

SENATE*Thursday, July 18, 1996*

The Senate met at 1.30 p.m.

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

Mr. Vice-President: Hon. Senators, I have two announcements to make. I have granted leave to Sen. Rev. Daniel Teelucksingh to be absent from today's sitting. I have also granted leave to Sen. Diana Mahabir-Wyatt to be absent from the Senate for the period July 17 to July 24, 1996, inclusive.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. Vice-President, I beg to move that the Senate now deal with "Bills Second Reading", instead of "Motions".

*Agreed to.***CUSTOMS (AMDT.) BILL***Order for second reading read.*

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. Vice-President, I beg to move,

That a Bill to amend the Customs Act, Chap. 78:01, be read a second time.

I am tempted to begin by saying this is a simple matter, but I would not do that. I have heard in this Senate from time to time that matters which have been regarded as very simple have ended up being more complex than anticipated. This one, I can assure this honourable Senate, is going to be a simple matter this time. The Bill before this Senate is in response to an examination which was conducted into the current procedures utilized by the Customs and Excise Division for evaluating the declaration of value on imported goods. This examination was initiated partly as a result of a study that had been conducted by the Customs and Excise Division, and which had revealed a serious under-valuation problem in Trinidad and Tobago.

One will appreciate that under-valuation of imported goods naturally leads to an avoidance of duties and taxes and ultimately denies the Treasury of much needed revenue. This Bill seeks to address specific weaknesses in the existing customs procedures by strengthening the legislative framework of the customs legislation. The objective is to create a more effective Customs and Excise Division while simplifying the language in the customs laws and eliminating certain ambiguities which presently exist in that legislation. The Bill before us covers a number of areas:

1. Amendments relating to the facilitation of trade.
2. Amendments relating to the facilitation of passengers including tourists, and the examination of their baggage at sea and airports.
3. Amendments relating to procedures concerning the valuation of goods.
4. Amendments to the Sixth Schedule relating to the application of the valuation code of the General Agreement on Tariff and Trade (GATT), to the customs laws of Trinidad and Tobago.
5. Amendments to the penalty provisions of the Customs Act by increasing or imposing new penalties for the infringement of certain provisions of the Act.

This is intended to serve as a deterrent to persons who are engaged in activities designed to defraud the Government of revenue.

6. The repeal of certain provisions in the customs law which have become unnecessary as a result of some of the proposed amendments.
7. Amendments to eliminate ambiguities by restating the law in clearer terms.

Mr. Vice-President, I shall examine the Bill clause by clause. The first two clauses are self-explanatory and relate to the short title and the interpretation of the expression in the Act, which expression refers to the Customs Act.

By clause 3 of the Bill the expression, "document" as defined, is to be inserted in section 2 of the Act. The insertion of this expression is linked to section 228 of the Act which, as currently drafted, requires the importer/exporter or other persons concerned in the importation or exportation of goods to produce, among other things, invoices, books of account and any other documents of whatever nature relating to the goods for the inspection of the officer of Customs and Excise

Division on requiring such documents. The expression “document” therefore, was not previously defined in the Act and the proposed amendment seeks to specify the types of information which may be requested by the officer of Customs and Excise Division.

Clause 4 introduces a new 4A by which section the Comptroller of Customs and Excise will be allowed to execute certain documents and agreements which are required to be entered into between the Comptroller and any other person. This provision is intended to facilitate the establishment of customs areas, private warehouses and transit sheds. The proposed amendments to sections 20 and 23 of the Act, as outlined in clauses 5 and 7 of the Bill, relate to the valuation of imported goods and would give the Comptroller the authority to demand any additional duty which may become payable based on new information received affecting the valuation of the goods. The Comptroller is also allowed to refund duty that is overpaid based on a downward revision in value of the goods.

Clauses 8 and 9 of the Bill are intended to restate the law contained in sections 37 and 38 of the Act, in clearer terms and provide a penalty of up to \$25,000 or treble the value of the goods in respect of an offence involving the sale, transfer or use of goods which were allowed to be entered at a lower rate of duty or free of duty.

It should be pointed out that the proposed amendment to section 37 in particular, is intended to facilitate the importer where goods imported free of duty are, for instance, shipped to the importer in error. Under the existing law that importer would be required to pay the full fees or to face the consequence of having his goods forfeited.

In genuine cases, it is proposed that these goods which have been shipped in error to an importer may be re-exported with the prior written permission of the Minister within two years of the date of importation of those goods. The penalty for violating this provision has been increased from \$4,000.00 to \$25,000.00.

The provision of the “green line” system has been a part of the Customs and Excise Division laws since 1978. In practice, however, it has been found that the present wording of the law governing the use of the “green line” created more problems than it has resolved, the reason being that the law required every passenger who took up a position in the “green line” to remain there until allowed to leave by the proper officer.

1.40 p.m.

Clause 10 of the Bill therefore, seeks to amend section 65 of the Act to allow passengers who have no uncustomed or prohibited goods, or who have no dutiable goods in excess of the approved allowances, to proceed along the “green line” and to leave the customs area. Passengers may nonetheless be requested to stop for the purpose of being searched by an officer on duty at the “green line” or at any other part of the customs area.

To ensure that this facility is not abused, a passenger who is in breach of the “green line” will now be liable to a fine of up to \$50,000. Mr. Vice-President, we wish to note that the words “liable to a fine of \$50,000” do not mean that any passenger who is in breach of the “green line” provisions will have to pay \$50,000 upon conviction. It simply means, and I am so advised, that the passenger on conviction is potentially open to the payment of that fine and the magistrate has a discretion to impose a fine of any amount up to \$50,000. A passenger therefore, leaving the “green line” area with dutiable goods valued at \$100, should hardly be fined \$50,000 by a magistrate. Whereas, a passenger leaving the “green line” area with dutiable goods valued at say \$100,000 may very well find himself fined the maximum amount of \$50,000.

It is expected, Mr. Vice-President, that this amendment should bring an end to the anomaly whereby the “green line” is sometimes longer than the “red line”, resulting in some passengers preferring to be subject to a custom’s examination in the “red line” so as to leave the port faster.

Mr. Vice-President, by clause 11 of the Bill, section 87 of the Act sets out more clearly the procedure for entering goods without accompanying documentation and what is referred to as a Bill of Sight. However, in order to avoid the abuse which may occur in relation to importers who may seek to claim Common Market rates of duty, section 87(3) makes it clear, that the provisions of that section do not apply to such importers.

Importers seeking Common Market rates of duty will still be required to provide satisfactory documentation to substantiate their claims. This provision is necessary, not only to protect our revenue, but also to protect our Caricom manufacturing neighbours from unscrupulous and fraudulent importers.

Mr. Vice-President, the provisions contained in sections 87A and 87B set out a more simplified arrangement for an importer to receive his goods even when he is not in possession of all of his documentations. These measures are intended to ensure that a person’s business will not be unduly affected by the customs retaining his goods, until such time as he is able to provide the necessary

documentation in support of the value of the goods. Under the existing law, the Comptroller of Customs and Excise will not allow the delivery of goods where the importer fails to provide the satisfactory evidence in support of the value of those goods.

Goods may now be provisionally entered therefore, Mr. Vice-President, based on a provisional assessment and a payment of a deposit. However, a restriction is placed on the ability of the importer to appeal to the Tax Appeal Board, in respect of a dispute which may arise on the imported goods, until such time as a final assessment is made, and the Comptroller notifies the importer of such final assessment.

Furthermore, the time period for disputes to be determined by the Customs and Excise Division has been shortened. Even where the Comptroller knows or has reason to believe that documents provided are false, the Comptroller now has at the very latest, three months from the date of provisional entry of the goods to bring court proceedings against the importer, or else he must accept the importer's assessment and refund any excess that may have been paid.

As a result of the amendments made in sections 87, 87A and 87B of the Act, which relate to the facility allowed on the importation of goods without the relevant documentation, it is proposed by clauses 12 and 14, that sections 88, 89, 91, 92, and 93 of the Act be repealed as the provisions are deemed no longer necessary. These latter sections described the existing procedure for entry of goods in the absence of documentation and have proven to be difficult to administer.

Mr. Vice-President, it is also proposed by clause 13 of the Bill, that section 90 of the Act should be repealed and replaced by a new section 90 which will now authorize the Comptroller to retain samples of goods for the purposes of sections 87, 87A and 87B whenever a provisional entry of goods is made and until a final entry of the goods has been approved.

