the stringent economic situation in the country.

Sen. Mahadeo: With respect to these young persons, my question was specifically for those on remand pending the hearing and determination of their matter and not convicted young offenders. I was thinking of those who were especially on remand while awaiting the trial and determination of their matters. This answer is specifically to those, who I imagine, are convicted and are learning

to sew and do other things. Could the hon. Minister please tell us what is the position with those who are on remand, are they going to be put together with the convicted ones or kept apart?

Sen. R. Huggins: Mr. President, those on remand are kept at the same institution in the remand section.

Non-Pareil Estate

103. Sen. Carol Mahadeo asked the Minister of Agriculture, Land and Marine Resources:

- (a) Is the hon. Minister aware that the Non-Pareil Estate in East Trinidad is lying idly fallow and no use is being put to it?
- (b) If the answer is in the affirmative, would the Minister indicate how soon the lands would be divided up into parcels and developed to serve the nation's food needs and those of the local manufacturing and export markets?

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley): Mr. President, Non-Pareil Estates Limited, over the years, has been operating at a deficit. The Company has been able to partly fund its operations mainly from revenue collected by way of sale of produce. The revenue collected, however, has always been insufficient to meet its operating expenses. For example, in 1992, the operating expenses were supported from the Treasury to the tune of \$763,625.00

Given the present unavailability of cash resources to finance further losses and provide necessary working capital, the Government has taken the decision to re-direct the operations of the Company. Additionally, Government decided to terminate the state's involvement in operating this agricultural estate and further to make the parcel of land available for alternative investment and operation by inviting the public to express an interest in such an operation. To this end, the estate was placed in the hands of the Divestment Unit of the Ministry of Finance.

On April 15, 1993, Government mandated the reconstituted Board of Directors of Non-Pareil Estates Limited to invite and evaluate project proposals from the public for the specific use of the land with a view to maximizing the rehabilitation and development of the estate. The Board of Directors has since engaged the services of a consulting firm to invite and evaluate the project proposals. This exercise is expected to be completed by October 15, 1993.

Sen. Mahadeo: Mr. President, could the hon. Minister indicate whether in the meantime, while they are awaiting the Divestment Board's plans concerning that estate if there is any security put in place to take care of their machinery and other plant?

Hon. Dr. Rowley: Yes, Mr. President, in the meantime a measure of security is applied to the estate largely to protect the fixed structures. There is not much of a crop to protect, but, basically, we supervise the estate from theft and hopefully, this situation should only last for another 10 or 12 weeks. After that time, proper arrangements should be in place to oversee the entire operation.

Sen. W. Mark: Mr. President, could the hon. Minister indicate whether, in the first instance, any attempt is being made to have a dialogue with the recognized majority union that formerly represented those workers with a view to having the estate sold, or disposed of, to those workers in question?

Hon. Dr. Rowley: At the moment, Mr. President, there are no workers assigned to the estate as such and therefore there is no union to deal with, except that in the context of the question raised by the Senator, the union which represented the workers who formerly worked on the estate did write to the Ministry expressing their interest in operating the estate in some form or fashion.

The union was replied to indicating that the Government would treat with the union's request in the context of the call for proposals. If the union put forward proposals it would be considered with all others and the Government will take a decision on the one which will most effectively maximize the use of the estate and create economic activity and employment in the area.

2.00 p.m.

ORDER OF BUSINESS

The Minister of Planning and Development (Sen. The Hon. Dr. Lenny Saith): Mr. President, I beg to move that the Motion under Private Business dealing with the amendment to the Young Women's Christian Association Ordinance No. 29 be now taken.

Leave granted.

YOUNG WOMEN'S CHRISTIAN ASSOCIATION (AMDT.) BILL**Adoption**

Sen. John Rahael: Mr. President, I beg to move, that this House adopt the Report of the Special Select Committee of the Senate appointed to consider and report on a Private Bill to amend the Young Women's Christian Association of Trinidad (Inc.) Ordinance No. 29 of 1946 and matters incidental thereto.

Seconded by Sen. Jean Elder.

Question proposed.

Question put and agreed to.

Report adopted.

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

Bill accordingly read the third time and passed.

TAKING OF HOSTAGES BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to move.

That the Taking of Hostages Bill 1993 be read a second time.

This piece of legislation is, in my view, a very simple, straightforward and non-contentious bill. I want to stress the word "non-contentious". As the Explanatory Note indicates, this Bill is intended to give effect to the International Convention against the Taking of Hostages which was adopted by the General Assembly of the United Nations on December 17, 1979.

The Government of the Republic of Trinidad and Tobago acceded to this convention on April 1, 1991. The convention entered into force on June 3, 1983. By virtue of its assent to the convention, the Government of the Republic of Trinidad and Tobago is obligated to incorporate the major provisions of the convention into its municipal law. It is therefore appropriate for me to outline the objectives and major principles of the convention before I address the provisions of the Bill.

Mr. President, the adoption of the International Convention against the Taking of Hostages represented an appropriate response by the international community

to these acts of international terrorism. In the 1970s and the 1980s, hostage-taking had appeared as a favoured tool in the terrorists' arsenal. Beginning sporadically in the late 1960s and growing steadily thereafter, the taking of hostages had become a common international occurrence. Some of the incidents of these past two decades include:

1. The seizure and murder of Israeli athletes at the 1972 Munich Olympics;
2. The 1976 hijacking of an Air France flight to Entebbe and the seizure of Jewish passengers on board;
3. The 1971—81 detention of the American Embassy staff in Teheran;
4. The capture of the Dominican Embassy in Bogota during a diplomatic reception in February 1980; and
5. The 1985 hijacking of a TWA passenger jet in Beirut.

As recent as March of this year, the international community witnessed the seizure of the Nicaraguan Embassy in Costa Rica and in June, Kurdish separatists held 30 consulate staff members hostage in Germany and France.

Closer to home, Mr. President, Members on the other side need only cast their minds back to July 1990 when the honourable House, the other place, was itself brutally invaded and hon. Members held hostage.

Essentially, the International Convention on the Taking of Hostages provides for co-operation between states in the prevention, prosecution and punishment of all acts of hostage-taking which are considered manifestations of international terrorism. As such, the fundamental principle in forming the Convention is that of *aut dedere aut judicare*, namely, the states' parties must either prosecute or extradite those suspected of committing the offence of hostage-taking which is an offence of grave concern to the international community. Beyond this, states' parties agree to take a number of unilateral and co-operative measures intended to prevent the occurrence of these offences.

The convention defines hostage-taking as the coercive seizing or detaining of another person and the accompanying threat to kill, injure or continue to hold that person in order to compel a third party to act or refrain from acting. A further element of this definition is that of compelling a third person to act or to abstain from acting as a pre-condition for securing the release of hostages.

Although ordinary kidnapping also compels third parties to act, for example, to pay a ransom or to grant pardons, the two offences are different. Hostage-taking

Taking of Hostages Bill
[HON. R. HUGGINS]

Tuesday, July 6, 1993

transcends kidnapping since the demands of the hostage-takers are more of a political nature. Moreover, hostage-taking, as defined in the convention, enjoys a peculiarly international character, thus the convention does not apply to incidents which occur in a single state where both the hostage-takers and their direct victims are nationals of the state and the alleged offender is found in that state.

However, the convention's provisions will apply in such cases if the alleged offenders have fled the territory of that state. Additionally, the convention becomes applicable in situations where the offender remains in the territory of the state where the offence was committed, if the political course of conduct demanded, or the identity of this object of compulsion introduces a transnational element.

The convention criminalizes not only acts of hostage-taking, but also the offence of attempts to commit the act of hostage-taking and all acts of participation. States' parties are bound both to prosecute offenders and to impose penalties that reflect the grave nature of these offences. As already indicated, the state party in which host territory alleged offenders are found must either extradite them or prosecute them. If extradition is not granted, the state has no choice but to submit the case for prosecution without exception whatsoever and irrespective of where the offence actually took place.

2.10 p.m.

Mr. President, the convention also mandates the state party in whose territory an alleged offender is found, to take him into custody or take such measure to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. That state party is required to immediately institute a preliminary enquiry into the facts. Where custodial or other measures have been undertaken, the state party must notify the following states, either directly or through the Secretary General of the United Nations:

1. The state where the offence was committed.
2. The state against which compulsion has been directed or attempted.
3. The state of which the natural or juridical person against whom compulsion has been directed or attempted is a national.
4. The state of which the hostage is a national or in the territory of which he has his habitual residence.

5. The state of which the alleged offender is a national, or, if he is a stateless person, the territory of which he has his habitual residence.
6. The international inter-governmental organization against which compulsion has been directed or attempted.
7. All other states concerned.

Mr. President, this convention has been ratified or acceded to by over 65 states. Within the Caricom region, the following countries have signed, ratified or acceded to the convention:

Antigua and Barbuda
Bahamas
Barbados
Dominica
Grenada
Jamaica
St. Kitts and Nevis
Trinidad and Tobago.

This Bill was originally introduced as Senate Bill No. 2 of 1986 and was passed in the Senate on February 18, 1986 with minor amendments. The Bill then had its first reading in the House of Representatives on February 28, 1986, but lapsed when Parliament was dissolved on November 27, 1986. It was reintroduced in the House as Bill No. 23 of 1991. Parliament was again dissolved before the Bill was enacted. The reintroduction of this piece of legislation in Parliament is necessary in order to enable Government to discharge its obligations under this convention to which it has long been a contracting party.

The Bill, as I have previously intimated, seeks to make the act of hostage-taking an offence, and to establish extra territorial criminal jurisdiction over the act of hostage-taking where that act is committed with a view to securing some particular object by directing compulsion against a state, international inter-governmental organization or person.

Clauses 1 and 2 of the Bill are self-explanatory.

Clause 3 of the Bill provides that an offence is committed when a person detains another person and threatens to kill, injure or continue to detain that other

Taking of Hostages Bill
[HON. R. HUGGINS]

Tuesday, July 6, 1993

person, in order to compel a state, an international inter-governmental organization or person to do or abstain from doing any act. This clause makes this offence, as well as attempts to commit the offence and the aiding, abetting, counselling or procuring of the offence punishable by life imprisonment. The clause further enables the courts of Trinidad and Tobago to exercise jurisdiction wherever the offence is committed and regardless of the nationality of the alleged offender.

Clause 3(4) recognizes the principle of *autre fois convict* and *autre fois acquit*. It is intended at the committee stage to move a minor amendment to this clause. I will deal with that at the committee stage.

Clause 4 of the Bill requires the consent of the Director of Public Prosecutions for the prosecution of these offences, but this does not preclude the arrest or the issue of a warrant for the arrest of any person in respect of any offence under this Bill, or the remanding in custody or on bail of any person charged with any such offence.

Clause 5 requires the Minister to whom responsibility for Foreign Affairs is assigned, to notify the states listed in that clause where an alleged offender who has been found in Trinidad and Tobago has been taken into custody in contemplation of prosecution or extradition for any offence under this Bill.

Clause 6 of the Bill provides for an offence under clause 3 of the Bill to be deemed an extraditable offence under the Extradition (Commonwealth and Foreign Territories) Act, No. 36 of 1985, and for the purpose of extradition, deems offences under clause 3, wherever committed, to have been committed within the jurisdiction of the requesting territory.

Where the Extradition (Commonwealth and Foreign Territories) Act, No. 36 of 1985, does not apply to a Commonwealth or foreign territory which is a party to the International Convention Against the Taking of Hostages, the Extradition (Commonwealth and Foreign Territories) Act may be given a limited application in relation to that Commonwealth or foreign territory, and would have effect as if the only extraditable offences within the meaning of the Extradition (Commonwealth and Foreign Territories) Act were offences under the Taking of Hostages Bill.

Clause 7 of the Bill amends the Extradition (Commonwealth and Foreign Territories) Act, No. 36 of 1985, by inserting a new section which will impose an additional restriction on the return under that Act to a declared Commonwealth or

foreign territory party to this international convention of a person accused of the offence of hostage-taking. The return will be prohibited where the following circumstances appear to exist, as the case may be, to the Attorney General, to the Magistrate on committal proceedings, to the High Court on an application for *habeas corpus* or for review of the order of the magistrate, or to the Court of Appeal on appeal against the decision of the High Court, namely:

- (a) that the person might, if returned, be prejudiced at his trial by reason of the impossibility of effecting communications between him and the appropriate authorities of the state entitled to exercise right of protection in relation to him; and
- (b) that the facts constituting the offence of which he has been accused or convicted would also constitute an offence under clause 3 of the Taking of Hostages Bill.

The enactment of this legislation will enable the Republic of Trinidad and Tobago to carry out its rights, duties, responsibilities and obligations under this multilateral treaty which the state is at present unable to do in the absence of this legislation. As a consequence, I urge all Members of this honourable Senate to support the passage of this Bill. As I indicated earlier, the Government is seeking to fulfil its obligations with regards to international conventions to which it entered years ago, and this is only one of such matters which have been brought before the House recently.

Mr. President, as I indicated earlier also, this is a very simple, straightforward and non-contentious piece of legislation, and I certainly do hope that it will not detain us here unduly, and hopefully beyond tea-break. I beg to move.

Question proposed.

2.20 p.m.

Sen. Surendranath Capildeo: Mr. President, there is an indefinable element of incongruity in this piece of legislation. This is careless irony; irony in the extreme. There is a mocking certainty to this Bill, the Taking of Hostages Bill, 1993. We, on the sixth day of July, 1993 should be so preoccupied at this state at this particular and peculiar time of our nation's development, to consider giving effect to the International Convention Against the Taking of Hostages which had its origin 14 years ago. This is supreme irony. It is the mother of all ironies.

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

Whilst we are all oh so serious debating this Taking of Hostages Bill, we are all, to a man, woman and child, hostages to our own unhappy human condition in our beloved nation. Our citizens are hostages in our own country. We are hostages to the ravages of crime in all its barbarity; from mafia-style execution in broad daylight to horrendous rapes of mother, daughter and infant; to gruesome murders; and to savage bodily injuries.

We are hostage to an educational system which today, as we debate this Bill, has thousands upon thousands of parents traumatized by the literal knowledge and hell that their precious ones did not pass the Common Entrance Examination or did not get a school of their choice. We have thousands and thousands of children traumatized by the fact that they failed the examination. We are hostage to poverty, starvation and hunger, the likes of which we have never seen in this nation. We are hostage to unemployment running rampant and out of control. We are hostage to an international monetary system that would reduce us all once more, and strip us of what little dignity we have. We are hostage to a parliamentary system that clearly is unworkable.

We are hostage to a Government that has lost all pride and whose sight—not vision, because it never had vision—is blinkered by the US dollar sign. We are hostage to our own stupidity; our own inefficiency, and our localized parochial madness.

Let me put it bluntly, Mr. President. Just recently, after more than one century of organized and traditional existence, our entire police service was held hostage and castrated by three junior officers from Scotland Yard. Not only were they toothless, but it looked like a couple balls and a bat were missing too. Even today, yet, another honourable institution of our country, the Customs and Excise Division, seems to be held hostage by the idea that we are incapable of doing anything ourselves. If what we read in today's newspapers is true, that a couple of US customs officers could have made all that difference to revenue collection, then our customs boys have many serious questions to answer.