The new section 90 will also require the Comptroller of Customs and Excise to make and keep an inventory of the samples retained.

Mr. Vice-President, under the existing section 205 of the Act, an officer of Customs and Excise may, on the strength of a writ of assistance obtained from the High Court, at any time enter into and search any house, shop, cellar, warehouse, room or any other place for the purpose of seizing uncustomed or prohibited goods, or any books or documents relating to those goods. Similarly, under the

existing section 206, an officer may obtain a special warrant from a magistrate to enter and search a house, or any other place in Trinidad and Tobago where he has reasonable cause to suspect that any uncustomed or prohibited goods, or any books or documents relating to those goods are kept in that house or any other place.

Mr. Vice-President, there has been much uncertainty as to the meaning of the words “any other place” to the point where there has been some reluctance by officers of Customs and Excise to obtain search warrants, or to use the writs of assistance. In order to remove the doubt that exists, it is proposed by clauses 15 and 16, to insert the words “including any place where documents relating to uncustomed or prohibited goods are reasonably expected to be found”.

Clause 17, of the Bill proposes to amend section 212 of the Act so that counterfeiting and falsifying documents required to be submitted to the Comptroller of Customs and Excise, not only under the customs laws, but also under any other written law, will be an offence. The proposed amendments, Mr. Vice-President, are intended to broaden the areas which will be considered an offence in respect of submission of documents by importers.

By clause 18, Mr. Vice-President, amendments to section 228 of the Act have been proposed to assist the customs in its administration, insofar as it is possible to obtain accurate information relating to the importation or exportation of goods. The existing provisions requires the importer/exporter or any person concerned in the importation/exportation of any goods, to produce for the inspection of a proper officer, the invoices, books of account, and any other documents relating to those goods where a request has been made for the production of such documents within three years of the date of entry or exportation of the goods.

Mr. Vice-President, the words “any person concerned in the importation/exportation of any goods” are not defined in the existing legislation, and it leaves some doubts as to what persons are really being referred to.

It is therefore, proposed, Mr. Vice-President, in the amendments to section 228, to reword and restructure the provision for visual clarity as well as to define the words: “a person having an interest in the exportation/importation” to include for example a financial institution which has advanced funds for the payments of the goods, and an insurance company which has issued a policy of insurance covering the goods.

1.50 p.m.

Mr. Vice-President, the financial institutions and insurance companies are often in possession of documentary information relating to the importation or exportation of goods. The information to which these institutions and companies have access would normally reflect the true terms and conditions of the import/export transaction. This is particularly the case with respect to information forwarded to insurance companies where the principle of *uberrimae fidei*, or the principle of utmost good faith, is observed. According to this principle, an insurance company can avoid a contract in respect of which false or incorrect information concerning the insured product is wilfully supplied.

Armed with information from financial institutions and insurance companies, Mr. Vice-President, the Customs & Excise Division would be much better able to determine the correctness of the documentation submitted to it by importers and exporters whilst, at the same time, being able to gather evidence to prove that the offence of providing false documentation has been committed.

By clause 19 of the Bill, Mr. Vice-President, amendments are being proposed to the Sixth Schedule of the Act, which deals with the manner in which imported goods are valued. It is proposed to include definitions of "buying agent" and "seller" so as to allow for greater precision in identifying all the parties involved in the buying and selling of imported goods. The doubts which may arise in ascertaining the parties to transactions involving the importation of goods are expected to be removed by these amendments.

Additionally, Mr. Vice-President, it is proposed that paragraph 3(2) (a) of the Sixth Schedule be amended to fill an omission which has created problems in properly applying the provisions of the Sixth Schedule dealing with conditions for customs value. Amendments are also proposed to paragraph 3(8) of the Sixth Schedule so as to remove a conflict to paragraph 3(1).

Furthermore, Mr Vice-President, it is proposed to amend section 8(1)(g) of the Sixth Schedule to clarify the point that the cost of importation of imported goods up to the port or place of exportation, and not to the port or place of importation, should be included in determining the customs value of imported goods.

It should be noted, Mr. Vice-President, that Article 8(2) of the GATT (General Agreement on Tariffs and Trade) valuation code permits a state to include or exclude from the cost of transportation in determining the value of goods, the loading, unloading and handling charges at the port of importation. We have opted to include such charges relating to the cost of transportation of the imported

goods up to the port or place of exportation. This would have the effect of reducing the transportation costs to be included in the price of goods and, ultimately, the duty payable by importers, bearing in mind that duty is charged on the price for which goods are sold.

Finally, Mr. Vice-President, by clause 20 of the Bill, it is proposed to delete the words "Liable to Ad Valorem Duty" in Forms C75 and C76 as prescribed in Schedule I of the Customs Regulations. Because of the inclusion of those words, these forms which are declarations of the value of goods, are not completed by importers in cases where goods are entered free of duty. Because of this practice the Customs & Excise Division has no access to information regarding the true value of goods which are entered free of duty and is, therefore, not in possession of the requisite information to determine the falsehood of declarations made in respect of these goods. By deleting the words "Liable to Ad Valorem Duty" the Customs & Excise Division will now be able to prosecute importers who have brought in goods in excess of \$1,000, for false declarations where the values placed on those forms are incorrect.

Mr. Vice-President, before I recommend this piece of legislation to this honourable House, which as I said, is intended to achieve the purpose of trade and tourism facilitation, as well as simplifying the customs laws, let me point out that I propose to move a list of amendments which has already been circulated, and I therefore, give notice that there would be one or two minor changes at the committee stage of the Customs (Amdt.) Bill, 1996.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. Vice-President, on this occasion I find myself in complete agreement with the hon. Minister of Finance in that this is, in fact, a relatively simple and straightforward matter. [*Desk thumping*] I would even go so far as to say that the Bill is very well drafted. The writing is very clear and simple to understand. I rise in support of the legislation with only one or two small comments and questions.

The first issue to which I would direct this honourable House, Mr. Vice-President, is clause 6 which allows an importer three months within which to make an appeal to the Tax Appeal Board. Under clause 7 (2A) the Comptroller, by

comparison, has a year within which the value of goods imported can be reassessed. In another clause the importer is restricted to, again, three months. So

it would seem to me that, for the purposes of consistency, it should either be one year or three months on both sides.

My second comment is with regard to the so-called green line that, insofar as every time I have had to come through the airport and seen a green line and the pile up of people at that point, I have always opted to go through the red customs area which has always been far more efficient and faster to come through; and my friends who have gone through the green line area seem to be standing there *ad nauseum*, while I go through the regular customs area. So I just direct the hon. Minister to that.

My final comment, Mr. Vice-President, is I merely note with some interest, and I would direct everyone here to do so, that we now have legislation directing financial institutions to produce information in matters in which they are not directly involved. That kind of legislation exists elsewhere. It does not really exist here. The concept and the principle is coming, but it is not here in full force yet, and therefore, I simply draw the attention of Members to the direction of the Government, in terms that there is now legislation directing financial institutions, which are third parties to the transaction, to produce information.

Mr. Vice-President, I am not going to detain the hon. Members any longer, and I thank you.

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. Vice-President, I have a feeling that we are setting a record here this afternoon.

Let me indicate clearly that it is the intent of this administration to see if it can improve considerably the administration of Customs & Excise. Since I have taken up office, I am aware of the number of complaints and criticisms that have been levelled at the Customs & Excise Division.

As you are aware, Mr. Vice-President, we have been improving some of these administrative problems with the assistance of the U.S. Customs. We expect the U.S. Customs will, probably, be here for another seven or eight months, but I want publicly to pay tribute to the assistance that has been given us. I, myself, have had a number of meetings with the officers from the U.S. Customs and I am impressed, not only with the level of service and status that these customs officers have

enjoyed in the United States Customs, but with the level of expertise and skill that they have brought to bear in assisting us to address some of these problems.

Mr. Vice-President, we have been able to adopt some of these changes mainly on the advice and consultation that they have provided to our own customs officers. In particular, Mr. Vice-President, I want to also pay tribute to our own Customs administrative people who, in spite of the criticisms and complaints that have been received, have been able to assist us in coming up with these administrative improvements.

Mr. Vice-President, with respect to Sen. Montano's question of the three months versus one year, I am sure it is easy for the Members here to recognize that, whereas an importer may have one entry, or a few entries at most and, that therefore he is given three months after that entry to lodge an appeal against the ruling of the Comptroller of Customs and Excise, in the Comptroller's case—and I do not want to belabour the question of bureaucracy—given the huge number of entries he has to deal with, if there are appeals, or cases where he, himself, has to take action, it was felt necessary to give him a little longer time so that he can prepare the documentation.

2.00 p.m.

I would hardly want to give an importer as much as a year because that may, in a sense, add to the bureaucracy that is already there. Importers may then feel that it is not necessary for them to act with haste and we really want to get some of these appeals out of the way relatively quickly. Incidentally, it is only the question of submission of the appeal that is subject to these payments. One has to remember too that by accessing the Tax of Appeal Board quickly, the Board itself is in a position to react.

Mr. Vice-President, let me also indicate that I am aware that there was a document which has been circulated in this very Senate in which the Auditor General made some comments. I had hoped that during the debate some of these matters would have been raised merely in the interest of seeing how we can get Customs and Excise to address their own problems. I think the comments that the Auditor General has raised have partly been addressed by this Bill, particularly with respect to documentation and valuation which are two areas which have been a major bugbear for the Customs and Excise.

The green line has worked sufficiently well and we see these minor modifications as being able to improve more of the legislative requirements than anything else. As I said in my presentation of the Bill, in the green line there were certain problems that arose in that once one entered the green line one was required to remain there and could not leave. If one attempted to leave one was in

breach of the old Customs Act. In this case—because the green line could very well end up being longer than the red line—instead of having people shuffling through and break the law, we have attempted to improve on the legal machinery so that people may have some flexibility.

I am aware that there have been complaints as well with respect to the green line where customs officers ask one to sign a declaration with respect to the number of times one has claimed the exemptions that are provided by law. There are some people who have felt that because one keeps paying a departure tax of \$85 which include the \$10 security tax, one should be entitled to another exemption as it were, but one has to remember that the intent was more to facilitate the traveller and not to really grant a huge exemption. So that a traveller who comes through the green line 12 times per year really should not be entitled to 12 times \$1,200 in exemption. He really should only be given a \$1,200 exemption.

I am also aware of the fact that Customs and Excise has serious problems in being able to enforce whether one has travelled more than once or not and people are taking advantage of these exemptions, but I know that the Customs & Excise Division is working on the possibility of improving its machinery.

I think the introduction of a \$1,200 exemption really was meant to cover sundry purchases that any traveller would have made while abroad. If there is evidence that it is being abused or it is not being used effectively, I think the Ministry of Finance would have no alternative but to stop the possible leakage of revenue. In particular too, there are people who—with respect to goods—appear to deliberately understate the value of those goods for the purposes of meeting that exemption and there is even the question that Customs and Excise have been looking at instances where false invoices have been supplied at the airport in order to support the claim for an exemption.

Mr. Vice-President, I am quite thankful to this honourable Senate for the support it has given to these amendments. I am pleased to think that these amendments are going to assist the Customs & Excise Division in performing its duties a little more effectively.

Therefore, with these few words I beg to move.

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 to 6 ordered to stand part of the Bill.

Clause 6.

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

Sen. Kuei Tung: Mr. Chairman, I beg to move that clause 6 be amended. This is in relation to section 22(4) of the Customs Act. We are proposing the following:

"Delete the word 'under' occurring after the words 'be instituted' and insert the words 'before the Tax Appeal Board in respect of a dispute referred to in'"

In a sense, the line would read:

"...no appeal may be instituted before the Tax Appeal Board in respect of a dispute referred to in subsection (1)".

Question put and agreed to.

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

Clause 7 ordered to stand part of the Bill.

Clause 8.

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

Mr. Chairman: Hon. Senators, a minor amendment has been circulated in relation to clause 8 which reads as follows:

"Insert the words 'at a' before the words 'given rate'."

Question put and agreed to.

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

Clauses 9 to 17 ordered to stand part of the Bill.

Clause 18.

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

2.10 p.m.

Sen. Jagmohan: I was wondering whether the words "proper officer" could not be changed to "competent" or "appropriate officer".

Sen. Kuei Tung: Throughout the Act the expression "proper officer" has been used consistently. I do not want to change it unless we change all throughout the

Act. Under the Customs Act the term "proper officer" has always been used. I do not see it making any change.

Sen. Jagmohan: I am not pushing it.

Sen. Kuei Tung: I propose that clause 18—amending section 228—be amended by renumbering subsections (5), (2), (3) and (4) occurring immediately after subsection (1) as subsections (2), (3), (4) and (5) respectively.

I am suggesting that mainly for the sake of logical sequencing.

Sen. Montano: Mr. Chairman, it seems logical that it is in the right place. It follows immediately from the preceding paragraph. Logically, I think it should be (2) and everything else should be renumbered.

Sen. Kuei Tung: Mr. Chairman, I have been advised by the draftsmen that the ideal situation would be to lift it entirely off and put it as subsection (5).

Sen. Montano: The wording is so good I do not know why you would want to detract from the quality of what was done by putting it in a place where it does not fit logically. You could put it in any section that you like, but it fits best there.

Sen. Kuei Tung: The subsection states:

“It shall be a defence under this section for a financial institution or insurance company...”

We have not referred to insurance company. Under subsection (4) we are talking about a financial institution and insurance company. Put (5), as it tends to be sequenced more logically.

Sen. Montano: Except that we speak about one of the persons having an interest, it fits. What you are talking about is a person having an interest in. That is what that section relates to and not an importer/exporter or an agent.

Sen. Montano: It is a very small point and I do not want to delay the business of the House on it.

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

Clause 19.

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

2.20 p.m.

Sen. Kuei Tung: Mr. Chairman, I beg to move an amendment to clause 19 as follows:

“Delete paragraph (d) and substitute the following paragraph:

‘(d) in paragraph 8(1)(g), by deleting the words ‘port or place of importation’ occurring before the words ‘and the cost of insurance’ and substituting the words ‘port or place of exportation’.’”

Question put and agreed to.

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

Clause 20 ordered to stand part of the Bill.

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

Senate resumed.

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

PROTECTIVE SERVICES (COMPENSATION) BILL, 1996

Order for second reading read.

The Minister of National Security (Sen. Brigadier the Hon. Joseph Theodore): Mr. Vice-President, I beg to move,

That a Bill to provide for the payment of compensation to officers of the protective services who suffer injury or die in circumstances arising out of and in the course of employment with the state, be read a second time.

The members of the protective services face serious peril almost on a daily basis, and this Government feels that it is time to institutionalize a compensation programme for the officers of the protective services. The protective services comprise the police, the fire and the prison services. The background to the decision to bring this Bill to Parliament can be found in the written law, governing injury or death to members of the protective services during the course of duty, and the practice that has developed to deal with such claims. As to the written law sections 9 and 10 of the Sixth Schedule of the Police Service Act provide for permanently injured officers, those killed in the line of duty. Section 9 particularly provides for the payment of a monthly allowance based on the degree of disability

which is payable in addition to any pension or gratuity which has been granted to the officer.

What this in effect means, Mr. Vice-President, is that the nature of the injury is permanent. This is not a temporary injury from which the person can recover and continue to work. This permanent injury would result in, what we call, going before a medical board, being discharged prematurely, long before the retirement age.

Section 10, on the other hand, deals with pensions and gratuities payable to the dependants. At best, the spouse or dependant may receive a small grant and a pension as may from time to time be fixed by the President. This means that each case is treated on its own merit. An application has to be made for the compensation to be paid.

Unfortunately, in the case of the fire service, the provisions of sections 8 and 9 of the Fifth Schedule of the Fire Service Act are identical to those set out in the Police Service Act. It is the prison service, which does not come under either of these Acts or has a similar Act. This is dealt with in the prison service under section 22 of the Pensions Act and section 32 of the Civil Service Act, where injuries sustained or should death occur while in service, compensation can be claimed under these various Acts.

As you could see, Mr. Vice-President, the whole matter of the right to compensation was contained in several laws and created an unsatisfactory situation, which did not adequately cater for all members of the protective service. Because of this inequitable arrangement, meetings were held between the Chief Personnel Officer and members of the various associations. Coming out of these meetings, a broad agreement was reached concerning the general principles relating to the payment of compensation for death or injuries sustained by officers of the protective services in the course of duty.