Mr. President, the local hostage-taking situation in this country is like an epidemic in all spheres of activity and life in Trinidad and Tobago. When we look at what is happening here, in relation to the effectiveness of this Bill, we have to ask the question: Are we capable of carrying out its intentions? What is the background to this Bill? The background is terrorism; guerilla warfare; counter insurgency and counter terrorism. What do we know about these things? A

hostage is not taken by a man selling cotton candy. Are we prepared? Is this country really prepared to deal with hostage-taking?

Mr. President, I seek leave to quote from page 11 of the preface to a book entitled *Terrorism and Democracy*; which was published in 1991 and written by Admiral Stansfield Turner, a former Director of Central Intelligence. This tells what led him to write the book.

"Many of the works dealt with the definition of terrorism—one indeed covered nothing else—but there was no agreement, among academicians, governments, and the United Nations, on a single definition. Other books addressed the history of terrorism, going back to the first century, when the Jewish Zealots sought to drive the Romans from Palestine by acts of violence; to the Assassins of the eleventh to thirteenth centuries who forayed down from mountaintop fortresses in the Middle East to murder infidels; to the anarchists of the late nineteenth century who tried bombs as a form of political persuasion; to the hijackers and kidnapers of today.

A number of articles addressed the psychological causes of terrorism, noting that it is seized on by those who do not believe that their ethnic, religious, or nationalist grievances can be rectified by existing political systems. Discussions of the means of terrorism focused on historical practices, the manipulation of modern technologies like commercial aircraft and lethal munitions, and predictions of frightening possibilities.

Writings on the terrorists themselves described fanatics—individuals, small groups, weak national entities—operating from the Middle East, Central and South America, Europe, and Asia. And suggestions for countering terrorism differed from author to author.

I was uneasy when I completed the survey: I did not have what I needed to offer reasoned and constructive responses when asked whether I agreed with such propositions as (1) we should not make deals with terrorists; (2) we must make them pay a price by employing force in response to their acts; (3) we may, on occasion, have to sacrifice some hostages for the greater good."

Mr. President, can anybody tell me whether this Government is in a position to answer any of those three questions?

"The reason, I perceived, was a lack of discussion of how our democracy affects and is affected by what we do to deter terrorism. Talk of options is

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

meaningless unless we consider the constraints imposed by our political system. I decided that was the contribution I should like to make: an appreciation of the ways in which our societal values determine our response to terrorism."

Just what is our appreciation of our societal values? Do we have any? Do we have any idea of what we are dealing with?

2.30 p.m.

"Having seen how those values influenced President Carter's decisions in 1979 and 1980, I decided to review the actions and reasoning of those Presidents who have confronted the menace. What were the limitations imposed on them by our democratic system, limitations that may have prevented their restoring to solutions thought useful by others? What were the pressures on them to attempt those actions?

I have searched for common threads, which, it turns out, go all the way back to the founding of our government. I was not surprised to find that much of the common wisdom about dealing with terrorism does not accord with what Presidents have actually done.

This book is intended as a discussion of how we can deal with the current wave of terrorism from an American perspective,..."

What is the Trinidadian perspective? Do we know? Do we have a perspective? Do we have any thing at all? Do we have any idea of how we are going to deal with the situation? No. It goes on:

"The potential for terrorism to increase is there, but terrorists are not invincible; the Zealots, the Assassins, and others were suppressed in time. Today many countervailing strengths come from the fact that we have a democratic system. But that means we need public understanding of our options for curtailing the current wave of terror and the wisdom to avoid actions that might undermine the democratic process we are defending."

Do we have a policy on that Sir? Do we have any idea at all about that? I say we have absolutely none. None has been forthcoming. None will be forthcoming.

Permit me to quote page 224 to show the sort of responses that take place when an act of terrorism or hostage-taking confronts, let us say, the American President. We talk about America because they are next to us and because the

Government is the first to call them when trouble takes place. In fact, ask Sally she will tell you if what I am saying is true.

"Assassination: Punitive military attacks, Covert action, Rescue operations, Improved intelligence, Media restraint.

Mr. President,

"Assassination—repeal of the presidential prohibition against it.

Punitive military attacks—making terrorists pay for what they do.

Covert action—using dirty tricks to counter terrorists.

Rescue operations—moving in quickly with military force to extricate hostages."

We had that experience here. What happened? What was wrong?

"Improved intelligence—penetrating terrorist organizations and taking the offensive against them."

Instead, all I can hear is the mumbling and gibberish of people's vacuous mentality.

"Media restraint—curtailing reports that play into the hands of terrorists".

Mr. President, that is what we have come to listen to in Parliament today when this Bill was presented so we would have an idea of how we are going to deal with a hostage-taking crisis.

Let me quote from pages 227 onwards, the 10 views of the learned author on how to deal with hostage-taking.

1. Assassinations are neither an appropriate nor effective counter terrorist tactic.
2. Punitive military attacks are a remedy we should use, but use it sparingly.
3. Covert actions should be undertaken, but judiciously, because the probability of success is low.
4. Rescue operations have a role but will continue to be highly risky...
5. Improved intelligence, especially human, is always desirable but difficult to achieve.

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

6. Restraint of the media could be helpful, but modest self-restraint is the most we can expect.
7. Economic sanctions should be used against state sponsors of terrorism, even if they take a long time to be effective.
8. Defensive security is unlikely to receive sufficient attention or money.
9. Deals are an option we cannot rule out.
10. Legal recourse is the option most compatible with American values."

Mr. President, I quoted this to show the extent of learning that exists; recent learning, 1991 learning and we came here in anticipation of a Government that knew its business in the presentation of this new piece of legislation to tell us at least what their ideas are on these matters. Instead, there is a deafening, deadening silence; a silence based on total and complete ignorance. I come closer home and directly to the point.

I seek your leave to quote from another text published in 1992. The title is *Instrument of Statecraft US Guerrilla Warfare Counter-Insurgency Counter-Terrorism 1940 -1990* written by Michael McClintock. He is the author of another well known text called *The American Connection*. Mr. McClintock is an expert on Latin American and Caribbean Covert action. I quote page 401 of this text:

"Experiments in an 'American Lake'

Mr. President, I repeat: "Experiments in an 'American Lake'"

"Some of the first efforts to raise the level of assistance to friendly foreign police forces under the Reagan administration were made in the Caribbean and in Central America. The approach in most cases was to train small paramilitary forces (and sometimes create them from scratch) as if they were military formations. US security assistance in the Caribbean before the Anti-Terrorism Assistance Program began centered on Puerto Rico as a training center and a source of US personnel. Since 1980, the 12,000-man Puerto Rican National Guard, one of the best-trained, best-equipped American national guard units, had provided training to the paramilitary security services of Barbados, Dominica, and Jamaica. The use of US military forces to train regional paramilitary security units was one way to bypass the Public Safety training ban. In December 1981, after an attempted coup in Dominica, Congress authorized a \$1 million fund to assist the defence forces of the small

islands of the eastern Caribbean, even though most of those governments preferred small police forces to standing armies of any size.

This training of police by the US military proceeded side-by-side with the training of the same forces by the FBI. FBI training for Caribbean police was permissible under the Justice Department waivers for certain kinds of instruction. A pilot training program was established by the FBI in Puerto Rico during 1982 to train police officers from the US and the Caribbean 'in basic criminal investigative matters.' Now known as the FBI's Caribbean Police School, it provided two four-week sessions annually, from 1982 to 1984, training '137 mid-management officers,' including 21 from the US Army and Navy, and 80 from sixteen foreign countries. (Statistics on its work after 1984 are not available).

Training in the Caribbean increased after the October 1983 Grenada operation. The British promptly detailed a team of police advisers, supported by a Senior Superintendent from Barbados (and a modest budget of £750,000) to rebuild Grenada's police force in the civil police tradition. The United States was reluctant to surrender its newfound influence in the region to the British, however, and proceeded with its own style of police assistance.

In February 1984, nearly 100 Army Special Forces eight-man teams were reported to be operating in the area, organizing paramilitary 'Special Service Units'

Nearly 100, Sir.

"This paramilitary project was Washington's top priority in the region. Each of the microstates of the eastern Caribbean was to have an SSU and to work in conjunction with the small conventional army of Barbados in a Regional Security System..."

Then in brackets—this is why I say I want to come close to home—

"(only Trinidad refused to join)."

You have the super powers of the world training all the states of the Caribbean in anti-terrorist activity, but Trinidad refusing to join and here we have learned gentlemen bringing this Taking of Hostages Bill, 1993 and not explaining why.

2.40 p.m.

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

How are we going to deal with a hostage-taking crisis if our men are not trained?

"...(only Trinidad refused to join). By the end of 1985, the United States had trained and equipped SSUs on each of the islands with an explicit countersubversion, counterinsurgency brief: that is, "to provide their governments, most of which do not have armies, with extra muscle for dealing with insurgencies and external attack.'

The first test of the new forces...with regional maneuvers to 'liberate' Saint Lucia. Military exercises, code-named 'Exotic Palm,'...

There were tests in Dominica, St. Lucia, St. Kitts and Grenada. I ask: Why were our men not trained in counter insurgency? Why were our men not trained in counter subversion? Why did we not join that? Why were we left as we were left in July 1990, almost incapable of dealing with the situation?

What we are dealing with here is no ordinary piece of legislation. With all due respect, I have to ask the gentlemen opposite, if they have ever heard of the 1981 special forces manual command control and support of special forces operation FM31—22, Washington DC Department of the Army Headquarters, December 23 1981. Pages 2—7 refer to missions to abduct selected personnel as a task in unconventional warfare. In English that means to take hostages. That is a US Army manual with a course in taking hostages.

In the book, *Instruments of Statecraft*, page 434 states:

"Direct action and the Lexicon of Terror.

A 1986 study prepared for the House Armed Services Committee's Special Operations Panel by special operations authority John M. Collins outlines the skills required of the military's special operations forces for their varied missions. Their military assistance, advisory, and training role encompasses 'unconventional warfare and internal defense/foreign internal defense, terrorism, and counterterrorism.' A skills chart lists Assassination and Abduction (A&A), Hostage Taking, Random Killing and Maiming, Sabotage, Capture, and Termination as some of the basics of the genre. The definitions suggest their formal status under present doctrine:

Assassination and abduction are illegal special operations employed offensively for sociopolitical purposes. Official actions to capture or kill key insurgents and transnational terrorists ('Termination') are legal and defensive.

Assassination and abduction (A&A) are direct, discriminating, essentially decisive, economical, and occasionally unique ways to achieve required results."

I make mention of this to show that this Bill is not a matter to be trifled with.

There are countries that are extremely friendly with us, so friendly that talk on the street is that they are running the Government. There are countries whose policies include the taking of hostages as I have just read out, (A&A) Assassination and Abduction. How do you deal with that? How do we deal with that? Do we have a policy to deal with that? How do we treat with such countries? Are we prepared psychologically, politically or militarily to deal with it?

It was only in 1976, a mere 16 years ago, that the Americans were asking: How come we do not have a unit like the British Special Air Service? In those days Britain had SAS; West Germany had its GS9; France had its GIGN. The US had nothing. It was only in June 1977, that Colonel Charles Beckwith known as Charlie Beckwith, a legend in his own time, was given the orders to create the now feared Delta Force.

In July 1990, this country was rife with rumour about the Delta Force. Now comes the reality. Just to emphasize how vulnerable we are; how infantile this Government is in its approach to serious matters; how childlike and naive. I do not want to use the words stupid and ignorant. I would tell you. Do you know that one of the first demonstrations that Charlie Beckwith put on for the Americans to see the effectiveness of the Delta Force was a simulated hijacking to a Caribbean island. It was founded in 1977. The first demonstration to impress Congress to get more money was a simulated hijacking to a Caribbean island.

Let me show how we can be made fools and dupes while we parade up and down in Parliament making pretty speeches and passing legislation about which we know nothing. I quote again from *Terrorism and Democracy* by Stansfield Turner. Page 3 states:

"By the summer of 1979, shortly before Beckwith's two years were up, a group of us went to Fort Bragg, North Carolina, to watch Delta Force in action. Beckwith's team was impressive in responding to a simulated hijacking of a commercial airliner to a Caribbean island."

Not an island of the American states, not at Chappaquidick or wherever it is, or Kennedy Island, but to a Caribbean island; not to any of the islands within striking distance of the Americas, but to a Caribbean island. That is how stupid we are.

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

"The discussions that followed, however, raised troublesome questions.

When I asked Charlie how he would move his people to the scene of this hypothetical hijacking without being detected, he said the troops would infiltrate individually as tourists, assemble at night, and then assault the aircraft. I questioned whether twenty to thirty impressively fit young men with weapons would be able to infiltrate a small island airport. Charlie felt sure it could be done. As Chief of the CIA, I suggested that he take advantage of the Agency's experience along these lines—for instance, with disguises and forged documentation, which were CIA's specialties. Charlie had not thought of contacting us."

Of course, Charlie did later contact us.

"I came away that day with great respect for the way Charlie Beckwith had developed and tailored Delta's military skills for the moment of contact in fighting terrorists. But I wondered who would be likely to send Delta on a mission and how it would get to the necessary location..."

2.50 p.m.

The point of issue is that the very first demonstration of the effectiveness of the Delta Force was a hijacking on a Caribbean island, using the CIA to get their men in as tourists, with disguises and forged documentation. Now you have a Minister who says that he is going to encourage tourism.

Mr. President, you see that remark that I have nothing to say, it means that they cannot even understand English when it is read from text dealing with this Bill printed in 1991 and 1992. They cannot even understand that English. Blame the Common Entrance people. They must have educated them.

I have adopted this approach to demonstrate that what is brought to this Senate is usually not what it appears to be. It is really a very tiny part of a much greater whole. When the Senate looks at this Bill, it must do so in the context of our present situation. It must do so in a tactical manner. The Senate must ask itself certain basic questions. How did this Bill come about? What gave rise to it? It is this background information which is lacking, and, if I may say so, which has always been lacking with every single piece of legislation which has been brought to this honourable Senate.

Mr. President, we cannot treat with this Bill in isolation. It is painful and tragic. How can we ever forget or speak lightly of the events which took place in

this Chamber in July 1990? We must ask: Were we prepared for it? Are we prepared for it now? Will we ever be prepared? That is what we expected to hear from these gentlemen. This is what the nation wants to know. How secure are we?

Side by side with this piece of legislation, there ought to have been a sense of national cohesiveness. There should have been some national pride. There should have been some sharing of information to tell the public: Look, we are safe and secure. We have almost an infantile, childlike approach to a most serious piece of legislation. It is at most sickening.

The recent sorry events—the sorry state of the police service still harbour a bitterness in the population and in the service. What about the Trinidad and Tobago Regiment? Will we read of them or, will we hear an explosion? Who knows? Maybe a Scotland Yard inspector may know or some retired army official? This Parliament does not know.

When you look at this Bill and then you look at the United Nations International Convention, you will see that in all there are some 20 Articles of that Convention, and you have to ask yourself: Did they run out of paper or ink? Could they not afford the paper or the typist? Did something go wrong? If there are 20 articles in that Convention, should there not be an explanation of why, for example, Article 3 is half-way missing; Articles 4, 5 and 6 are missing? I could go down the line.

This is window dressing. This, like almost every piece of legislation of substance brought here, is window dressing. It is meant to be put forward so that somebody could get up and make a pretty speech and say that we have passed a hostage Bill in 1993, but nowhere in this Bill and nowhere in any ministerial explanation will you get the true fact of the situation, that this country is unable to handle any hostage-taking situation.

If we were faced with the problems that they are faced with in New York City now, we would be sunk. If the slightest fundamentalist group from any nation decides to come here and wreak havoc at Piarco Airport, we are dead. Because, from their own mouths, we have a police service that is disastrous. We have an army that is totally under-utilized. We do not even know if we have a security service. In other words, this Parliament has absolutely no background knowledge to enable it to come to any intelligent discussion on this Bill. We are walking in the dark and that is why I say that this system of parliamentary democracy that we have cannot and will not work. You may laugh and jeer, but what was needed was

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

a joint parliamentary committee on security to look at this Bill in camera, where state secrets could be said and discussed with intelligence and then the Bill brought to Parliament.

What have we got here? We have a blanket of ignorance covering the whole Parliament. We know nothing about the security of our nation. We are not secure. If, a mere week ago, some LIDP or URP workers could have shut the city down, what security do we have? Whom are we fooling that we have security? If in the morning that should take place again, we have no security in the country. We do not have an effective police service. *A fortiori* we do not have an effective security service—*a fortiori*, we do not have an intelligence service; *a fortiori*, we do not have a military intelligence service.

3.00 p.m

If our closest and strongest ally has, as I have quoted from this book, as part of its policy, direct action and a lexicon of terror, assassination, abduction, maiming, sabotage, capture, termination and random killing, who do we turn to? Where do we go from here?

Mr. President, this is serious business and this Government has a duty to tell this country, frankly and honestly what our position is with respect to security. I hope I am proved wrong. I hope when I say we do not have the means to protect ourselves I can be proved wrong. I ask the Government again to look at this legislation, bring it before a Joint Select Committee, in camera, with all the relevant information and explain why we do not include certain clauses in the UN document and bring it back to this House. So that at least, the people of this country could be assured, yes, we are secured.

Unless that is done, Sir, many of us go to bed at nights not sure whether we are waking up to a Trinidad and Tobago in the morning. I defy any Member opposite to tell me that he is sure. He cannot tell if tomorrow morning when he gets up that this Parliament will be here. Unless they can do that, they cannot come with this window dressing of a legislation. They must come honest, and honesty means revelation of the facts to the Parliament. Revelation of the facts to the Parliament means use of the joint committees as proposed under the Standing Orders.

No back-door government. Such a statement emanating from ministers is so vapid, innocuous, vacuous and stupid! Back-door government! You have a Cabinet! Are you scared of being in a Cabinet? Or do you not have a Cabinet? A

committee is not the Cabinet, the committee reports to the Cabinet. What is the fear about? The fear is that they are going to reveal their bankruptcy in almost everything.

Mr. President, I urge this Government again. Not to trifle with this, they are trifling with the security of the nation.

Sen. Martin Daly: Mr. President, the timing of this Bill could not be worse for this Government. This Bill makes certain assumptions about law and order in Trinidad and Tobago and many of its assumption are painfully false. I sympathize with the Government because it is doing the right thing, when it seeks to carry out our international obligations. But like, Sen. Capildeo, I have very great difficulty in sitting here and accepting this at face value as a simple and non-contentious piece of legislation.

It would be that, Mr. President, if the assumptions that it makes about law and order in Trinidad and Tobago were correct. But as I have indicated in my respectful view, there are a number of painfully false assumptions in this Bill and that is why I would like to speak on it. I do not feel able to simply vote on this Bill one way or the other without making it clear that it is based on a number of false assumptions.

This Bill assumes that we have the ability to apprehend international terrorists. It makes that assumption because it specifies—certainly in relation to these offences—that the offender will be apprehended. I feel the same way as Sen. Capildeo does. I do not think we have the kind of unit, in whatever is the appropriate place in our security forces, to apprehend international terrorists. That is one of the things that bother me.

The Explanatory Note says it imposes upon the signatory states an obligation to prosecute or extradite the alleged offender. Like many citizens of this country, I wonder frequently about our assumption to successfully prosecute serious offenders, internationally or not. I think many persons in the country wonder about it. It assumes that we have the ability to extradite the alleged offender and our record on extradition is less than perfect. In fact, I am dismayed to see in this Bill references to the existing extradition law which—as is well known, certainly, in relation to extraditions to the United Kingdom—is deeply flawed.

I refer, Mr. President, to references to the Extradition Commonwealth and Foreign Territory Act, 1985. That is a deeply flawed piece of legislation. It is flawed in relation to the United Kingdom because of certain provisions in section

Taking of Hostages Bill
[SEN. DALY]

Tuesday, July 6, 1993

8 which require either we re-negotiate an extradition treaty with the United Kingdom—that is in the case of section 8 (3)—or it requires a repeal of section 8(6). There was a very well-known occasion in 1989 when our existing extradition laws in relation to extradition between Trinidad and Tobago and the United Kingdom were tested and found wanting. The matter occupied this kind of space in the newspapers in 1989. It referred to the lack of a proper treaty between the United Kingdom and Trinidad and Tobago. The headlines referred to flaws in the corresponding United Kingdom law et cetera.

Mr. President, when we sit here and pass a law that assumes that we would be able to apprehend, successfully prosecute or extradite international terrorists, I feel like a bit of a fool, and I think that in relation to myself, I could use that word. We do not have the machinery to apprehend, prosecute or extradite nationals of Trinidad and Tobago who are involved in activities that are not only just as damaging to the society as international terrorism, but far more frequent. Before I can support this, I would like to be assured that we have the ability to apprehend, successfully prosecute or extradite drug offenders and I do not have that confidence.

Mr. President, to be undertaking similar or analogous obligations in relation to the international community strikes me as somewhat hollow. I heard no word about—because this Act is intertwined with our existing Extradition Act of 1985—whether there is any plan on the part of the Government to examine that Act for its well-known loopholes and bring it up to date.

I agree with Sen. Capildeo that we do not have any appropriately trained force or unit to apprehend anybody. I go further, Mr. President, I think that this legislation assumes that we have a special branch, that we have some kind of intelligence to deal with these situations and related matters; and that we do not have.

Most of all, Mr. President, this Bill assumes that we have a reasonable degree of efficiency and effectiveness in our law enforcement and I have already said what my misgivings are about those. This is not the time or place to embark upon a protracted challenge to the statement by my good Friend, the Attorney General, about the Government preparedness to act legislatively and administratively in relation to crime.

I am satisfied—I speak as one individual—that the assumptions of this Bill, broadly speaking, have identified certain specific things that concern me about

this. I am satisfied that I can say on my own behalf and on behalf of most of the law-abiding citizens of this country, as Sen. Capildeo has said, that there is no satisfaction, no feeling of security in the country in relation to crime.

3.10 p.m.

So to be sitting here and passing this legislation based on what I have pointed out are the flawed assumptions, troubles me very greatly. If the Government is moving legislatively and administratively to face the challenge of crime, then I want to hear something about updating the extradition laws. Presumably, the United Kingdom is one of the parties to these arrangements. I want to hear that we have re-opened negotiations with the United Kingdom about a new extradition treaty between Trinidad and Tobago and the United Kingdom so that we would not have a repeat of the events of 1989. That is what I would like to hear, Mr. President.

I would like to hear, as Sen. Capildeo has pointed out, that we have the manpower to carry out these obligations. I would like to hear that we have the intelligence unit to support these types of operations. Those are some of my misgivings. To put it bluntly, I am dissatisfied, as I believe the vast majority of law-abiding citizens of this country are, that the existing agencies of the Government cannot apprehend, successfully prosecute or extradite anybody in this country right now, let alone international terrorists.

I hope that when persons refer to the irony of this Bill, they are not misunderstood. I hope that those comments will be taken seriously. It is very ironic. We are purporting here to undertake obligations to the international community that we cannot fulfil in relation to ourselves and I am not going to spend time trying to find the words to talk about the irony of the use of the word 'hostages' in our present situation as citizens of this country. I leave that for those who are more skilled in the cut and thrust of partisan politics, but I repeat, with all the force I can command, right now we are not able to apprehend, successfully prosecute or extradite anybody, let alone international terrorists.

I cannot, on this occasion, sit here and allow this Bill to pass without exploring with hon. Senators the flawed assumptions about law and order made in this Bill. We may well be misleading those other countries with whom we are signatories to this Bill.

Now, I know that when I make reference to some of my own experiences in relation to crime which are three, four times a week, they are the subject of a

Taking of Hostages Bill
[SEN. DALY]

Tuesday, July 6, 1993

certain amount of good humour to Members of the Senate. References are made to what might be the size of my petty cash and things like that and I take those jokes in good humour.

Mr. President, nearly everyone else who runs a small office has experienced the terror that is struck in the hearts of one's staff when these intruders come into one's office. We have not reached home yet. If you see what happens to your staff, the state of nerves in which they exist, then it is time that we say, all right, we have given Daly enough jokes about his petty cash, let us really concentrate now on the subject of anyone working in a small office, who is subject to constant intrusion and terror in this country. Let us concentrate on that and let us concentrate on the fact—and this is just my view. I do not pretend to speak on behalf of the vast majority of citizens. Let some pollster do that.

I am satisfied that the Minister of National Security and the Attorney General have the sincerest of intentions in relation to the crime situation in this country. But I want to put on the record of this Senate that among the flawed assumptions that lie behind this Bill is the fact that those two young gentlemen, who have the sincerest of intentions, are being persistently run off the ball and if it comes under their ministries to enforce this Bill, then I have every sympathy for them. They are persistently being run off the ball and I feel very strongly about it.

To put it colloquially, Mr. President, there is a huge amount of *mamaguy* in us undertaking to pass this legislation now. Of course, we must do it because it complies with our international obligations. But we are doing it on a false basis. Because, in fact, having complied on paper with our international obligations, we cannot carry them out. That is why I say that I want to pause to consider whether in fact, at this particular juncture, we should be seeking to carry out these obligations on paper when we cannot carry them out in reality, not only in relation to the crime specified here, but in relation to crime in this country.

I believe, as I have said, that sincere efforts are being made by certain persons but the task they face, is a very, very difficult one. But perhaps they can at least do the technical things that are available to them in their ministries such as updating the extradition laws. I do not know if we have an extradition treaty with Venezuela. My researchers suggest that it was something that was being talked about but that had never come to— We have one. Well, I am very pleased to hear that. I do not know what other countries we are required to have extradition treaties with, but all I am concerned with is the situation where this Bill is

surrounded by false assumptions. I do not think that anyone in the Government or anyone in the Opposition should under-estimate the feeling of helplessness that ordinary citizens, the length and breadth of this country, feel in Trinidad and Tobago today.

There is a tendency when one complains about it to say "you are over-reacting" or "we are doing everything we can" But life in this country today is very unpleasant and mean for nearly every person who owns anything. It seems that the civilized assumptions that are made about law and order in this Bill are assumptions that have to be questioned in Trinidad and Tobago today.

Mr. President, I want to make my position clear. There are two other things I would like to mention. Intimately connected with what little I understand about this branch of the law, are *habeas corpus* proceedings which are frequently brought by the alleged offenders. My information is that our *habeas corpus* legislation is 200 or 300 years and hopelessly out of date. It does not provide for appeals from perverse grants of writs of *habeas corpus* and that is another matter that we need to address.

You know, there is another irony in here. Clause 4 of this Bill requires that:

"Proceedings for an offence under section 3 shall not be instituted except by or with the consent of the Director of Public Prosecutions."

Well, that is another flawed assumption of this Bill. Do we have a Director of Public Prosecutions? Is our tradition not a series of acting appointments? Do we have a Director of Public Prosecutions who is firmly in charge of prosecutions in this country? Do we not have a situation where appointments to this office are the subject of negotiation and tug-of-war and talks in cabal?

3.20 p.m.

The Government is not to be blamed for that. Let me make that very plain. The Government is not to be blamed for that, but I am bringing it up because it is important. It is important for us to understand that not every one of the things about which I am complaining can be laid at the Government's door, meaning the executive of the country that is represented by some of the ministers here. They are matters of which we must be aware and they are matters which have to be addressed and, as I have said repeatedly, any time I get an opportunity to speak on this subject, they are matters which must be addressed in a bipartisan way. Because, really, I have not had time to do the research, but I am sure that if you

Taking of Hostages Bill
[SEN. DALY]

Tuesday, July 6, 1993

look into the tenure of the office of Director of Public Prosecutions since independence, we have had nearly as many actors as we have had substantive holders of the post of Director of Public Prosecutions.

What is wrong with this country if we cannot, when it is necessary to fill that vacancy, do so promptly and effectively? What is wrong with us? What is wrong with our institutions if such a situation cannot take place? So that the persons who have to make decisions under this Act, whether to make a prosecution here or not, as in many other pieces of legislation, is someone who is acting, who does not know whether he is going to be confirmed, he does not know whether someone else is going to be appointed.

I am not referring to any particular individual, I am referring to the fact that the basic nuts and bolts of law and order in this country are not in place, and there are things which should be condemned, and at the same time it should be made plain that in the case of this particular irony, the fault for this does not lie in the Government. But what it tells us is if we cannot even appoint a DPP, why are we giving all these promises to international partners? If we cannot appoint a DPP—it does not matter for the purposes of my argument, precisely whose fault it is—what it tells us is that the institutions that are supposed to act in defence of us all, are not functioning.

So in a simple way, that reference to the Director of Public Prosecutions is perhaps the best irony of all, because no one, whether in the United Kingdom, the United States, Malawi, the South Pacific, reading this would understand when they read this reference to the Director of Public Prosecutions, that we always have in that office, or frequently have in that office, a Hollywood situation. They will read this and think we are serious, and that we have Directors of Public Prosecutions who are firmly appointed and firmly in office, and who can carry out their obligations without fear or favour under the relevant provisions of the Constitution.

These matters need to be brought out in the open for debate and for bipartisan attention and should not be the subject of political squabble. Of course, if there is not speedy, proper and effective appointments of Directors of Public Prosecutions, there would be difficulty. There will be no leader in that area; there will be difficulty in successfully prosecuting anybody. Who is running the department? Who is in charge of the prosecutions?

I voice these misgivings on the occasion of a Bill which is suggesting that we can do all of these things in respect of international obligations when we cannot even do them at home.

Thank you very much, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, the International Convention Against the Taking of Hostages must certainly be an important agreement in response to a particular form of terrorism which has caused much pain and anguish wherever it appears. Trinidad and Tobago must always maintain its position never to sanction terrorist methods as a means of resolving political or social issues.

Nevertheless, permit me to bring to your attention some reservations I have concerning Trinidad and Tobago's participation in this convention, particularly after careful analysis of the general context and the common features of certain hostage situations which may have inspired the formation of the convention against the taking of hostages.

It is beyond question that in this kind of criminal activity, especially within the last decade, some countries are targeted more than others. A political analyst, writing in the *Times* magazine of August 19, 1991 at page 8 observed:

"In the cruel hostage game that is constantly played out in the Middle East, a large measure of cool calculation always underlies the apparent madness. Western pawns are seized and sometimes killed in direct retaliation for unpopular arrests, military strikes or political slights, against governments in the region. Those who are released have been quietly bartered either for tangible rewards, weapons, cash or for subtle political and economic gains, the enhancement of a regime's credibility, the restoration of diplomatic relations with a western power, or the exchange of prisoners."