The main point agreed upon, was that the benefits for officers who died from causes arising out of, and in the course of their employment should be an amount equal to three years basic salary, as well as entitlements provided under the respective Acts to which I have referred. It is to be noted that these new conditions while applying to the police service and the fire services, continued to exclude the prison service. These discussions, incidentally, were initiated by the Police Association Second Division in 1974. Nine years later in August 1983, Cabinet agreed to the terms and conditions of employment of police officers negotiated between the Chief Personnel Officer and the Police Service Association Second Division.

2.30 p.m.

This agreement was contained in Cabinet Minute No. 2289 dated August 11, 1983. This Note also agreed that an additional benefit of three years' salary should be paid to prison officers who died in the course of duty. At this stage, all claims would need to go before Cabinet for a decision to be made based on the evidence or the results of an inquiry held into the cause of death or injury.

Mr. Vice-President, the agreement between the Chief Personnel Officer and the police association was subsequently signed on April 18, 1984. In the agreement was provision for claims to be made to, and benefits administered by an injury board. The board was to have these members:

- (a) a barrister-of-law of at least seven years' standing, who would be the chairman;
- (b) an experienced registered practitioner, who would be a member.

In this case, we are dealing with a medical doctor.

- (c) an expert drawn from the insurance industry, a member.

So the board of three, would comprise this injury board which would hear claims dealing with injuries sustained by members of the protective services. That board, Mr. Vice-President, was never established; and it has been the practice over the years that whenever a case of injury or death in the course of duty arose, a note had to be prepared seeking Cabinet's approval to implement the provisions of Cabinet Minute No. 2289.

Of course, in acknowledgment of the risks faced by members of the protective services, this Bill is now seeking to enshrine into law the benefits to which members of the protective services are entitled. Where possible, the Bill at hand also seeks to widen the ambit within which claims can be made by dependants of officers who are injured or who die in the course of duty. They are no longer restricted to claims under the Police Service Act, the Prison Service Act, the Fire Service Act, and the National Insurance Act. The Bill seeks to regularize the computation of benefits to the members of the protective services to include the prison service.

I would like to touch on a number of clauses that make up this Bill. Clause 3 places the onus on the state to pay compensation in given circumstances. This means that the Consolidated Fund will provide the compensation. What happens up to this time, is that such moneys have to be drawn from the Ministry of National Security provided that there are funds available.

Clause 4 identifies four categories of persons who are entitled to make a claim for compensation; and it provides for the period of time within which such claim may be submitted.

Clauses 5 to 12 provide for the establishment of the compensation committee and its operations. Safeguards to ensure that the integrity of the system is maintained, are exemplified by clause 8 which states as follows:

“A member of the Committee who has any interest in a matter before the Committee, shall be disqualified from all sittings on such matters.”

Furthermore, the committee is under an obligation to state in writing its reasons for the refusal or award of compensation where such is the case.

Clause 13 defines the functions and jurisdiction of the committee:

“The committee shall be responsible for receiving, investigating, hearing, and determining claims for compensation.”

Unlike the injury board mentioned before, the committee, by clause 13 (5), is bestowed with the power of a court of civil jurisdiction under the Summary Courts Act, Chap. 4:20.

According to clause 14, Mr. Vice-President, the committee has the authority to make and publish its own rules and procedures. However, unlike the Industrial Court, it is strictly bound by the rules of evidence applicable to a court of civil jurisdiction.

It is noteworthy that the Appeal Court is not bound merely to adjudicate on points of law as is provided for by Cabinet Minute No. 2289. According to clause 16(2)(c), the Court of Appeal has power to make such findings or other orders as the circumstances in the case require.

Clause 17, Mr. Vice-President, has been amended—and we would go into the details of that at the committee stage.

Clause 18 makes the committee accountable to Parliament by the submission of an annual report.

Clause 19 details the manner in which claims arising before the enactment of this Bill would be dealt with. All claims occurring prior to the hopeful enactment of this Bill, shall be treated in accordance with the agreements executed between the Government and the associations representing the different divisions of the protective services, several of which have been mentioned before. Where there

are no such agreements, the same principles that currently apply would become applicable.

At clause 20, we seek to preserve benefits payable to officers in respect of personal injuries or death under various other written laws.

Clause 21 empowers the Minister of National Security to amend the Schedules by adding any other service or benefit as the case may be.

Dealing with the injury board, this new compensation committee will comprise five persons and it is expected that a larger committee will facilitate expeditious and judicious deliberations.

Another improvement over the present arrangement, is that any award of compensation under this Bill, shall be a charge on the Consolidated Fund, as I referred to at clause 3, which virtually guarantees payment, whereas current claims are payable subject to the funds available in the Ministry at the time.

There are two amendments to the Second Schedule which I would like to bring to the notice of this honourable Senate. They deal with those claims which are occasioned by, or happening through, the following circumstances:

The original agreement signed between the Police Association and the Chief Personnel Officer on April 18, 1984 excluded for the purpose of claims: war, invasion, act of foreign enemy, hostilities—whether war be declared or not—civil war, rebellion, revolution, insurrection, mutiny, military or usurp power, military; or popular uprising.

This year, when it was decided to proceed with this Bill, further negotiations were held with the various associations, and the CPO also continued negotiations with the association. Coming out of that, under this clause of insurrection, mutiny, military or usury power, military or popular uprising were removed, leaving, in the Bill before us, war, invasion, action of foreign enemy, hostilities—whether war be declared or not—civil war, rebellion, revolution.

The second part also contained additional conditions which were not applicable when the claims were made. The second part of Schedule II dealt with suicide

or attempted suicide; venereal disease; insanity, other than insanity resulting from an injury received, arising out of, and in the course of employment; pregnancy or childbirth; the influence or effect, temporary or otherwise of alcohol or drugs not prescribed by a qualified medical practitioner.

Coming out of the negotiations we held this year, an amendment was made to this clause which resulted in what is before the Senate, the exclusion being, "suicide or attempted suicide; venereal disease; the incurrence or effect, temporary or otherwise of alcohol or drugs not prescribed by a registered medical practitioner". The matter of pregnancy has been taken out. What has happened is that we have widened the scope under which claims can be made by members of the protective services. The reasoning behind that had to do with whether the problem arose externally from an enemy from outside the country: war; invasion; act of foreign enemy, or whether it was the result of some incursion or rebellion within the state. All in all, Mr. Vice-President, this Government has moved quickly to institutionalize the arrangements for compensation for the protective services so that claimants will have their rights protected by law.

2.40 p.m.

As I said, Mr. Vice-President, there were several meetings held with the associations because we found that while the Cabinet was working under the terms of that original agreement signed in 1984, the circumstances have changed. The events of 1990 made us conscious of what can happen in our country and amendments have been made with the sanction of the various associations.

I am confident that the measures contained in this Bill will give greater peace of mind to members of the protective services and their families as they go about their business of ensuring that there is peace and stability in this nation.

Question proposed.

Sen. Danny Montano: Mr. Vice-President, when we on this side looked at this Bill, the first question that came to our minds was: What is the intention of the Bill? What is the Bill really intended to do? When we looked at it, on the face of it, it seems fairly simple and fairly clear that the intention is to provide for compensation to members of the protective services who are permanently disabled or killed in the course of their duties. When we reached the end of the Bill, however, those of us on this side felt that could not really have been the intention of the Bill at all, not this Bill. We felt that the real intention of this Bill is to make a grand stand of the kind that was made some months ago on the political platforms

in the country in October/November last year, making a grand play to the members of the public and the protective services and to tell them, "Look at what a good thing we are doing for you". But we look at this with some chagrin, with some disappointment, having had an opportunity to do something really

meaningful for the protective services, we are disappointed with the extent to which this Bill has actually gone.

I will hear about what the former government could have, would have, should have done, but Mr. Vice-President, we are not here to debate that, we are here to debate what the Members on that side must do and what they must do now. It is their responsibility now to do something and the challenge is to them.

When we looked at the Bill, the first thing we felt was that these are people and the fact that they may seem to be as strong and brave as we certainly looked upon them as children, we grew up with the view that the members of the protective services were there to protect all of us and even as we grew into adults we had this kind of awe and respect for the members of the protective services. But we must not lose sight of the fact that they are persons just like all of us sitting in this Senate. They have families—husbands and wives, mothers and fathers, brothers and sisters and children—who are directly affected by their activities.

In the words of the Minister, these persons, and I quote, “face serious peril on a daily basis”. We recognize that the peril is not only physical harm and yet “personal injury” is defined as meaning:

“...permanent partial disablement or permanent total disablement;”

In other words, a member who is hurt and may be injured, wounded and traumatized, which in itself can be a permanent form of disability, is excluded from this Bill. Notwithstanding the fact that he is putting his life on the line for the citizens of the country, if he is injured, hurt or traumatized, he has no benefit to gain under this piece of legislation. But, rest assured that we will hear *ad nauseam* on the expanded media entitlement of the government, about how it is protecting and looking after the interest of the small man and looking after the interest of the members of the protective services. I ask the question: Is that really so?

I would go to clause 3 where the Minister indicated that the compensation would be a charge on the Consolidated Fund. By its very nature, what we are talking about here is a form of insurance to the members of the protective services and it begs the question: Why are the benefits to be paid under this legislation not being funded in a special kind of insurance fund? I think it is important that the men and women of our services know that the funds from which they are to be paid are sheltered and protected in a special fund that cannot be interfered with.

There are situations in the country where trade unions negotiate fairly for pension funds and that sort of thing and insist that the pension funds be funded and not just accrued in the companies' accounts. What we on this side are suggesting is that the men and women of our services, who do their best for the country day after day, deserve the protection of a fund, capital that is set aside for them specifically, to give them and their families a measure of comfort.

I would note also that under clause 4(3)(b) which as was defined already is "permanent partial or permanent total disability", and the time limit for making a claim on such an illness is one year. It is with some chagrin that we see a limit of this nature when we all know that there are many forms of injury that can only become noticeable sometimes many years after, especially the younger members of the forces who may be involved in some traumatic accident, spinal injury or whatever, and the effect of the injury is not really known or understood until several years later and yet, under this clause, they would be excluded if they suffer any form of permanent partial or permanent total disability. They would be excluded and yet the injury would have arisen under the very thing from which this legislation is trying to shelter them.

In clause 5 the Bill requires that:

"The committee shall comprise—

- (a) an attorney-at-law...
- (b) an attorney-at-law...
- (c) a medical practitioner...
- (d) a medical practitioner...with at least four years experience in the field of occupational health and safety; and
- (e) a person who has at least seven years experience in the business of insurance."

Mr. Vice-President, it could be said that I have seven years' experience in the business of insurance. I have been auditing insurance companies for the last 25 years, but I certainly would exclude myself from the competence this Bill would seem to require. It seems to me an insult to the insurance industry and the persons working therein that the professionals in that field have not been recognized—and there are professionals. Within the general insurance industry, there is a designation, the AC II, and there are individuals with specific expertise in occupational claims.

2.50 p.m.

I suggest that the appropriate type of professionals be put on the Board and not some part-time insurance salesman. That would be inappropriate. If we are going to specify it as we have in the previous four paragraphs, why do we not specify it here? There are Senators on that side who have insurance experience and know well what I am talking about.

I turn to the schedule of benefits, where I met the greatest form of disappointment. Notwithstanding how this Bill came about and the number of years it has taken to reach this far, the compensation for death is indicated as being an amount equal to three years' gross salary at the date of death. What that works out to is this: One can assume, for the purpose of this debate, that the take-home pay of an officer might be as much as 80 per cent of his gross pay. Therefore, if one takes three years' gross pay—not the take-home pay—and award that to the beneficiaries of the officer who is killed; and if the beneficiaries invest that lumpsum at 8 per cent monthly, and this is accrued monthly, and they draw down from this capital sum the regular monthly salary of the officer—because one would assume that they are living at a level where the bulk of the salary is needed to sustain the family—this salary would last that family approximately four years and two months, at the end of which time the state is finished with them; they have nothing more to receive. They are, of course, entitled to certain amounts of pension, but for the younger officers who have not been there very long, the level of pension would be very small.

We are talking about families here—men and women who are putting their lives on the line for the security of the population and the state. What the Government is saying to them is: “Well, four years is sufficient. After that if you have to starve and take to the street, that is sufficient”. I say that it is not sufficient. There are other ways of dealing with this. There are other yardsticks that can and should be used. It is not my job to tell the Government how to do it, but it is my job to say that it is not sufficient. The members of the protective services require better than that.

The Government should recognize also that these officers take it upon themselves to insure their families to protect them from the type of risk that they are involved in. Notwithstanding that, one of the concerns which was expressed to me on several occasions by a number of police officers, is that they are subject to the vagaries of the advice of the insurance salesman and if it turns out that the advice is inadequate, then it is the families of the officers who have to pay that price.

These young officers coming out of training school, putting their lives on the line, are not experts in insurance and do not understand all the little subtleties of all the clauses that might be used for their benefit, such as if they are disabled that the payments are suspended and so forth and the company will pay their premiums until such time as they actually die. They do not necessarily understand things like that and what this Bill is doing is placing the onus on the individual officer, who is not an insurance expert, to provide for himself, and this meagre amount for four years is insufficient and needs to be thought out again.

In the context of what I have said, it is very clear, when one looks at the entire content of the legislation, that the intent is not really to provide a benefit to the officers, but so that the Government can pat themselves on the back and say they did something. They may have done something, and we will support it because something is better than nothing, but it is not enough. They stand here charged with the responsibility of looking after the people, not themselves, and they must do the right thing and do it well.

I thank you.

Sen. Rev. Barbara Gray-Burke: Mr. Vice-President, I rise in support of this Bill because for a long time now members of the protective services have been experiencing difficulties in their lives with these outdated laws. Time and time again bereaved families and relatives with ailing patients have been complaining. The families of these parties, whether they are deceased or paralyzed, lament the fact that there is no compensation for their loved ones. Hear some of the cries: "My son died in the course of duty." "My husband got killed running a prisoner down, but up to this hour no one has lifted a finger to give assistance."

This amendment Bill is a timely one when one considers that sometimes the deceased is the sole financier, responsible for the upbringing of his children and after death there is no support whatsoever. This creates problems and hardships and children go astray. What a breakdown of family life! This is a good time to bring this Bill. Many citizens would welcome this Bill coming into effect, especially

the Special Reserve Police, first division, second division and even families of members of the fire association.

Sen. London: Would the Senator please give way? Is the hon. Senator aware that the Special Reserve Police are not covered under this Bill?

Sen. Rev. B. Gray-Burke: Mr. Vice-President, when the Minister is winding up, he will answer that.

It is a good thing to have a committed government, a Government of national unity, not one that is bringing bills and not having them proclaimed. Members of the protective services now have rights to claim compensation whether it is by his or her estate or nominees; whether the injury is permanent or partial. Even if it is after they are dead, this in itself shows love and respect for a people. In churches things like these are called love offerings.

3.00 p.m.

Mr. Vice-President, imagine officers who got injured in the year 1980 while performing their duty and up to now have not received a black cent, all they got was a military funeral. The last regime left this to the mercy of the Commissioner. They would not settle those debts, give a grant, nor look at a disability fund. You may call it whatever name you may wish to call it, but what I meant by this is that it is outstanding. Bless the day there was national insurance, because if it was not in existence, not a morsel could have been placed on a table. Mr. Vice-President, this Bill will afford this Government of national unity to take care of all these outstanding debts in a positive manner having them settled once and for all.

Let us all sit here and begin to visualize a person's injury that is partial or even permanent and he cannot continue to do normal employment, or whose earning power is impaired and a Bill like this comes to make a little provision, would they not all be very happy and applaud this Bill?

The last administration did not make regulation under any of the two Acts. They had a Workman Compensation Act and even this Protective Services (Compensation) Bill to assist their loyal service personnel. This is a national problem! They were in office from 1991 until they demitted in November, 1995 so I would say that this Bill is making history in this nation. Things that were left undone for years are now finding their respectful places in the law books and in the society.

What sense was there in making laws and coming to the Parliament with a bill, passing it through all its stages, and not allowing it to be proclaimed? This was the practice of my friends on the other side. It seems to me that the PNM is static, but I know law reform is to bring about changes. The law is to move with a changing society like ours. That is moving into the 21st Century. It is a good thing that this nation had really and truly given themselves a chance by giving this

Government of national unity a chance. We are here to pass laws for the benefit of the public and to protect members of the protective services which is a matter of priority with this administration.