Although hostage-taking is not restricted to Middle East relations with trans-Atlantic nations, we are all aware that basically and fundamentally, today's hostage game is a big-league game, involving certain countries in the Middle Eastern bloc; Europe or the United States of America. We remember John Mc Carty, the British journalist; Terry Waithe, the British envoy of the Archbishop of Canterbury; Edward Austin Tracey or Terry Anderson of the USA; Alfred Schmidt, the German; Marcel Fontaine, the Frenchman; Alberto Molinari, the Italian.

Taking of Hostages Bill
[SEN. TEELUCKSINGH]

Tuesday, July 6, 1993

What has bothered me in considering what I presume was the background to the formation of this convention is the location, the stage where the drama has been acted out; somewhere in Iran; somewhere in Syria, in Israel, in Palestine, in Iraq, anywhere in the Middle East. Where are the primary concerns and issues discussed for a possible trade-off? Anywhere in the United States, England, France or Germany—not Trinidad and Tobago, this is for certain.

It is beyond dispute that the hostage game includes nations with old hostilities and unsettled grievances, not my country, thank God for that. Although I submit that hostages can be taken from any country, or taken to any country, or held anywhere, I believe that with the complexities of international relationships, it will do us in Trinidad and Tobago no good to be identified with this convention which may jeopardize our status with certain nations with whom we have hardly had any problems.

Just to deviate for a moment, but still I believe relevant to my thesis. After a brief lull in Middle East and Euro-Western relations, the latest cruise missile strike on Iraq's intelligence headquarters by the US forces on June 26, this year, tells us that peace is transient and so fragile an international commodity. That latest US attack on Baghdad may provoke further acts of terrorism and other forms of retaliation and will do no good in the quest for peace.

3.30 p.m.

Mr. President, while the USA, England, France and other military giants are engaged in a messy game with those whom they consider terrorists, the foreign policy makers of Trinidad and Tobago should keep our nation out of the way. It may not be wise for our nation to be identified with any one of these groups, but, instead, I believe that we can be of service in the promotion of international harmony, though we may be of limited influence in such global agencies as the United Nations.

I believe that we must always seek to retain the much coveted status of mediator; an instrument of peace; a virtue of non-aligned nations. Trinidad and Tobago will do well to avoid certain international alliances. We seem to be faced with the temptation to join a sort of alliance with one major group of nations, whose relationship with another group of nations within the past decade and more has been serious enough to include military engagement. The Taking of Hostages Bill, much to my dismay, only takes us a further step towards membership into one of these groups.

As I close, I respectfully submit that we should consider, as a nation, our agreement and withdraw from the international convention against the taking of hostages. In this matter I think it should be best for our country to remain a non-aligned nation, and maintain that special place as a neutral zone in the Caribbean and the Americas.

I thank you, Mr. President.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Mr. President, it is always a pleasure for me to be in this Senate because it is, indeed, an educational process. Sen. Capildeo brought his whole library on terrorism here this afternoon and read extensively from two of them. I wonder, really, how much further did that get us? I think I have had the occasion to make the point before in relation to Sen. Capildeo, that a little knowledge is a dangerous thing.

Mr. President, clause 3 of the Bill before the Senate today establishes the offence of hostage-taking, and the elements of that offence are really quite clearly set out in that clause. It starts with "detaining other persons" and goes on to say that:

"(b) in order to compel a State...or any person to do or abstain from doing any act..."

and in so doing, it goes on to say—

"...threatens to kill, injure or continue to detain the hostage..."

Having been exposed to the vast learning on terrorism or, to put it, perhaps another way, having been terrorized by Sen. Capildeo, I am beginning to wonder if this Bill is passed, whether he would not be the first offender, having detained us here in order to attempt to do or not do something by way of injuring or threatening to injure the members of this Senate. Then, to make the classic suggestion, that, perhaps, we do not need this Bill, and the way we should deal with terrorism is to close down the tourism industry.

Sen. Capildeo: Mr. President, on a point of order. What I suggested is that we should have a joint committee to sit in camera, and look at this Bill with all the information provided to us and then come to Parliament. What I said was that the Minister in charge of tourism must look a little carefully at the kind of tourists who are coming into the country.

Hon. K. Sobion: Mr. President, the Senator is a resourceful person. I am also very intrigued by this question of joint committees. Because, from time to time, members of the Opposition Benches talk about "joint committees", but, nonetheless, when the opportunity is presented—some time ago, we passed a motion that a joint select committee of both Houses be appointed to look at the Companies Bill and to date, as I understand it, the Opposition has failed to nominate persons to that joint committee. But, we are now faced with another request that this Bill should be put before some kind of joint select committee, again.

Mr. President, I do not know whether we are really taking this matter seriously or not. I look, specifically, at the real criticism which emanated from Sen. Capildeo. He said that he looked at the United Nations Treaty which dealt with the taking of hostages, and he found that there were 20 articles and not all of them were reproduced in the Bill. He gave the impression that certain matters were deliberately excluded, and that Government, in proclaiming that its intention is to adhere to its obligations under that Treaty, was not really doing so. If he had taken the time to really read the Convention, he would have seen that there are several articles which require administrative as opposed to legislative action.

There are certain articles which relate specifically to the Treaty itself, for instance, Articles 17 to 20 actually deal with treaty matters. I do not know whether he intended that we should have Article 17 in this Bill, but it says:

"1. This Convention is open for signature by all States until...at United Nations Headquarters in New York."

Article 18 states:

"1. The Convention shall enter into force on the thirtieth day following the date of deposit on the Twenty-second instrument..."

What we have done is to look at the Convention, extract the matters which are required to be legislated from it and left out the administrative matters and those which pertain solely to the Treaty.

As an example of an administrative matter, Article 11 states:

"States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences set forth in article 1."

That is nothing to legislate. That is a matter of administration between states. While Sen. Capildeo was able to read extensively on terrorism, it seems as though the source document which gave rise to this Bill escaped his attention altogether.

Mr President, we, as a Government, take our international obligations seriously. This Bill springs from a United Nations Convention. When one considers the whole movement among states for mutual protection, contrary to what Sen. Teelucksingh attempted to make out, this is part of the world movement towards mutual protection sponsored by the United Nations, the prime body relating to international obligations as between states.

3.40 p.m.

Again, I read from the Convention. In its opening, there are several recitals, such as:

"Recognizing, in particular, that everyone has the right to life, liberty and security of person, as set out in the universal declaration of Human Rights and the International Covenant on Civil and Political Rights."

That is one of the recitals that the Treaty recognizes. It has nothing to do with some group of states or, where the problem emanates from. It has to do with international co-operation. The last recital;

"Being convinced that it is urgently necessary to develop international co-operation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages as manifestations of international terrorism..."

This Bill seeks to bring Trinidad and Tobago into the mainstream of efforts at international co-operation which is being generated by the United Nations. The Hon. Minister, when he moved the second reading, indicated that there were over 65 signatories to this Treaty, including a number of Caricom states.

Mr. President, I want to deal next with the so-called flawed assumptions as promoted by Sen. Daly. He raised three concerns in that regard. The first was the flawed assumption that Trinidad and Tobago does not have the capability, at this time, to apprehend international terrorists. Of course, we must know that this Bill does not deal solely with international terrorists. It deals with hostage-taking, and terrorism generally; whether they are international, or national, it does not matter. It deals with the taking of hostages for a political purpose. That is what it deals with and we are all well aware.

Taking of Hostages Bill
[HON. K. SOBION]

Tuesday, July 6, 1993

We are all aware, as the Minister of National Security indicated, of recent events not only in Central America and Costa Rica, but also within our own shores. Let me first list the three flawed assumptions as I understand them. One is the capability to apprehend terrorists, the second is the lack of capability to prosecute offenders and the third is the lack of the capability to extradite.

The argument was raised in a rather peculiar way because one, at first, was tending to get the impression that the hon. Senator was saying that for these reasons we should not pass the legislation. I think in that regard he supported Sen Capildeo, who spoke about window dressing. I will not deal with the question of apprehension. I will leave that for Sen. Huggins who is the apprehender. But, insofar as successful prosecution of offenders is concerned, I am not certain, and Sen. Daly did not elaborate, to what he was really referring. I was not certain whether he was addressing the judiciary. I am not certain whether he was addressing the department of the Director of Public Prosecutions and he gave no sort of illustration which could guide me on that score.

Sen. Daly: Mr. President, I never suggested the judiciary prosecute anyone.

Hon. K. Sobion: Mr. President, I was saying that it was not clear from the contribution of Sen. Daly exactly to what matter he was referring. I am not clear in my mind.

The point I was making is that it was a statement that was left open and, therefore, I find myself with great difficulty in attempting to address it. He did however, in terms of extradition give us a concrete example. We got an illustration of an actual matter in 1989 involving an extradition to the United Kingdom. I assure hon. Senators that the question of the lacuna in the extradition legislation has been cured in the draft amending Bill to the Dangerous Drugs legislation, which should shortly be laid in Parliament. Provision has been made to cure that defect which was adjudicated upon in 1989 and we have taken steps to cure that particular defect.

I am certain that the first of those so-called flawed or false assumptions, will be dealt with very adequately by Sen. Huggins. Insofar as the third, I hope I have been able to allay the fears which resided in the mind of Sen. Daly. Insofar as the second is concerned, I am not of the view that Trinidad and Tobago cannot properly prosecute offenders of whatever type and, because, there was no substance to the allegation given by Sen. Daly, I am not in a position to respond anymore than that.

Concerns were expressed about the provisions of clause 4, and those concerns were to the effect that whilst the clause refers to the Director of Public Prosecutions, Sen. Daly took the opportunity to restate a point which is of similar concern to us all. That is, throughout the history of the Office of the Director of Public Prosecutions, that position, by and large, has been filled by acting persons. I am very grateful to the Senator for noting that this is not a matter which he can lay on the doorstep of the Executive.

What I would say in respect of that is that we, as a Government, have expressed in this Parliament and elsewhere our concern as to the operations of the individual service commissions. Not only have we expressed our concern but we have formulated proposals in relation to those independent commissions which we think can make them more effective. As you are aware, this matter will require a special majority in the Parliament. It will also require some degree of discussion between those who are part of that process.

I am heartened to know that some Members opposite are themselves well aware and are very cognizant of the fact that the question of the independent service commissions needs to be reviewed. We would be willing to maintain the dialogue which we have started with Members of the Opposition to review this whole process in relation to independent commissions.

I want to say one word on the crime situation. There is expressed from time to time, whether via the media, or whether in this Parliament—I would not want to pitch it as high as hysterical concerns relating to the crime situation. Whilst we are fully aware of the pressures that are being put on the country as a whole, we are of the view that no amount of hysteria which is generated is going to address the problem.

We have adopted a methodical approach to dealing with the question of crime. In fact, only last Friday in another place, I brought Members up-to-date as to the progress which the Government has made over the prior three weeks in addressing that issue. It was done in a way so as to assure the population rather than to make them more unsure. I made mention then of the fact that we had prepared legislation which was designed to expedite the process of the courts from the time of arrest to the time of hearing at the Assizes.

3.50 p.m.

In addition to that legislation, I pointed out as well that we were in discussions with the office of the DPP and the Judiciary, in order to develop administrative

Taking of Hostages Bill
[HON. K. SOBION]

Tuesday, July 6, 1993

measures which were going to serve to enhance the legislation which should come before this Parliament shortly. Those administrative measures included the priority listing of certain offences which can be first tracked through a preliminary inquiry stage which is not going to require the giving of oral evidence. We are going to have a system whereby written, sworn statements can be used at the preliminary inquiry stage. Having got those matters through that preliminary stage and into the Assizes, administratively, what we propose is that certain courts would be dedicated to dealing with those priority matters.

I indicated then, as well, the difficulties of establishing a witness protection programme because of the small size of Trinidad and Tobago, and that the Minister of National Security had at least obtained in principle, agreement from one foreign state to assist in the witness protection programme.

I mentioned, however, that at any rate, if we can expedite the process between arrest and trial at the Assizes, the demands on resources to protect witnesses would be greatly reduced because of the period being reduced. I also mentioned the fact that research is continuing at the level of the Law Commission with respect to a Voluntary Bill of Indictment which will remove the need altogether for preliminary inquiries in specific instances.

I can think of one of the kind of instances. For example, a tourist here who may be the victim of a crime, there are usually problems associated with returning for preliminary inquiries and that kind of thing. The research on that aspect of the matter is continuing at the Law Commission.

I return to the fact that whilst we appreciate the concern and pressures which are being placed on the population as a result of what appears to be an increase in crime, I think it is a matter which requires a mature and responsible approach. No amount of shouting from the roof top is really going to solve that problem.

We have expressed our commitment to continue exploring avenues of dealing with that problem, and I can assure this honourable Senate that the assistance that the Government is receiving from interest groups within the community in the country is lending towards our success in that critical and vital enterprise.

I think I have exhausted what I perceive to be the points raised by Senators who have contributed to this debate. I can only join in expressing my hope that Members of this honourable Senate would see it fit to support this legislation.

Primarily we as an independent country in this world of nations have a responsibility to act responsibly. I think that once we enter into international treaty

obligations, we must seriously proceed to ensure that within the realm of our domestic law, those international treaty obligations are expedited as quickly as possible. I may say in that connection that if there can be one real and valid criticism concerning the introduction of this Bill, is the fact that Trinidad and Tobago signed this treaty in 1981 and 12 years have passed and we are now in the process of enacting it into our municipal law.

I know that the hon. Minister in moving the second reading had given some reasons to the Senate why this matter had taken that long. The fact that there were two prorogations of Parliament at a time when the Bill was, in the first instance, already passed by the Senate, and in the second instance, where it was only introduced.

The fact is I think we must signal not only to our Caribbean colleagues, but also to the international community that when the Government of Trinidad and Tobago undertakes international obligations, it would go the necessary step further and have those international obligations enacted into municipal law.

Mr. President, I thank you for the opportunity to make a contribution on this particular Bill.

Sen. Carol Merritt: Mr. President, this Bill is an important piece of legislation that should have been brought before the Senate seeing that our country had acceded to the convention 12 years ago, especially when we take into consideration the high incidences of international kidnappings, terrorists activities and hijacking in the last 20 years.

In principle, I cannot object to this Bill the intention of which is to give effect to the International Convention Against Taking of Hostages which was entered into force in 1983. The UN General Assembly described the crime as an act which endangers innocent human lives and violates human dignity.

The preamble of the convention states that the taking of hostages is an offence of grave concern to the international community, and that it is urgently necessary to develop international co-operation between states in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages, as manifestations of international terrorism. The treaty encumbers an acceding state from being able to prosecute or extradite any person committing an act of hostage-taking and to make the offence punishable by appropriate penalty. This is clearly not sufficient when dealing with an offence such as hostage-taking.

Taking of Hostages Bill
[SEN. MERRITT]

Tuesday, July 6, 1993

At this point, allow me to tell the Minister that he should have attached a copy of the convention to the Bill when he presented it to this Senate for the Members to have knowledge of the conditions set out in the various articles of the convention.

4.00 p.m.

Mr. President, I am not a legal person, but on examining this Bill, with the knowledge of what is happening on the crime front internationally, what transpired in Trinidad and Tobago in 1990 and what is presently taking place, quite clearly, this Bill is inadequate. It is not outlining what preventative measures will be implemented to avoid the taking of hostages by any person or groups of persons. This Government's approach to security is very shoddy.

Let us take for example the manner in which the team of Scotland Yard investigators was recruited by this Government to probe corruption in the Trinidad and Tobago Police Service. After 27 weeks and almost \$1 million poorer, and after all the 'ole talk' and posturing for the media by the Prime Minister and the Minister of National Security, the people of Trinidad and Tobago who have placed their faith in the Minister of National Security to handle the police force situation, are still awaiting the results of those investigations.

I must state that we cannot fault the foreign investigators. These officers were not given the authority to carry out their functions effectively. Mr. President, permit me to quote from an article in the *Sunday Guardian* of June 20, 1993, which states "TT a land of rumours—Seaby". He was one of the members of the Scotland Yard team. I want to quote two specific statements that were made:

"Q: Can you give an instance of somebody or something deliberately hindering your work here?"

SEABY: There is one, quite serious. And that is: we have not come here with any status or authority to carry out an investigation. We have not come here as police officers. We have come here as foreigners trying to do a job and we have been treated as foreigners."

Further on, I would like to quote just to endorse my point:

"SEABY: We have not been invested as police officers.

Q: You have not been invested as police officers here?"

SEABY: No. We are just private citizens. We are not even private citizens...we are not citizens of Trinidad and Tobago...we are visitors."

The person who was questioning Mr. Seaby stated:

"Q: Mr. Seaby, this is a very serious statement you have just made... you are saying you have no authority to carry out your mandate in Trinidad and Tobago?"

SEABY: Look, we have come here at the request of your Government. Your Government has requested of my Commissioner that we come here and that we carry on investigations.

Q: But you have no authority to carry out those investigations?"

SEABY: The only authority we have is the authority that has been given to us under the terms of reference which we have agreed to with the Government.

Mr. Sobion: Mr. President, could I enquire what this has to do with the taking of hostages?"

Sen. C. Merritt: Mr. President, I was just trying to get across the point of the lack of security and the manner in which this Government handles security in this country. To hear Ministers stand on that side and say that we do not have a serious situation of crime in this country, is really heart-rending in this day and age.

Mr. Sobion: I wonder whether the hon. Senator would clarify. I seem to get the impression that a statement was just made that Government Ministers have said that there is no serious problem of crime. That is far from what I have said. I said that the Government recognizes and has put in place measures to deal with what we see as being an increase in crime.

Sen. C. Merritt: What measures have the Government put in place? Are they effective? We have not seen any effective measures in this country for the last 20 years. We have children who are still missing today and we cannot account for them. So, how are we going to deal with international crime—international terrorists coming into this country? They are not serious. If they can bring some men into this country and not give them authority to carry out their function properly, they are wasting people's time. They are trying to fool the nation and if this Minister has any sort of integrity, he should resign because of what took place here with the Scotland Yard people. He has no integrity.

I have one question for the Minister of National Security and I wish he would answer me. It has to do with the security of our country. Taking of hostages has to do with the security of our country. He, as the Minister of National Security, has to answer questions. He cannot take an arrogant posture as regards our security.

Sen. Huggins: What is the question?

Sen. C. Merritt: Is it coincidental that after this report was published in the *Guardian* on June 26, 1993, that the contract of these men was abruptly ended?

Sen. Huggins: That is not relevant to this debate. I will not answer.

Sen. C. Merritt: That is his problem because the country has lost faith in him and even his officers have lost faith in him.

The country should call on him to resign. As a matter of fact, I call on him to resign. We cannot afford these kinds of mistakes, especially in these times of sensitive security matters.

This Bill does not outline the procedures to be taken for the safe release of hostages; what sort of strategies for negotiations to be taken and by whom. We do not want the type of negotiations that took place in 1990. We do not want any mistakes; we cannot afford them. We have to train the relevant personnel to deal with security measures. Security measures have to be stepped up for sensitive institutions, for example, the Hall of Justice, the various Government buildings and the Red House, in particular.

Speaking of the Red House: what really went wrong in 1990 as regards the Red House? I was abroad at the time of the attempted coup on July 27, 1990, and one of the first questions that I asked myself was: How were these men able to gain access to our Parliament Chamber without detection? I think I understand now the attitude of the administration—previous and present. We will find ourselves in a similar situation because we have no protection around this Red House.

The many entrances to the Red House are unguarded, and I am not talking about in the immediate vicinity of the Parliament Chamber. I am talking about throughout this building from the south of the building, along the eastern and western side of the building is not guarded properly. That should be looked at and addressed.

4.10 p.m

We also have to address the questions of security of all Members of Parliament other than the Prime Minister and the Minister of National Security, who, incidentally, has a car with three security officers following him presently. We need to have some sort of measures in place for Members of Parliament and

sensitive personnel in this country, especially in the times of crisis and when we have extremely dangerous criminals on the loose.

I also understand, from reports I received on the North American media during the crisis, that our country was literally without any law during the first days of the attempted coup. I remember sitting and looking at the reports on the television, which was the only means of communication with Trinidad and Tobago at that time. I was looking at the television and seeing Trinidad and Tobago with the flames and the buildings going up in smoke and I wondered whether it was Lebanon or some other Eastern country.

Mr. President, I prayed for this country and I am still praying. I prayed like 10 pundits, 10 imams and 10 priests and I am still praying for this country, because we are in a serious position.

There is a chronic lack of equipment for the personnel in the Ministry of National Security to perform effectively in this time of so-called peace. Furthermore, in the times of crisis, when I speak of equipment, I mean vehicles, marine transport and air transport, ladders, fire tenders, ambulances—and speaking of fire tenders, I do not think many Members of this Senate would be aware that there are about 10 fire tenders abandoned up at Wallerfield awaiting repairs. I am asking the Minister of National Security to clear the air on that or deal with it. If he does not wish to answer, he could deal with it and have the fire tenders repaired because we need them. There is a lack of ambulances, as well.

Can the Minister tell this Senate if we have the sort of security personnel, specially trained for dealing with terrorists aboard any hijacked plane that might happen to land at the Piarco International Airport? If not, we will need to train security personnel skilled in intelligence who will be able to think one step ahead of the criminals themselves.

As a matter of urgency, our national airline and the Airports Authority should have that type of personnel within their employ—person or persons who should know all the physical aspects of each plane that BWIA uses. I was going to say owns, but I remember that we do not own any aircraft presently, we are only leasing them.

We cannot afford to make any mistakes in dealing with terrorism. We made some in 1990 and I am urging this Government to set out guidelines for our Head of State regarding any situation similar to what took place in Trinidad and Tobago in 1990; most of all, guidelines and procedures for the safety of the hostages

Taking of Hostages Bill
[SEN. MERRITT]

Tuesday, July 6, 1993

during the time of negotiation with the terrorists. This is of paramount importance.

When we look at it internationally, these terrorists are even holding school children, young children as hostages. We only have to look at the example in France recently, where a Montessori school was held, with very young students under the age of 5, and their teachers as well. To get those students out safely, the French Government had to plan and negotiate in a very professional manner. I do not think we are equipped for that here as yet.

Mr. President, you will know that there are still bullet-holes in the ceiling of the rotunda of the Red House, which has not been repaired. These bullet-holes are so large that when it rains the corridor around the rotunda becomes flooded. This just goes to show you how vulnerable the staff and occupants of the Red House were in 1990 and still are.

Mr. President, to endorse my point on the poor security network at the Piarco International Airport, I will refer to a newspaper clipping written by Alva Viarruel on page 1 of the *Express* of September 13, 1990. It states:

"Hunt on for 7 high Jaamat men. Seven members of the Jaamat al Muslimeen slipped past the security network at Piarco International Airport two weeks ago, having returned from several weeks in North America and, in some instances, from Libya.

The seven are known to be among the top echelon of the rebel Muslimeen organization which allegedly attempted to overthrow the Government on July 27 and include two men who are on the police most wanted list."

I just read the first two paragraphs of this clipping to endorse my point about the lack of security at Piarco International Airport. I urge this Government to get serious on all aspects of security and crime, in general, in this country and stop getting on arrogant and posturing for the media.

Thank you, Mr. President.

Sen. Wade Mark: Mr. President, the Hobbesian view, you know Hobbes once described life as very short, very nasty and brutish. We are, in fact, playing out that Hobbesian view in full, in Trinidad and Tobago. How else can one explain the total lawlessness and almost anarchy that we find prevailing in this nation-state of ours?

It is recorded that for the first six months of 1993—in fact I recall the first three months, some 41 murders were committed in Trinidad and Tobago, so in the first six months or thereabouts we have had a massive escalation in the crime rate, particularly, in the category of murders. Witnesses are being eliminated at will in this country. Only today we learnt that a high court judge had issued a warrant for a witness to appear. So terrified are witnesses today that they are not appearing.

Social chaos seems to reign in this dear land of ours and sometimes we wonder in a budget of \$8 billion—\$8 billion we had for 1993—whether this Government is not deliberately and calculatively provoking a crisis in this country. Eight billion dollars, yet they cut the allocation to the police service by over \$25 million. Yet still they are “flamming” about the place—you see them, the Minister of National Security, PAZ 1. Corruption is the order of the day and yet the police service is not being given the equipment to do the work necessary to protect and serve this nation.

Mr. President, one wonders if the Government does have a hidden agenda. Are they actually running down the police service, seeking to discredit the police service for their own selfish ambitions and objectives. Is it a state of emergency that they are seeking to declare in this country? The criminals are in charge of this country today and fear stalks the land. Helplessness, hopelessness and frustration seem to be the order of the day and the national capability to arrest the crime waive is not there. Yet, we have a Bill before us that seeks to give effect to the international convention against the taking of hostages.

4.20 p.m.

Mr. President, the twenty Article Treaty was adopted by the General Assembly of the United Nations on December 17, 1979. Trinidad and Tobago acceded to this Convention on April 1, 1991 and it entered into force on June 3, 1983. The hon. Minister who piloted this Bill indicated to us that it was first introduced under the old PNM. The old PNM was defeated so the bill lapsed. Then it was introduced by their cousin, the NAR, who was in power for five years, and that bill also lapsed.

Sen. Capildeo: Stepchild. Incest was committed.

Sen. W. Mark: That bill also lapsed in 1986.

Sen. Merritt: Harry was part of it. Harry is a gymnast.

Sen. W. Mark: Yes, he is a gymnast, I told you. He is a political grasshopper.

Taking of Hostages Bill
[SEN. MERRITT]

Tuesday, July 6, 1993

Mr. President: Come back to the Bill.

Sen. W. Mark: Okay, Sir. I am just describing my colleague here.

Mr. President: That is why I try to protect you.

Sen. W. Mark: He will understand me, Sir. He understands the language.

Mr. President, what happened is that it also lapsed under the last administration and we have today, in July 1993, this Bill being introduced in this Senate. But, it is a strange development. In Trinidad and Tobago, there are two methods, two processes that are used in adopting treaties. The Cabinet of the country can ratify treaties. The PNM is famous for ratifying things behind the scenes—secret deals. Parliament is not aware. The second method is to bring it to Parliament for process.

Do you remember the infamous Venezuelan/Trinidad and Tobago treaty that this PNM, when in Opposition, severely knocked. Dr. Rowley was the major agent provocateur on this particular matter. That document was signed and adopted by the Cabinet of Trinidad and Tobago and no matter how we sought to get that document before this Parliament, it never reached here. It was a treaty.

How convenient at this time to bring to this Parliament a treaty—*[Interruption]* Well, it is a treaty. It takes the form of it. If you read it carefully, it says that. Do you want me to read it for you? You have not read the document, you said? It is a Convention, but it takes the form of that. You see, you are hopping again, all over the place.

Sen. Capildeo: Harry, I will advise you to keep quiet.

Sen. W. Mark: This Government has brought this Bill before the Parliament and we ask whether the Government was not sure as to how it should act in this particular matter?

We are for total transparency and accountability. I think it will take a UNC Government to put into effect a system of parliamentary accountability and transparency through a system of parliamentary committees. This Government is mortally afraid of parliamentary scrutiny, accountability and transparency; 'bobol' and corruption are the order of the day.

When we examine this particular Bill, sometimes we have to pause. We want to know if this is another "Sally of Sally". Because, you know, what we have been witnessing in this country over the last period is a mockery of our democracy. We

debate things here and when we believe it is an honest effort being made by this weak Government to promote the interest of the country, we get from other sources the real position, who, in fact, was responsible for certain developments in this Parliament, and the Government of Trinidad and Tobago seemed to be like a client of this particular individual. In fact, this Government has now become a client state.

When we see this Bill, we ask the question, is there something in the mortar beside the pestle? We want to know if a proposal has again been made to adopt in this Parliament a particular Convention and translate it into law at this time? We are saying that you are a puppet administration. That is what we are saying. You do not understand that language. A weak, spineless and supine administration, taking instructions and orders, not from the people of Trinidad and Tobago, but from an ambassador. That is what you are doing.

Mr. President, I want to make it very clear that hostage-taking is an extremely grave crime against humanity and we have a clear position on that. We do not support international terrorism, whichever quarters it may come from, because we know there are international terrorists. We make no bones that international terrorism has to be condemned whichever state practises or engages in it. We do not support hostage-taking and we note in the actual convention, there is an exception with regard to this particular convention. Page 1 states.

"Under specified circumstances, the Convention does not apply to:

An act of hostage taking committed in the course of armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their rights of self-determination."

This Bill clearly does not take into account, whatsoever, that kind of development.

Right now, we have a mentally colonized administration. This administration is totally colonial-oriented and the social and economic situation in our country continues to deteriorate rapidly and, in such an instance, we do not know what number will play in the final analysis. My colleague said, one of these mornings we may get up and we may not have a republic, we may have another state because of the lackadaisical attitude and weakness. Also, the lack of security.

This administration lacks a sense of history, although the Prime Minister seeks to say otherwise; it lacks a sense of vision and/or purpose. The people of this country, as you know, are in a titanic battle to retain their independence and

Taking of Hostages Bill
[SEN. W. MARK]

Tuesday, July 6, 1993

sovereignty. We are struggling to retain our right to self-determination because this Government has taken a decision with foreign agencies and forces to recolonize Trinidad and Tobago.

We might have to engage in conflict as well. It seems that almost every institution in this country is in a state of collapse. Justice Deyalsingh recently made the statement that all our social institutions in this country are collapsing—the police service, the education system, the health institutions. Everything is in a state of collapse and the moral fabric of the nation is now at risk.

Mr. President: Your contribution will have to collapse at this stage because we will take a break. The sitting is suspended for half an hour. The Senate will resume at 5.00 p.m.

4.31 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. W. Mark: Mr. President, before the collapse of my contribution, I was on the point of the kind of difficulties that we are now experiencing in Trinidad and Tobago where this Government has placed a number of institutions under virtual arrest. But whilst the issue of security is being addressed in this particular Bill, we feel that if the Government is able to make the kind of effort and establish the kinds of efficiencies in a number of enterprises and utilities, millions of dollars and moneys that are needed today to support the services of the police and security forces in this country could be saved.