It appears to me that they were trying to suffer the small man, or I must say grind him to the ground as in the days of slavery and still preaching “Father of the Nation and Love for Mankind”. I would say that they were performing “child abuse” to the nation. This must never happen again. There must be laws and I am appealing to the Attorney General to put in place something, if even it is this one. I am not a draftsman, I am a layman but I am just suggesting if the Limitation Act in the United Kingdom will protect all citizens in this lovely island of ours in the future, the future generation will not suffer by any other government that comes in, or are to come in the future.

Thank you.

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I have just a very brief intervention. Of course, I applaud the Government’s attempt to ensure satisfactory compensation for the protective services, but I would like them to consider whether there may not be some point in Sen. Montano’s suggestion that we might go a little further and perhaps there might be some state-aided insurance scheme or something of the sort. Whatever the vehicle, perhaps there might be some point in thinking about going further.

The real purpose for standing up is to ask, with all due respect to the draftsmen, whether one can really give compensation to someone who has died. “An Act to provide for the compensation to officers...who suffer injury or die...” Would that need to be clarified?

Secondly, for my own clarification—it might not be an ambiguity at all—I have some uncertainties arising from the phrases: “in the line of duty”; “in the course of his duty”; and “in the course of employment”, as to when exactly the compensation is to be paid? I understand well enough, that if an officer is involved in putting out a fire, or trying to deal with a robbery, or quell a civil commotion, and he gets killed or injured, compensation might be due. Is there anything here that would indicate what would happen if, for instance, he was sent from the St. Joseph Police Station to my house on his motor bike to deliver Senate papers? Or would that be left to the committee to decide? Those are the two questions which I have, Mr. Vice-President.

Thank you.

Sen. Dr. Eastlyn Mc Kenzie: Mr. Vice-President, I would like to add my commendations to the Government for bringing this Bill. I have just one concern, maybe it is covered in the Bill, but I would still like some clarification.

We know that before any compensation could be paid, there must be some sort of investigation, inquest and so forth. From my own knowledge and experience—because I had someone who died like this—it takes some time before the matter comes to a final decision and I would like to find out whether there would be some sort of interim arrangement made so that the children or spouses of these officers would be taken care of during the period that all this investigation would be carried out.

I have known of persons whose children have actually gone without meals, and school fees could not be paid and the standard of the family living went down, waiting for the time when some sort of arrangement was made for compensation. So I would like to find out whether there would be provisions made for the upkeep of the families of these officers in the interim.

Thank you very much.

3.10 p.m.

Sen. Philip Marshall: Mr. Vice-President, I rise in support of this Bill but would like to really vociferously support the comments by Sen. Montano. Crime is one of the major issues in our country today. The compensation in terms of salary of people who serve to protect us is already very low. It means that we have to attract people with a modicum of integrity. Officers whose families must be protected if they are injured or die in the course of their duty to this country—and I am talking about internal strife as well, as proposed by this Bill—the Government should look at the level of compensation and, using the example of such a payment of three years being eroded in a matter of five years, I would say at a minimum the Minister of Finance should look to see whether this compensation could not even be tripled, something that would be equivalent to nine years compensation in terms of their normal salary payments.

In addition to providing for compensation when one is injured or killed, what about preventive measures. I do not know whether the hon. Minister of National Security could tell us what percentage of policemen when faced with dangerous situations, for example, have bullet-proof vests made available to them. What about the quality of equipment they must use in the case of firefighting services,

is it adequate? In other words, can they face damage and injury because of inadequately maintained equipment?

So, that there are a number of issues. We must look at this whole matter not after somebody is injured, but to see what further support, investment and policies we must put in place in terms of safety and other protective measures to ensure that we keep to a minimum the chances of somebody being grievously injured or killed in the course of duty. I believe in terms of the finance that would be required, that this would be a very very small cost to put in place, the ability to attract the numbers of people that we need in what is a key concern for society as a whole.

I thank you. [*Desk thumping*].

Sen. Orville London: Mr. Vice-President, I just want to start by making a general comment on what I consider to be a practice where Members of the UNC faction of the Government indulge in statements which, to me, imply criticism of its coalition partner when they talk about long-standing concerns which were allegedly not addressed. I find it sad, almost pathetic, the way in which these statements are embraced by the NAR faction of the coalition. We must remember that over the last decade, the NAR faction of the coalition has been in control of Tobago for all that time, 100 per cent of the time, and of the country for more than 50 per cent of that time. So, one has got to be very careful and if I were an NAR member and heard statements like that made and in the interest of national unity I had to thump, I would thump very softly.

I want to address also what I consider a very puerile argument, that because the past PNM administration did not address a particular problem or did not completely resolve the particular problem that we on this side cannot refer to it and offer suggestions for its resolution.

We are not on this side because we are part of a perfect organization. We are on this side because we think that it is the least imperfect of the options open to us at this point in time. We recognize that law making is an evolutionary process and that certain things have to be done at a particular point in time and people build on things which others have done.

I suggest, therefore, especially to the new Senators, that maybe in addressing matters in the Senate they follow the example of people like the Minister of Finance who is always pragmatic; or people like the Minister of Legal Affairs who is always gracious; or people like the Attorney General when he is referring

to Sen. Daly; and to ensure that when we have debates in this Senate that we are confining ourselves to the issues at hand and not with too much politicking

In that context, therefore, Mr. Vice-President, I would like to make a couple suggestions and to refer to certain concerns. My first concern—and I hope that in his reply the Minister of National Security will address this—is whether with this committee which has the option to receive, investigate, hear and determine claims for compensation, and a committee that is quasi judicial in nature, whether the bureaucracy which we are attempting to get away from would in fact not be evident and we might possibly end up with a situation as referred to by Sen. Mc Kenzie, where there is a very long delay and, therefore, Sen. Mc Kenzie's point about what is done in the interim becomes even more serious.

I am also very concerned about certain types of officers whose plight has not been addressed in this particular piece of legislation. I do not think it is coincidence that Sen. Barbara Gray-Burke in her address referred to special reserve policemen. I think it is very critical that we look at the position of special reserve policemen and auxiliary fire officers because we are not just talking about taking care of a particular section of the protective services; we are talking about the kind of signals that you send. One has got to remember that over the last five years, the types of duties, the kinds of dangers, which these individuals have to undergo are identical to those of the regular members of the protective services. I am wondering, Mr. Vice-President, whether by introducing legislation which deals only with the regular members of the protective services and which in no way mentions the auxiliary fire officers and the special reserve policemen, we are not sending an unfortunate signal to them and whether in fact we might not serve to demotivate them.

So I am suggesting to the Hon. Minister that maybe he could give us some indication and give some kind of hope to these individuals who as I have said, are working under exactly the same conditions as the regular officers.

I also refer to the question of the Committee. I support Sen. Danny Montano's contention that we should tighten up on the qualifications of the individual from the insurance area. But I am always a little uncomfortable when we are seemingly restrictive in our legislation. We have got to remember that we live in changing times and none of us can forecast what the situation is going to be like in the next five or ten years.

I, therefore, would have been a bit more comfortable if, included among the provisions for the setting up of this committee, instead of five members that there were seven members, two of whom could be appointed on the discretion of the President. That will give the President the flexibility five or ten years later when the situation would have changed in a way which we cannot forecast, to actually bring in individuals whose expertise is most suited to the particular conditions which exist at that particular time

So, I am hoping, Mr. Vice-President, that this would be taken into consideration by the Minister or when we are in committee.

I am also concerned that nothing has been said about the members of the defence force. I do not know if there is a particular reason in law for their matter not being dealt with at this particular time. However, going back to my point about sending signals, I am suggesting that we deal with members of the defence force if we do not wish to demotivate them, especially in a scenario where in recent times they have been called upon to function in areas traditionally reserved for the police service. My point is that if we are reviewing legislation, we do so in relationship to the circumstances of the time. We must review regulations and ensure that they are totally relevant to whatsoever situation exists. It does not make sense for us to review legislation and then have to come back three or four months after to bring subsequent or alternative legislation. So I am suggesting that maybe we could have taken a much more holistic approach and deal with all the individuals who are likely to be affected by this particular Bill.

3.20 p.m.