The issue of security is now being given a new life. The world community has recognized that we have been talking too much about the security of nations. Whilst that is important, the question of the security of the person is very critical in this particular context. In this particular matter, we have to focus attention on the need for the people to have greater security. If we are able to have greater security in terms of better jobs, more jobs, water, nutrition, health, education, that, in itself, would reduce the level of difficulties that we are now experiencing, not only as it relates to the question of hostages, but to our own security.

We have a problem and we would need some clarification from the hon. Minister on this question, the doctrine of extra-territoriality. We live in a world today of one super power, and we know that recently certain developments took place, and we believe that the Government, through the Minister of National Security, must give us the assurance here this afternoon, that some of the developments we have been witnessing in the world would not visit these shores.

We know of a recent United States Supreme Court ruling, dated June 15, 1992, in which a citizen, a resident of Mexico was forcibly kidnapped from his home and flown by private plane to Texas, where he was arrested for his participation in the kidnapping and murder of a Drug Enforcement Administration agent and the agent's pilot. This particular ruling by the United States Supreme Court actually legalizes international kidnapping.

We want to know what is the link between this Bill and this particular ruling, and whether, for instance, in Trinidad and Tobago, if something were to happen in our country, we can have a situation in which a more powerful state can utilize its military might to come and abduct citizens from this country. Because, as I said, it is a ruling of the United States Supreme Court—and I have it here—dated June 15. Four persons voted in favour of that ruling and there were three judges who advanced a different viewpoint.

It is matters like these that we need to have some clarification on as we debate this Taking of Hostages Bill. We know of the experience of Manuel Noreiga who was also kidnapped in Panama. The latest experience that we had in terms of this matter—because we are dealing with extradition as well. You may have an extradition treaty and there are countries that would violate that extradition treaty. The *Daily Gleaner* of Saturday, August 8, 1992 states two Jamaicans were kidnapped in Jamaica, again by DEA agents. Jamaica had an extradition treaty with the United States of America.

So here it is we are debating the Taking of Hostages Bill and we are invoking in this Bill an amendment to our Extradition Act of 1985. We want to know whether a similar incident cannot take place in Trinidad and Tobago. Because we cannot escape from the reality of these possibilities. I want to read this particular article so that we can understand what is taking place in the world. This is the *Daily Gleaner*, dated Saturday, August 8, 1992:

"Jamaica's extradition treaty with the United States under which this country's surrender to the American authorities, of Jamaicans wanted there on criminal charges, is to be reviewed. "

This extradition treaty between Jamaica and the United States is being reviewed following a lawsuit brought by some people in Jamaica against the DEA officials.

"Mr. David Coore disclosed the revision Thursday in an interview with the BBC broadcast here.

Taking of Hostages Bill
[SEN. W. MARK]

Tuesday, July 6, 1993

Asked whether the extradition treaty between Jamaica and the United States was being violated, Coore said that he has asked the Attorney General to study the ways in which the treaty may be re-negotiated."

He is quoted as saying in this article:

"We have an extradition treaty with the United States and, as a matter of fact, with the consent of the Cabinet, I have asked the Attorney General to give us an opinion as to whether we should try to re-negotiate some aspect of this treaty.

Coore said that 'we obviously don't want to be in a situation where people are abducted from Jamaica, however reprehensible the people may be. That is not the way to go about it.'"

5.10 p.m.

"Coore said, that as soon as parliament reconvenes after the summer recess the government would make a report to Parliament of two incidents...

The incidents involve two American private investigators who came here two weeks ago to take back with them resident aliens wanted in the United States.

In one case, Frank Santana, who works for a US bonding agency got the assistance of a Jamaican policeman to take a Guyanese national, who is wanted in the United States on cocaine charges, to the Sangster International Airport, Montego Bay.

Santana, who was prevented by an immigration officer from taking the man out with him, has since been barred from returning to Jamaica.

Haniff Ishmael, the Guyanese national, is in custody pending the hearing of proceedings to extradite him to Orlando, Fla., where he is wanted on cocaine charges.

In the second case, an American private investigator, Randy Fenster, was inquiring about taking back with him Fitzroy Riley, a Jamaican resident of the United States, who is wanted in Larimer, Colorado, on fraud charges.

This week, Norris Barnes, a Jamaican, filed suit in the Supreme Court here against two DEA agents, Frank Saren and Jose Torres, and a former Jamaican policeman..."

We are dealing with a very serious matter and if we are debating a Bill that deals with hostage-taking and in the process we have to invoke the Extradition Act of this country, we have to be very clear in our minds of the possibilities that exist in the world today. You may have a law and there are countries that are prepared to break those laws in an effort to secure what they consider to be their rights in your land. This experience that we had in Jamaica is very important and we need to pay attention to this matter.

We had a recent experience with Mr. Boos, who is now experiencing blues, and we do not know if there is some arrangement to have him kidnapped, because the FBI was here; this was strange, but it was reported that they were in the country.

The First Schedule of the Extradition Commonwealth and Foreign Territories Act has a series of extraditable offences outlined. We do not see any offences dealing with hostage-taking. What we want to find out from the hon. Minister of National Security is whether it would not have made more sense to deal with these two matters at the same time. If he is bringing this Bill to be approved by the Senate, why not issue your order so that you can make hostage-taking an offence; so that the Extradition Act could be upgraded and updated simultaneously? *[Interruption]* What am I talking about? You were not responsible for piloting this Bill in the first instance. You came in accidentally, so you do not know. You are an accidental person; all over the place, accidental.

I am saying that this Act, in my possession, does not deal with what the hon. Minister is referring to. I advise him that steps should be rapidly taken to have the First Schedule of this Act amended so that hostage-taking can be categorized as an offence. It is not here. I am not seeing it here. This is why I made this point. It might be very trite...*[Interruption]* Well, I am not seeing it. You must point it out to me. *[Interruption]* Yes, we want to know when he would be issuing this order. We have not seen; because it requires an affirmative resolution of this Parliament. It has not reached here. We want to know when he would be bringing it to this Parliament. This is the point we are making. *[Interruption]* Well, you are a 'non-person'. You say I am a non-point? I feel we would have to extradite you. I do not know where we would send you. I do not know which country would want you, but we would have to extradite you. Certainly! The Prime Minister and the PNM is getting trouble to extradite you, but we would do that.

Taking of Hostages Bill
[SEN. W. MARK]

Tuesday, July 6, 1993

We feel that this particular matter which we have raised requires serious attention. We have looked at this convention because it is what governs this particular piece of legislation before us, and we find, for instance, that some of the provisions of the convention fall short in the Bill itself.

We see a variance. The convention speaks about seizure or detention, this Bill speaks about detention only. This Government is noted for tricks and we do not want to be tricked in this Parliament or be part of trickery, so we have proposed an amendment in order to better reflect the intent of Article I of this convention. Why did they leave out the word "seizure"? We are saying it ought to be reflected in this particular Bill that we have before us.

We have, therefore, proposed an amendment which we are going to circulate and we hope that the Government, in its wisdom, would be able to recognize the importance of having that matter addressed properly.

As far as we on this side are concerned, one of the ways of addressing the issue of security in our country, whether it is hostage-taking or otherwise, we reiterate and put it in the heads of the PNM, whether they like it or not, that the only way we can address this issue very seriously is to go the route of a bi-partisan commission. The hon. Sen. Daly talked about a bi-partisan commission...

Sen. Daly: Approach!

Sen. W. Mark: ...a bi-partisan approach. We talk about joint parliamentary committees. I believe we are saying the same thing, but we may be using different language.

Sen. Daly: Mr. President, please. No. I am not saying that at all. If the learned Leader of the Opposition would like to take me up on my bi-partisan approach, I suggest that he and the Leader of Government Business go as a joint delegation to whoever is supposed to appoint the DPP and ask them to appoint one; but that is an approach.

Sen. W. Mark: Mr. President, we are advocating an... *[Interruption]* No, well you see, maybe he said it differently at the time when I heard him, so it is probably a misinterpretation on my part, but I thought I heard him in that context. But, I can be wrong on that particular count.

We are advancing that there is need, in terms of security of this nation, for a more positive approach to this issue. England is doing it and we are supposed to be the child of England. We have all the trappings and traditions of England, but

we forget the conventions and what they are doing across there. They have parliamentary committees, we have 'jokey' committees that the Government wants to establish here. Joint Select Committees that the hon. Attorney General—where is he, has he left already?

We on this side advance that in dealing with the question of crime and security in this country, as well as dealing with accountability and transparency, we need a system of parliamentary committees, and we maintain that line. We believe that this is a very opportune moment, with this particular matter at hand, for us to look at this question more seriously, where we can have a joint parliamentary committee to deal with security in Trinidad and Tobago.

5.20 p.m.

Mr. President, this particular matter that we have here, we have in principle some difficulties with some of the wording. We have suggested one major amendment. We see in the convention no mention made of nationality but, it is imported into the Bill. I do not know why. The Bill of 1991 is the same Bill that we have here in 1993 and I do not understand why the Government did not take some time off to clean up this particular Bill that is before us.

Our amendment says: We are going to delete clause 3 and put in its place, the following—we want this clause to properly reflect the intent of the particular convention that is before us:

Any person who ceases or detain another person and threatens to kill, injure or continue to detain that other person in order to compel a state, an international governmental organization or any person or group of persons to do or to abstain from doing any act as an explicit or implicit condition for the release of the hostage commits an offence.

We feel when we look at the amendment as proposed by the hon. Attorney General, we have a difficulty with some of the words. We feel that this might innocently be used in a way that we cannot perceive or foresee at this time. A despotic regime could use this clause to harass people. We do not know. Therefore, what we are seeking to do in our amendment is to adequately reflect the intent of Article 1 of this convention. We feel that the time has come when we need to focus more on people. If we focus more on people we would have to pay less attention to the whole issue of security.

Taking of Hostages Bill
[SEN. W. MARK]

Tuesday, July 6, 1993

Mr. President, I made reference to a report called the *Human Development Report of 1993*. It was published by the United Nations Development Programme (UNDP). In this report emphasis is being placed on what is called the security of the person. They are saying, for instance, we need to place more emphasis on the security of the person, security of people. Maybe, we need a convention that would compel states to pay more attention and bring to Parliaments throughout the world a convention that would focus more on the security of people and their interest. If we look at the balance-sheet of human development in developing countries today we would understand hostage-taking, we understand why people have to engage in activities that we would want to describe as extremist activity. We have Palestinians in the Middle East today who are homeless. They have no homes of their own because Israel occupied and took over the people's land. Those people, maybe, are described as terrorists by certain forces. The point I am making is that when you deprive people of their land, their rights, justice, dignity and worth as human beings, you will have these developments taking place in the world.

Mr. President, a balance-sheet of human development in the developing countries reveal that 14 million children die every year before they reach the age of five. Nearly 1.5 billion people lack access to health services; 1.3 billion people still lack access to safe water; 2.3 billion lack access to sanitation. In sub-saharan Africa, one adult in 40 is HIV infected.

The point I am making, essentially, is that when you do not focus on the security of people and you focus on the question about the security of nations—I am not saying that you must not focus on the security of nations but there is need for emphasis to be placed on the security of persons. What we are dealing with here today is not really going to solve the problem. We have to solve the problem by first redistributing the wealth. The world today is moving in a direction in which the wealth is being redistributed not in favour of the poor, weak, lame and the helpless, but it is being redistributed in favour of a privileged few. That is the reality that we face here. So we can expect more hostage-taking.

There is a comparative analysis I am making so that we can understand when we talk about hostage-taking, we have to link that to the crisis that humanity faces today. I am simply saying when we look at the balance sheet of development, whether it be in life expectancy or in health, food and nutrition, or whether it is in income, whether we look at women, the crisis is the same. Also, 1.2 billion people live in absolute poverty in the world today. This is part of the balance-sheet of

human development issued by the *Human Development Report of 1993* which I want to humbly submit to the Government.

The Government ought to debate this report in this Parliament. Do you know there are countries in Europe today that debate this report. It is very important. It deals with human development and how you deal with the fundamental issues of people. I recommend to the hon. Leader of Government Business and the hon. Minister of Planning and Development that they should advise their Prime Minister who seems to be taking advice. The Prime Minister likes to take advice, I understand, not from us here but elsewhere. He likes that kind of advice. I want the hon. Ministers to put to the Prime Minister the need to accept this report and place it before Parliament for debate. It deals with some very serious issues.

Mr. President: —Motion to debate the report.

Sen. W. Mark: Mr. President, I always give my colleagues an opportunity to act before I respond. I am offering the hon. Minister of Planning and Development to take this matter to the Government and I would expect a positive response. If we do not get one, I would certainly adopt my President's advice in terms of a motion to get the Government to adopt this matter.

Whilst we have some difficulties with some of the wording of this particular Bill, we hope that the Government would see the need to make some changes to the wording. We believe if they are able to do so, we would be able to be at least a little more comfortable with the present provisions of this particular Bill.

5.30 p.m.

We would like the Government to bring an order under the present Extradition Act to make hostage-taking an offence, so that the Act could be brought up to date to reflect the present reality as outlined in this matter.

I really have to ask this question which a number of my colleagues raised. How equipped is the Government of this country? The Minister of National Security has to tell us this. We do not want him to reveal all his secrets, but we query the capacity of this Government and state to deal effectively with this particular matter which is before us.

The Government cannot even provide security for the people of this country. People, as you know, are under severe pressure because of the lack of security in this country. All you get from the hon. Prime Minister and the hon. Minister of National Security is that they have no money. Corruption is rampant in all the

Taking of Hostages Bill
[SEN. W. MARK]

Tuesday, July 6, 1993

public utilities today. In fact, recently, we raised the scam that is involved in the sale of T&TEC houses to big men in T&TEC.

Sen. Huggins: Mr. President, on a point of order. The hon. Member is becoming quite irrelevant.

Mr. President: Point of order sustained.

Sen. W. Mark: As far as we are concerned on this side, we advise the hon. Minister of National Security that there are places that the Government can find money in an effort to solve the problem of security in Trinidad and Tobago.

We look forward to the total support, on the part of the Government, to our amendment. We hope that if they can accept our amendment, we would be able to reconsider our position in terms of this particular matter before us.

Thank you.

Sen. Roi Kwabene: Mr. President, this is indeed an historical occasion. A Muslim is contributing towards this debate and unfortunately in this country, as well as the developing world, and in the international scenario, Muslims are being stereotyped as terrorists.

This Act to give effect to the International Convention Against the Taking of Hostages is a very important Convention that Trinidad and Tobago needs to support. However, 10 years late, 14 years late, it does not make a difference. The point of the matter is that hostage-taking is an act that endangers innocent human lives and violates human dignity.

We have to look at this situation, not only locally, but also internationally, when one takes into consideration that when we switch on our television sets, when we pay attention to the media, the reports being given concern the rise of Islamic fundamentalism in different parts of the world, poverty, crime drugs et cetera and even the collapse of the so called communist states. We are converging at present, in a period of time that has been prophesied by all the spiritual books, whether it be the *Gita*, the *Bible*, the *Holy Koran* or even the *Writings of the Buddha*. The maintenance of international peace, security and the promotion of friendly relations as well as cooperation among states is a laudable ideal, but not at the expense of our sovereignty as a people.