Mr. Vice-President, I have here a clipping from the *Daily Express* of July 2, 1996, page 10, written by Mr. Wayne Hayde, President of the Police Service Association. He did commend the Government for introducing the legislation but he did indicate a number of concerns. I find this a little surprising—because I got the impression that there was some measure of consultation—that some fundamental concerns could have been raised by Mr. Hayde. He spoke about the problem with the special reserve officers. He mentioned, and I wish to quote:

"In the original draft the bill was supposed to be retroactive but the one laid in Parliament states that it will come into effect on a date to be fixed for proclamation by the President; in our political system ten years could lapse before this is done. The bill stated that in the interim, police officers will be paid according to the agreement signed..."

He goes on to say that:

"We do not intend to let this happen."

Then the point raised by Sen. Montano, "no provision made for officers suffering serious injuries which does not result in permanent disability." He also makes a point about the fact that the Bill seeks to prevent a claimant who sues the state for negligence for an injury or death, from making a claim unless the action is first discontinued. In fact, he makes a very strong claim that this is a type of economic blackmail.

All I am suggesting is that I find it a little surprising that this Bill that has been in the pipeline for so long, and after being given the impression that there was such a high degree of consultation, that the President of the Police Association should have such serious reservations. I am hoping that in his winding up, the Minister of National Security would give us some indication as to whether the fears of the President have been allayed.

I think all of us are aware that this Bill has to be supported, but I am suggesting that it would have been better for all concerned; it would have sent signals with which all members of the protective service would have been comfortable, if we had taken the time to look at the way in which the Bill affects the special reserve police, the auxiliary fire officers, the members of the defence force, and so forth. We would support the Bill but we would do so with a certain degree of reservation because we are convinced that it could have gone much further and could have brought much more relief to many more people.

Thank you, Mr. Vice-President.

Sen. Vimala Tota-Maharaj: Mr. Vice-President, once again this Government, as the custodian of the public welfare, has brought to this honourable House a piece of legislation to ensure that members of the protective services receive long overdue compensation. It really amazes me, and it never ceases to

amaze me, whenever we present a piece of legislation in this House, that the Opposition either was going to do it or we are taking advantage of the poor man, or we are trying to score political points. We are not here to score points. We saw an area where there was need for compensation for members of the protective services and this Government has duly done its duty.

This Bill would, in effect, give to members of the protective services a legal right to get compensation in respect of permanent injury or the event of death; or

beneficiaries would be entitled to compensation in respect of such death if the officer in the protective service received the injury or die in the course of duty. Members of the protective services received very little or no compensation and there was undue delay. We are ensuring that they get their due compensation in time, or in the case of death, spouses, children and members of the bereaved family, will get their due compensation expeditiously.

Having close friends whose spouses are members of the protective services, I can attest to the anxiety and fear which is felt by many a spouse when the other half, who, in many cases, is the sole bread-winner, goes out to work and assumes duty. That spouse is at home wondering, "will I see my spouse when he has concluded duty? Will I see him injured, uninjured, dead? What is my position?" Because of legislation such as this being brought to Parliament, some of these fears have been allayed.

Not only this piece of legislation has been brought to the House, but the Minister of National Security has to be praised as well for the expeditious manner in which the police were given vehicles to perform their duties. They were given adequate housing, the barracks in St. James and other places of work are being renovated.

I, as a mother, can now confidently encourage one of my children to become a member of this esteemed service because all necessary pieces of legislation are being put in place to ensure that my child, or a member of the protective service, can now work effectively. I would like to share with this honourable House a clipping from the *Daily Express* newspaper, dated Wednesday, April 3, 1996, where a member of the police service was shot dead. The headline on the front page stated: "Cop Shot Dead". It reads as follows:

"In the third attack on uniformed police in four days, a police corporal was shot dead and his partner critically wounded as they questioned four suspects in Chaguanas on Monday night."

In that same newspaper on page 3, there is a picture of the slain policeman's wife, a "Face of Grief". Whenever I see these pictures they come back to haunt me because this lady, whom I know, said: "What is going to happen to me and my two children? What compensation could I get? I do not have a job". There are several cases of wives, maybe husbands also, who have lost their spouses and they wonder what is being done, at least, right now, for a year or two, or for some time, to ensure that "my family has a safety net to fall back on, or something to help me to get me started again".

I am not saying that this Government has put everything in place and will bring a whole package of legislation and a whole package of compensation for the members of the protective services, but we must take into consideration that this Government did not just prepare this Bill and come to the House, and said, "okay, we are bringing this; we are going to do a token kind of thing here; take it or leave it." This Government held consultation. If we look at the Attorney General's presentation in the other place we would see that this Government held consultation with the Chief Personnel Officer, and various associations representing the different branches of the protective services and, of course, the Government.

3.30 p.m.

I would like to reiterate this point—this Government did not prepare this piece of legislation on its own. There was consultation with the relevant authorities and associations. This Government is cognizant of the changes in society and realizes that law reform is imperative, thus the importance of amending the laws in this ever-changing society and ever-changing time. The Government is cognizant of the fact that the members of the protective services are in the front line in the battle against crime. Kudos must go to those members of the protective services who have worked for many a year, with many handicaps before this committed Government assumed office and tries to make a difference by bringing about the necessary legislation and equipping the members of the protective services so that they can carry out their duties effectively. Now, there is the compensation package. It may not be a total and complete package but it is a step in the right direction.

In conclusion, we should not regard this piece of legislation and this matter as a partisan matter—we are not here to score points as I said—but as a national issue and a national matter and we should give credit where credit is due. We must

give credit to this Government of national unity. This Government of national unity has seen it fit to bring a piece of legislation to equip the protective services. I say give credit where credit is due to the Members of this Government of national unity.

Mr. Vice-President, I thank you.

Sen. Dr. Eric St. Cyr: Mr. Vice-President, I give broad, general support to this measure and even say that if anything, it was long in coming. Permit me,

however, to make just a few brief remarks on the question of risk. I sense from one set of the proposed amendments in the other place, where I see exclusions suggested on the basis of participation in illegal activity or on the basis of negligence, that the question of risk has arisen in our minds, and I think properly so.

The Second Schedule where we are excluding those issues not to be covered by the Bill also suggests that we are grappling with the question of risk. The risk I think would arise at two levels. Firstly, the risk to the officers of the protective services and the extent to which they are exposed to injury and loss of life; and on the other side the risk that the authorities are exposed to, in having to meet payments, so that if there were a serious loss of life the cost could be prohibitive. I also sensed a measure of hedging in that some persons have argued that three years compensation may be insufficient. I think that would have to be evaluated. I would think that a member of the protective services who was injured at age 25 would be in a different position from a person who was injured at age 55.

Mr. Vice-President, while we should go forward with this issue and not delay any longer, is there a case for a proper actuarial review, a proper actuarial study as to what improvements we can put to this issue? But, as of today, I think we should go ahead and put it in place and set about fine tuning it so that these concerns could be addressed.

I thank you, Mr. Vice-President.

Sen. Carol Cuffy-Dowlal: Mr. Vice-President, as I rise to support the Bill entitled "an Act to provide for the payment of compensation to officers of the protective services who suffer injury or die in circumstances arising out of and in the course of employment with the State", I am happy to be part of the "Aye, Aye" crowd because on this occasion, I have the support and the "ayes" of everyone here and moreso, having been an attorney who has practised before the courts of Trinidad and Tobago, I have many friends who are police officers, fire officers and prison officers and having spoken to them, they have all said "aye" to this piece of legislation, so I know I am in good company.

Mr. Vice-President, this Bill seeks to institutionalize a compensation programme for officers of the protective services, that is, those persons who protect and serve. When I say "protect and serve" here, I include members of the prison service and the fire service because these people all protect and serve. They give of their life and of their time under very trying circumstances. Not only do

these officers give of their time, service and their life, but their families do so also. At present, when members of the protective services are injured not only do they suffer the physical and emotional trauma of being injured or at times their family experiencing the grief of death, but to use a local expression, the “horrors only now start” . Their families and beneficiaries are not automatically entitled to compensation under any fund. Their claims are submitted on agreement between the Chief Personnel Officer and the various associations.

Mr. Vice-President, do you know what is interesting? The claim is not then settled at that point; it is sent to Cabinet for approval. So that after having suffered the loss, the grief, the inconveniences, the physical and mental agony, claims must be discussed with one’s association, and then submitted to Cabinet for approval. If for no other reason this Bill must be supported by the entire nation of Trinidad and Tobago, because it now says that one is entitled as of right to compensation that would see that the bureaucracy we have so become accustomed to would be there no more.