As a young man in this country, I remember an incident that took place, where two French nationals came into this country and kidnapped a child. One of them

died. One was successful in taking that child out of this country. I am of the opinion that if the security in this country was adequate enough, we would have been able to protect ourselves, our nationals and people who are based on our soils.

However, as you know, Trinidad and Tobago is just a dot in the ocean. There are large countries that manipulate much power. For instance, these same countries are not practising what they preach. Case as an example, the Iran contra arms deal; the hypocrisy of it, that we must not, as projected via this Bill, cooperate with anybody who is taking a hostage. The very people who are guilty of collaborating are suggesting to us otherwise.

The United Nations currently is in danger of being manipulated by powerful countries that do not even give their financial subventions on time. They themselves are guilty of not even supporting UNESCO which is responsible, as you know, for education, science and culture because of an individual who headed it at the time. That in fact reflects racism to a certain extent, or if not racism, discrimination, because of the fact that that individual came from an impoverished African country.

The problem as it exists today in the world with respect to hostage-taking is that we have cause and effect, action and reaction. There are civilizations that have existed on this earth for many centuries and these people are reacting in the way they are because they find themselves up against a wall, but this does not guarantee my support for any hostage-taking or terrorism against human dignity.

We, in Trinidad and Tobago have to make a decision and the time is now. Whether this Bill passes or not, the fact remains we are still straddled with a situation in Trinidad and Tobago where a large number of citizens, both old and young, are saying that they do not feel safe in their homes. In truth and in fact, they themselves are hostages.

This is not an attack on the Ministry of National Security, or the personnel who work at that Ministry. We have a problem and we have to work on it together. The alternative which existed then, and still exists, is the United National Congress. That is a fact, but I am not here to promote politics as such. I am playing my role in the Senate.

I am suggesting to the hon. Senators on the other side that we work together to eradicate hunger, unemployment and strife amongst our people, but our people need to have confidence in us. If we do not present a concerted effort to deal with

Taking of Hostages Bill
[SEN. KWABENE]

Tuesday, July 6, 1993

the problems of Trinidad and Tobago, we are in a bad way. No hostage-taking bill will stop anybody from running into this Senate, because downstairs has been broken into on four occasions. Fans and chairs were stolen.

If the Registrar General's Department has been broken into and that has passed without an eyebrow being lifted, my brothers and sisters, as I indicated earlier to you, we are in a very bad way. We have to work together to get out of this crisis because the people on the streets are saying to me today, 'you are with them.' I can do what I want, I am there with you as your colleague. If they come tonight to shoot me, I do not have any police guarding my door.

In addition to this, Mr. President, with due respect, I hold a very important office in our country, as a Member of Parliament, a Senator in the Upper House. The fact is we are not afforded the luxuries that the others are afforded, but we do not want the luxuries. As I continue the responsibility that goes with the office, the people who are not totally aware of my responsibility as a Parliamentarian would suggest otherwise.

I do not want to stray from the subject matter of hostage-taking. It is not right. However, as we have indicated earlier, we have presented to you an amendment. I suggest to all and sundry that we support this amendment. It is the right way to go.

Thank you.

5.40 p.m.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, let me deal first with the comments of Sen. Wade Mark because I do not think that the last Senator raised anything that required dealing with.

The Senator referred to the Extradition Act and the making of an Order under that piece of legislation. I would have thought that by virtue of clause 6 of the Bill before us, that hostage-taking was in fact being made an extraditable offence and there is absolutely no need to come under the Extradition Act by way of an Order seeking an affirmative resolution. The matter is adequately dealt with by clause 6(i) of the Bill before us.

Much of the comments made by Sen. Wade Mark, and most of the other speakers, had to do with the crime situation in the country. All I have to say on this is that this Government has time and time again given its commitment to deal with the crime situation. I would, however, like to request Members on the Opposition Benches that they, too, get serious about dealing with crime. Rather

than going about the country creating more confusion with their stupid statements from all types of platforms—they are doing this country no good—I strongly suggest that they desist from this practice. I have no problem in putting our heads together to deal with it, but they come in here and have the benefit of television cameras and they talk all sorts of things which sound good and then they go outside and talk utter rubbish and create more confusion in this country.

The question was also raised, I think by Sen. Daly and some of the Opposition Senators, on the present capability to deal with a hostage situation in Trinidad and Tobago. I want to make it quite clear that I am convinced that we have the capability to deal with a hostage-taking situation in Trinidad. I am convinced that the police and the defence force are able to deal with it. In the police service there is a particular group that has been trained to deal with such situations. I have received reports from their trainers abroad and the reports were very glowing. As a matter of fact, there are now 23 officers in the United States undergoing training in hostage negotiations. Insofar as some of them are concerned, this is a refresher course. So, we are in fact taking steps to give our security forces the capability of dealing with such situations.

Insofar as the defence force is concerned, there is a special services unit that is also equipped with very competent personnel. I guess the only way that my confidence can be tested is if the situation is put to a test, but I feel certain that none of you would want that. I am prepared to put my head on a block to say that the units within the police service and the defence force are quite capable of dealing with any such situation, and I do not expect that there would be any such recurrence during my time at least.

Sen. Daly: Mr. President, can I ask the Minister, since he was good enough to mention one of my concerns, whether he can make similar confident statements about our intelligence services?

Sen. The Hon. R. Huggins: Within the same units about which I just spoke, there are intelligence sections. There is also, of course, the Special Branch, which you indicated you did not know existed. I really do not want to believe that because I know that everybody in this country, the minute they get a crackle on their telephone, says the security forces is bugging their telephone, and I have heard the name Special Branch mentioned. There are some very competent officers in the Special Branch. Yes, there are areas in which training can be

Taking of Hostages Bill
[HON. R. HUGGINS]

Tuesday, July 6, 1993

upgraded and we are looking at that, but we in fact have a security service in the form of the Special Branch and we are working on upgrading certain areas in which they may be lacking. Again, I say, there are very competent chaps in that organization also. You can rest assured. If you need to enquire into any matter that may be of some interest to you just let me know.

I believe Sen. Merritt spoke about some people—some members of the Jamaat—coming into the country and leaving and going. As far as I know, they are Trinidadians and Trinidadians can go and come whenever they like without hindrance, unless, of course, there is some charge pending against them. There is nothing to prevent any Trinidadian from leaving this country and going to Russia, Libya, wherever he wants and returning to Trinidad.

Sen. Merritt: The point I was making was that two of the members who came through the airport were wanted for questioning by the police and they were able to pass through the security mechanism without being observed or detained.

Sen. The Hon. R. Huggins: Things like these are said as though they only happen in Trinidad. Any system you put in place will not be foolproof. There are people who will get through a system and Trinidadians are noted for that sort of thing. When you get up in here and make these statements, you feel that these things only happen in Trinidad. Criminals go and come from the United States willingly and the United States probably has one of the best immigration services. There was this terrorist named Carlos and the best units in the world have been put together to hold him and nobody has ever been able to hold him. These things will happen. It does not mean that you cry down a system because there may be a breach in it.

I think that I basically have dealt with the concerns raised. There was so much irrelevancy in many of the contributions, moreso from the Opposition Benches, as there always is.

5.50 p.m

So much irrelevancy, Mr. President, emanated from those Benches that I think the only matter—and they were not even relevant—that Members wanted some clarification on is our capability to deal with a situation. I have dealt with that and my colleague, the hon. Attorney General, competently and effectively dealt with the others and all that is really left for me to do is to move that this Bill be read a second time.

Sen. Merritt: Is the hon. Minister telling me that the negotiations for the safe release of the hostages is irrelevant in this debate?

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate 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.

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

Delete subclause (1) and substitute the following:

"(1) Any person, whatever his nationality, who, in Trinidad and Tobago or elsewhere, seizes or detains any other person, in this subsection referred to as the 'hostage,' and in order to compel a State, international inter-governmental organization or any person to do or abstain from doing any act, threatens to kill, to injure or to continue to detain the hostage, commits an offence."

Based on representation made by the Leader of the Opposition Benches, there is a further amendment I would like to make to our circulated amendment. That is in line 3 of the amendment, include after 'elsewhere' the words 'seizes or'.

Mr. Chairman: There is an amendment to clause 3(1), as circulated, proposed by the Minister of National Security. There is, however, a further amendment to his amendment, in that in line 3 after the word 'elsewhere', you insert the words 'seizes or'. It will read, "Any person, whatever his nationality, who, in Trinidad and Tobago or elsewhere, seizes or detains any other person..."

Sen. Capildeo: Mr. Chairman, Article I of the Convention says 'any person'. Is there any reason why we have included the words 'whatever his nationality'?

Sen. Huggins: That is just to make it absolutely clear that there are no hindrances to this piece of legislation.

Sen. Capildeo: But, are not the words 'any person' wider than 'any person whatever his nationality'?

Sen. Huggins: Yes, but the article is really—

Sen. Capildeo: It is only an enquiry? But to my mind, the words 'any person' is a far wider connotation than 'any person whatever his nationality'.

Sen. Huggins: No, I think this is just to make it quite clear that nationality will not be an issue in this matter.

Sen. Daly: I was wondering whether the phrase "as an explicit or implicit condition for the release of the hostages", had been abandoned by the Opposition.

Sen. W. Mark: Actually, I think the Chairman is putting the amendment. We are not in support of that.

Question, on amendment, [Sen. Huggins] put and agreed to.

Mr. Chairman: I shall now put the other amendment proposed by Sen. Wade Mark.

Sen. W. Mark: Mr. Chairman, I beg to amend clause 3 by deleting sub-clause (1) and substituting the following:

"(1) Any person who seizes and/or detains another person and threatens to kill, to injure or to continue to detain that other person in order to compel a state, an international inter-governmental organisation, or any person or group of persons to do or to abstain from doing any act, as an explicit or implicit condition for the release of the hostage commits an offence".

Mr. Chairman, before you put it, I wanted to, at least justify why this amendment has been proposed, because we have looked at the actual convention and it is very explicit in terms of what is being captured in clause 3. What has happened, is that in clause 3 the drafters have attempted to capture in some form the wording of this particular article. But in doing so, they have left out some elements which we consider to be important in the context of this particular clause and hence the reason we have sought to redraft clause 3(1) in an effort to capture the essence of Article I. We believe that the Government's amendment does not capture that particular clause or article in the way that it ought to be captured.

As you can see, Mr. Chairman, in the Government's amendment, it does not take into account the particular phrase "as an explicit or implicit condition for the

release". This is clearly stated in Article 1 and we feel that this qualifier ought to be here, as well, in the particular clause that the Bill is seeking to propose at this time.

The Government ought not to find any difficulty because we are not importing anything new, we are not creating anything new, this is part of the convention that we are adopting. We are saying just for clarity and to make it extremely explicit we would like to have this wording captured in clause 3.

Sen. Huggins: Mr. Chairman, our position is that the words "explicit or implicit" are simply surplusage. The fact is that anybody who seizes and detains any person and threatens to kill, commits an offence. We are not tying it to any condition for any release. We are recognizing that the act of seizing and detaining somebody in order to compel a state or to abstain from doing something, commits an offence. The words "explicit or implicit" are simply surplusage.

6.00 p.m.

Sen. W. Mark: Yes. You are saying surpluses. But what is the purpose of "whatever his nationality". We are asking what is the reason for that? You are saying that there is justifiable reason for the inclusion. Now, because of our proposal, you say that is surpluses. I do not understand your reasoning and logic. This is explicitly stated in the article, Mr. Chairman, so how is it surpluses. If it were surpluses, then it ought not—

Sen. Huggins: Not surpluses, surplusage.

Sen. W. Mark: Surplusage or whatever you call it. I am not concerned about that. I am dealing with the essence of your contribution and I am saying this thing is explicitly stated in Article 1.

Sen. Huggins: Mr. Chairman, I think there is a difference in that we felt it was necessary to put in "whatever his nationality" just to make it quite clear, because you see, by simply saying "any person", there may be some ambiguity in whether the legislation applies to any person wherever he may be from. I think, in the first instance, it is quite necessary to put in "whatever his nationality" because of the extra-territorial ground this legislation is going to cover. I do not think in the second instance it is necessary.

Sen. Capildeo: Mr. Chairman, adopting the Minister's argument, if I read the whole of Article 1, it will make all the sense. Article 1 says:

Taking of Hostages Bill
[SEN. CAPILDEO]

Tuesday, July 6, 1993

"Any person who seizes..."

"Any person"—it does not have "whatever his nationality". It merely says:

"Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the 'hostage') in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or judicial person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages (hostage-taking) within the meaning of this Convention."

So, in fact, the Article here is far clearer than the amendment.

"...to do or abstain from doing any act as an explicit or implicit condition..."

It is the same argument that the Minister is using when he uses the inclusion of "whatever his nationality". So the words there have meaning, they are not surplusage.

Sen. Huggins: Mr. Chairman, all I am saying is that we want to make it quite clear that the act of seizing and detaining persons is what we are addressing. What we are saying is that the act of seizing and detaining should not be tied to something being done as a condition of their release. It may be that some people may be seized and they may be seized for fun because somebody is crazy or something like that. We do not want to tie it as an explicit or implicit condition to someone's release. The act of seizing and detaining with a view to compelling is sufficient.

Sen. Capildeo: What the hon. Minister is just saying is that he is not in agreement with the convention, so the whole debate is a farce.

Sen. Huggins: The convention is only a means of guidance. There is absolutely nothing wrong in going further. It is just there for guidance and I do not see why there should be objection if you can take a step which is going to make your legislation stronger.

Sen. W. Mark: Mr. Chairman, we have a difficulty with that kind of argument insofar as this is concerned.

Mr. Chairman: I now put the question on the amendment to clause 3(1) proposed by Sen. Wade Mark.

Sen. Spence: Mr. Chairman, I would like to make a little intervention. I could understand then what the hon. Minister is saying about not wanting to reword the thing in the way it is being proposed, because he wants to capture the sense of a person having committed an offence if he seizes...Suppose, using his draft, one added after act in the fourth line to the bottom:

"...as an explicit or implicit condition for the release of the hostage..."

It does not alter the sense of what he is trying to achieve but it does capture the concept that the conditions may be implied. I think perhaps there is something in this, because you could get a situation in which the position of the hostage-taker is not spelt out in detail and then it is argued that really, you know, you are only implying that that is what we intended to do but we were not explicit. Rather like a situation where you have an indirect question, rather than a direct question.

Sen. Daly: We have had the argument recently that options are available in a hostage-taking situation, so I do not know whether that has been considered by the draftsman in deciding to leave this out.

Hon. Senator: You mean implicit and explicit.

Sen. Daly: And that is why it should be included. The option argument has been pressed very strongly in recent times. I do not think it is necessary to spell out any more clearly what I mean. In a hostage-taking situation, the person who is the victim or to whom the threat is directed, may have options. I do not know whether that has been considered by the draftsman.

While I have the attention of the Minister, may I also inquire—because I have not checked it—whether "person" will include a "company" either by virtue of the provisions of the Interpretation Act or any other?

Sen. Spence: Mr. Chairman, what I was trying to do is not alter what the Minister has achieved by the way he has worded it, but to take care of the situation where the hostage-taker may be not explicit in what he does but does something by implication. It would not alter what he is suggesting with the word captured.

Sen. Huggins: Mr. Chairman, I really do not see any difference in what Sen. Spence is suggesting and what Sen. Mark is suggesting.

Sen. Spence: It is quite different. He wants to keep the concept that once you detain or seize, you have committed an offence. If you alter the whole wording,

Taking of Hostages Bill
[SEN. SPENCE]

Tuesday, July 6, 1993

you lose that. But what I am saying is, retain your wording but where you come down to the point about threatening to kill or injure, that is where you bring in the implicit or explicit, not in the first part. You are leaving your first part as you have it.

Sen. Huggins: You are putting the same limitation on us again. So that is the explicit or implicit condition of release and that is what we were trying to get away from, so it matters not whether you put it after or—

Mr. Chairman: I think everybody who wanted to comment on Sen. W. Mark's amendment has commented, so I will put the amendment moved by Sen. W. Mark to the vote.

Question, on amendment, [Sen. W. Mark] put and negatived.

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.

Sen. Huggins: Mr. Chairman, I wish to propose the following amendment:

In clause 7 8A(1)(b), delete the word "accused" and substitute the word "acquitted".

Question put and agreed to.

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

Question put and agreed to, That the bill, as amended, be reported to the Senate.

Senate resumed.

6.10 p.m.

Bill reported with amendment.

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

The Senate voted: Ayes: 19

AYES

Saith, Hon. Dr. L.

Huggins, Hon. R.

Taking of Hostages Bill

Tuesday, July 6, 1993

Barnes, Hon. B.

Kuei Tung, Hon. B.

Draper, Hon. G.

Callender, S.

Ojah-Maharaj, D.

Elder, Miss J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, R.

Hassim, A.

Mansoor, M.

Spence, J.

Rooks, J.

Daly, M.

Dean, E.

Mahadeo, C.

St. Cyr, Dr. E.

The following Senators abstained: W. Mark, S. Capildeo, S. Baksh, C. Merritt, R. Kwabene, M. Hosein.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

Motion made, and question proposed, That the Senate do now adjourn to Tuesday, July 13, 1993 at 1.30 p.m. [*Hon. L. Saith*]

Mr. President: Leave has been granted for the following matter to be raised as a Motion on the Adjournment. The matter is, the need for the consumer protection agency to monitor prices more effectively.

I remind Senators that they have just 15 minutes each.

**Consumer Protection Agency
(Monitoring of Prices)**

Sen. Muntaz Hosein: Mr. President, the genesis of this Motion today is as a result of numerous complaints which I have received from consumers regarding the high prices, the quality, the warranty and advertising of goods and services in our country.

We have a problem regarding the devaluation of the Trinidad and Tobago dollar, and coupled with that, we have trade liberalization and currency liberalization. The scenario is that we have already started to be bombarded with a lot of substandard goods coming into the country, and the consumer has no recourse. The devaluation with which we are faced, whilst it is holding fairly steadily for the moment, because it is managed by the banks, at \$5.77 or thereabouts, my understanding is that this will be dismantled in time to come. I think the words used were, 'there might be gradual dismantling of all the constraints to the money market.'

When this happens, it is likely that we are going to have variations and fluctuations in the value of the TT dollar. As a result of that, prices of any one commodity are likely to vary significantly. There is no mechanism within the country for consumers to be able to tell whether the price they are being charged at the grocery, hardware or clothing store, is a price that is reasonable under prevailing circumstances.

There is a situation in Trinidad and Tobago where many consumer items are on the shelves and quite a number of them have passed the expiry dates. For instance, drugs and food items. There are many items which do not even have an expiry date and should have one. For example, corn flakes—just one item—there is a coded expiry date on corn flakes boxes, but the code is not one that the consumer can read and understand. So there is no guidance for the consumer to tell that the shelf life of this box of corn flakes, or this bar of chocolate, has lapsed. Therefore, the unsuspecting consumer goes and buys this item.

I discussed this matter with one of our manufacturers in Trinidad and I was told that there is a coding, and whenever someone buys an item and returns it because it was not good enough, they will gladly give him or her a new box. But many of them will buy an item and do not know their rights. Most of them are poor and cannot afford to go to the manufacturer to get redress, so they just throw

it away or use it, even if it is substandard. As you know, it is easy for people to get all kinds of sickness and diseases from milk items, if the expiry date has passed. Therefore we need to protect the consumer.

With regard to the particular pricing of these commodities, we do not have, in the country, any consumer agency to monitor these prices and to advise the consumer. In the United States there is an organization run by a man called Ralph Nader. He is a gentleman who has done much work on this type of consumer protection agency. He is not the only one; there are several others. The United States is a very huge and rich country, and the private enterprises there spend much money to protect the consumer.

6.20 p.m.

Our country is small and we have not yet reached that stage when we can see the private sector playing that kind of pivotal role. However, there is some role being played by the private sector now, but I am saying, and recommending that the Government ought to play a pivotal role in that respect along with private enterprise.

Perhaps, what the Government ought to do is to put aside some money every year in their budget to encourage that kind of growth in that kind of agency, together with the other social partner, the private sector and, perhaps, the credit unions and trade unions may wish to join hands to promote that kind of agency, because it is required. For example, when the dollar was devalued recently, there were all sorts of arguments about chicken; and all kinds of different products as to whether the price was justified or not. Who is advising the consumer?

If you have such an agency, then you can hire qualified staff who can take a basket of items, for example, or one particular item if they suspect that item needs to be investigated. They can go in to the costing of that item, come back with a report and then inform the consumer, if need be.

When there is trade liberalization where all kinds of items are coming into the country—food is only one of them, there will be electrical and all types of items—people are going to buy substandard goods. As a matter of fact, I knew a particular gentleman some years ago who used to go to Miami and buy films nearing the expiry date, bring them back to Trinidad and Tobago and sell them under the cost to the agent in Trinidad and Tobago. The unsuspecting people who bought the films did not know that they would expire in two weeks or maybe one month as the case may be. I am suggesting that this is going to be the order of the day in

Consumer Protection Agency
[SEN. HOSEIN]

Tuesday, July 6, 1993

Trinidad and Tobago. I am starting to see it already coming into the country. Therefore, we have to protect the consumer.

If the retailers, wholesalers and distributors in the country are aware that such an agency exists, pressure would be brought to bear on those retailers and wholesalers, whoever they might be, and they will keep their prices down because they know that there is someone looking after the interest of the consumer. The consumer on the other hand will then be in a position to look for some kind of guidance from this agency. This agency will then be able to act as a buffer, and say "Look here, such and such products; such and such electrical hair dryer or something like that has proven to be defective", and they can put that in the newspaper, advising the consumer; the consumer will then use the benefit of their power and not buy that particular item.

It is important that we do this because disposable income is getting less and less in this country. Those people who are least able to afford cannot afford to make bad buys. The onus must be on the Government to make certain that something like this gets into place so that we can protect the consumers of the country. Because, let us face it, the conditions for what is happening in the country today fall squarely on the Government's shoulder. We are in the mess we are in because of them, therefore, it is imperative that they take the lead in protecting the consumer.

I just want to give my recommendations, having made my case to the Minister. If we put this consumer protection agency in place, it will be able to monitor the prices and determine their relevance to cost and profit margin. It will be able to monitor quality service and all other areas of concern for the protection of consumers; to receive complaints from the public, investigate and assist in getting redress for the consumer; to issue from time to time, public reports on consumer items for the guidance of consumers; to monitor advertising and determine truth in advertising—very important—and to generally take measures to influence advertisers positively; to generally advise consumers of their rights, powers and how best to use them; to generally advise consumers to save money and avoid being ripped off.

This is, to my mind, a very serious matter, because it deals with the general public, and the public is being taken for a ride by higher prices, low quality merchandise, non-functioning products and nobody in this country is looking after their interest. I am saying, that I believe that the Government ought to set the pace

in that regard. I know that there is a ministry dealing with consumer affairs, but that ministry has fallen far short of doing its work. As a matter of fact, it has been said by some consumers that it ought to be taken and thrown in the sea. That is what consumers think of that ministry.

I would not say that because my good friend, the Minister, is here and she is a friend of mine, so I want to be more charitable to her. I hope that the Minister is not going to tell me that she has taken note of it, because we know what happens to notes that the Government takes. It seems that they have a note-wastepaper-basket that they throw them into. I do not want that to happen.

Thank you.

The Minister of Consumer Affairs and Social Services (Dr. The Hon. Linda Baboolal): Mr President, I have listened to Sen. Hosein, my very good friend, very attentively and, in fact, I advise him that if he had called my Ministry he would have gotten relevant information on all those matters he has raised.

Sen. Hosein: On a point of order. I was not asking for information for myself. It is the consumers who want to know, not me. If the consumers are not hearing about it, it means that the Ministry is not doing a good job.

Hon. Dr. L. Baboolal: Mr. President, I was about to say that I appreciate his concern for the consumer, and I thank him very much for the opportunity of being able to tell the consumer, through this good Senate, what is being done for them.

The Consumer Protection Agency, which is within my Ministry, consists of the Prices and the Consumer Affairs Division, which is a very active and very vibrant division. I will go on to show this Senate how that is so.

Sen. Hosein: Mr. President, on another point of order. Could the Minister tell this Senate when was the last time the Prices Commission—

Mr. President: Senator! This is not a point of order. You are asking a question. This kind of debate is like an extended question; you raised a matter, give the Minister a chance to reply. You cannot ask the Minister a question by rising on a point of order.

Hon. Dr. L. Baboolal: Thank you, Mr. President. My ministry has recognized that with the floating of the dollar, that, in fact, it has to increase its role in safeguarding the rights and interests of the consumer, and steps have been taken by both the Prices Division and the Consumer Division to monitor prices and also

Consumer Protection Agency
[HON. L. BABOOLAL]

Tuesday, July 6, 1993

to monitor commercial activities in general and to ascertain when these practices may be adversely affecting the consumer.

I will just briefly outline what the Prices Division is doing. The Prices, Weights and Measures Inspectorate of the Prices Division monitors commodities on the priced goods which are still on the price of goods schedule, and that is mainly food items like rice, counter flour, baby milk, and so forth.

6.30 p.m.

On a regular basis, officers of the inspectorate monitor and enforce regulations for the selling of goods which are still under the Price Control Regulations. With regard to the de-controlled goods or goods which are not under price control, the division conducts an ongoing survey of the detailed price movements on some 200 basic consumer goods and these are changed over a period of time. The commodities are chosen randomly from items such as household items, electrical appliances, furniture, hardware goods and clothing—200 now and another 200 again.

The Consumer Division works with the Prices Division on this ongoing project. The main aim of the survey is to analyse price trends and to determine what changes are occurring in the pricing of goods. Some of the other benefits which are derived from this activity are:

1. To serve as a deterrent for the unreasonable increasing of prices by business and
2. To provide a regular pricing on commodities which can serve as the background information when dealing with consumer complaints.

Mr. President, I can assure you that once consumers complain to the department, their complaints are investigated.

Within two weeks of the floating of the Trinidad and Tobago dollar, officers of the Prices Division met with the Pharmacy Board to see what could be done to try to keep prices down, whether buying in bulk or from very large organizations or cheaper sources would help the consumer. In addition to that, the Prices Division met with Nestle and National Flour Mills to look at what could be done to maintain a steady price. Some of the current projects of the Prices Division seek to monitor trends in prices, and ensure that the fixed mark-ups are maintained on pharmaceuticals.

Forty items were chosen randomly and questionnaires were handed out. Sixty per cent of those questionnaires have now been collected and the data is being analyzed. A survey on school books is also being done. This commenced in June and the data on the prices of school books will be obtained from approximately 80 book stores throughout the country. They were also chosen randomly.

The Consumer Affairs Division which is part of the Consumer Protection Agency of the Ministry always seeks ways and means to protect the interest of the consumer. Some of these deal with consumer complaints on a daily basis and educating the general public on its rights and responsibilities as consumers.

With the recent floating of the dollar the division quickly sought to obtain prices on commodities to ensure that they are not unreasonably priced. This is done on a weekly basis. Prices on samples of household appliances, for example, are collected from large stores such as Courts and Standards, to determine whether these prices are increasing or decreasing and in accordance with the regulations of the Trade Description Act, No. 7 of 1984, also to determine and to ensure that any sales or discounts which are advertised are in fact, true sales and are therefore, beneficial to the consumer.

Some of the other steps which will be deemed necessary to deal with the new economic climate is the enhancement of the consumer education public programmes.

The Consumer Affairs Division does a very comprehensive education programme. Every week there is a column in the *Express*. There are programmes on the radio. Every now and then there are interviews on television. We have calypso competitions. Lectures can be arranged by the Ministry for any group in the society that desires to have a lecture on Consumer Affairs. Media releases are made on a regular basis on any matters of concern to consumers.

We are also looking at acceleration of steps to establish consumer action groups to assist in the efforts of sensitizing the wider community. I am talking of consumer action groups under the ministry. This does not exclude any community wanting to set up their own community action groups, ensuring fair treatment in the market-place.

We are looking at the introduction of a television "flashette" campaign. This will be short, crisp attention grabbing messages for the consumer. For instance, "If you think the price is too high, don't buy!" That will attract the consumer and

Consumer Protection Agency
[HON. L. BABOOLAL]

Tuesday, July 6, 1993

make him aware that he has a choice and that he has a responsibility. In fact, it is this kind of competition, that if the price is higher here and is lower at another store, the consumer has now to be able to identify that if this is so, he has a choice and he has the power within his own hands to make that choice. We are also formulating a policy on consumerism to identify the basic principles upon which commercial activities should be conducted, always keeping the rights and the responsibilities of consumers in mind.

Sen. Hosein mentioned truth in advertising. I want to assure him that we are looking at truth in advertising legislation which is now being formulated by the legal department so that we should be having that pretty soon. I want to emphasize that the Consumer Affairs Division is seeking ways to safeguard the interest of the consumer. I have indicated that there is an increased focus on monitoring the basic consumer goods—those on price control and those that are not on price control. More and more, the monitoring of prices will take the form of analyzing price trends to determine any unreasonable increases and increasing our consumer education thrust. We consider that is very important. If the consumer is educated as to what his rights are, how he should complain, where he should complain; if there is unfair pricing out there, much of that will stop.

We realize that the power lies in the hands of the consumer and we are trying to make consumers, all of us, understand the power lies in our hands. Pertinent information on consumer affairs will continue to be disseminated to the public so that they can always make informed decisions for their benefits and for the benefit of their own families. As I said earlier on, competition will always remain the deciding factor. As a matter of fact, if you were to sometimes walk around Port of Spain or look at fabric stores you will notice that prices on fabric have not risen, simply because there is so much competition. If one sees something in one store—I would not call any names of any particular store here today—that is one price, one can easily go to another store and find that it is a few cents or even a dollar or more cheaper. This is also applicable for the grocery. More and more people are shopping around. Trinidadians had lost that ability to shop around. We were so used to just walking in and buying the first things that caught our eyes. Now Trinidadians are learning to shop around once more. The Consumer Affairs Division is trying to teach them how they can better do this to their own benefit.

Mr. President, I hope that this adequately addresses Sen. Hosein's concerns. If there is anything else or any other matter he would like me to get information on

Consumer Protection Agency

Tuesday, July 6, 1993

for him—we have been good friends for so many years, I would not want to say because it would date both of us. I know he will feel free to call me for any other information that he may desire. Thank you.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.40 p.m.