Mr. Vice-President, under the old system the funds or the moneys which Cabinet would approve must then come either from the national security budget or it must be by warrant from an advance from the Contingency Fund. Under clause 3(2) of this Bill “Any award of compensation under this Act, shall be a charge on the Consolidated Fund.” This means that one’s moneys will be guaranteed by the state. One does not have to find the money; the money is there and will be paid.

People who protect and serve this country have for long suffered. When I heard Sen. Montano speak of the gestation period and was critical of some of the clauses in this Bill, I say to him, gestation yes, but still-birth, no. From 1974 to today, that must be still-birth. We on this side have not only rediscovered or “reconceived”, if that is the correct word, we have given birth to a piece of legislation that is going to be for the benefit of Trinidad and Tobago because the people who protect and serve us when at times we are asleep, the people who are there in times of our need, at least if not them, their families will feel that at least this is a Government that actually cares. We are saying to them the Government knows that money cannot compensate for the losses one may have suffered, but at least it understands one’s plight and it is willing to make some provision for one’s family to feel comfortable. It is sorry, things have been rough, one has suffered a loss or an injury, one might have died and one’s wife and children are there to suffer—mother and father—but there is some monetary compensation to help along the way.

3.40 p.m.

In listening to some of the comments, I do not want to say that some Senators have not had an opportunity to peruse this Bill, but I think if they had paid some attention to clause 20 of this Bill, they would have noted, and if with your leave, Mr. Vice-President, I can read:

“Nothing in this Act shall be construed in a manner that would disentitle or disqualify an officer from making a claim in respect of personal injury or death, in accordance with—

- (a) the National Insurance Act, the National Insurance Medical Expenses Regulations, the National Insurance (Employment Injury) (Payment of Medical Expenses) Order;
- (b) the Police Service Act, the Fire Service Act, the Prison Service Act and the Pensions Act;
- (c) any other legislation that may confer benefits relating to personal injury or death of an officer.”

We have not restricted. What we have done is to add to what has already existed, and to guarantee that members of the protective services, including the fire officers and prison officers, can feel a little more comfortable as they go about their duty of protecting and serving this nation.

Mr. Vice-President, I thank you.

Sen. Martin Daly: Mr. Vice-President, I am a bit confused. I think it is Thursday. The incompetence of this Government in managing the parliamentary agenda is causing much difficulty to those of us who would like to participate. It is a little confusing to be here on a Thursday, so you must forgive me if my remarks are a little disjointed.

I have never seen such incompetence. We come here at different days of the week, different times of the day. None of us can plan our business, because we just do not know when we are going to be hauled here. The last time we were served with an Order Paper when we were walking out, so I do not know what day of the week I am going to be brought here, I do not know what time of day I am going to be brought here. I think it is massive incompetence and it should be described as such.

Now, it is also giving rise to another disease on the part of the Government, and that is “smugness”. This measure is very welcome and I compliment the Government on bringing it. But, for people to get up and speak about this in glowing terms, they need a dose of reality; and you know that is my specialty, Mr. Vice-President.

This is a totally superficial piece of legislation. That does not mean it is not welcome, because it is offering a crumb where there was nothing there before, but it is totally superficial. I would like to know why is it not possible to put in place an insurance scheme to cover all of these people. I imagine that an insurer would be able to study the history of the protective services, and even if there is a high premium or whatever—there are people here who are very capable of speaking about these things—why is it not possible to get the proper insurance scheme in place?

I agree with Sen. Montano, that the rate is very low. I am appalled that anybody would think that three years’ salary is going to do anything for anybody who loses a spouse in the protective services. A family very rarely survives the loss of an income earner, unless they have insurance or some other form of compensation. The capital that is going to be produced by three years’ salary, will be exhausted in the shortest possible space of time. To fix compensation in this arbitrary way and to be smug about it, really astonishes me. What are the lawyers on the Government side doing? All of us know, that in the assessment of damages for personal injuries and death, a crucial factor is the number of years’ purchase, or the multiplier to be used in order to give a person proper compensation. And the number of years’ purchase that you use—that is the number of years of earnings of which you award—varies first and foremost according to the age of the person.

As Sen. St. Cyr pointed out, this Bill makes no distinction between somebody who is 25 and 55; and that is appalling. Now, I welcome it, because it is a crumb. But do we have to be so confused about the way we do parliamentary business? And do we have to be so smug and self-congratulatory about crumbs? Can we not, if we bring forward a modest improvement, describe it as a modest improvement? Do the Senators on the other side think that the person in the picture displayed by Sen. Tota-Maharaj, is not going to wake up in the fourth or fifth year after the death and recognize that she has absolutely nothing, because that capital would have completely disappeared? What kind of investment, or what kind of return are they going to get on that kind of capital?

I think it is very important, that while this Government progresses and does good things, it keeps a sense of modesty about it and does not pretend that these are incredible breakthroughs. I am sure that the incompetence in which the way parliamentary business is being arranged is responsible for many of these lapses. Because we never know if we are coming here on a Monday or a Thursday. We never know if we would be here or over there, and we never know what time we would be coming. So, maybe that is what is responsible for all of these lapses.

I hope that the Government will understand that this is a modest advance, and that it will continue to study this subject and eventually come up with an insurance scheme, or something more productive and something more long lasting for members of the protective services. I hope this is only a first step, and I am astounded, as I said, to hear the self-congratulatory tones in which this is being referred to.

Mr. Vice-President, there is not any guarantee of payment here. That is a perfect example of exaggeration. I am quite sure it is a charge on the Consolidated Fund, so what? The money will get paid according to the efficiency with which the Minister of Finance arranges his business, and the efficiency with which the Treasury dispenses payment. This is no guarantee. Why describe this as a guarantee? I am sure that payments that are made for the compulsory purchase of land are charges on the Consolidated Fund. People wait 25 and 30 years to get paid. Sen. Wade Mark, before he had the unenviable task of arranging Government business, used to complain all the time on every land acquisition motion. I mean, it is amazing, the personality change that took place. Every single time there was a land acquisition matter, he used to remind everyone of how long it took for people to get paid; and that is a charge on the Consolidated Fund. It is not guaranteed, it does not mean that people will be paid any quicker. That is a test of the efficiency and humaneness of the Government. So let us not launch into hyperbole and start talking about guarantee. It is like when some people used to talk about consultation and arranging business in a consultative way. All these things strike us from time to time.

3.50 p.m.

Mr. Vice-President, I welcome this, but I think we must put it in a proper perspective. While we are dealing with the terms and conditions of policemen, Mr. Vice-President, I wonder whether we could not ask the top management of the police to stop playing the numbers game: they are not going to persuade anyone in this country that crime is down by just getting on television and saying so. Could they start showing a little respect for our intelligence, and stop playing

the numbers game, and start telling us what, if anything, they are going to be doing differently about the crime situation in the country? I think it is such a colossal waste of time. It is so smug. The smugness seems to be spreading everywhere. It is so smug to see the top management of the police trying to persuade us on the electronic media that the crime situation is improving; and there is something very dangerous happening here.

The last government used to try and excuse or dilute the murder rate by saying: "Oh well, many of those murders are related to drugs, so the crime is not really so bad, because if you exclude the drug-related murders, it ain't so bad". Now I am hearing the top management of the police saying: "We ain't really have so much murders, you know, is only husband and wife chopping up each other head and t'ing. Rest that one side, and then look at the statistics." Do they think we are stupid?

Does that now mean that the top management of the police do not believe that the police have a role to play in domestic violence, and that is some sort of unrelated phenomenon that does not affect them? Perhaps, if every time they got a report of domestic violence, instead of confronting the woman with the option of whether she wants to prosecute, or not, they could get into some of their new vehicles and go round and visit the offending spouse and do as they say in England, "have a word". Because I think that many people when they get into this pattern of behaviour, if a policeman comes up and "has a word", they might think differently about it.

So I am very concerned that we are going to look at the murder rate in the country and one government says, "Well, it ain't really so bad, is only mafia style killin' eh. Exclude that from the statistics." Now they are telling us, "the crime ain't really so bad, is only husband and wife chopping up each other, so subtract that." If they are going to go on television and take up a lot of time, could they tell us something sensible, and not insult our intelligence? Because I accept that the Government is doing things to improve the terms and conditions in the police service. I accept that, and I compliment them for it. But could we adopt a policy of "steady as we go", adopt some modesty about what we are doing; could we keep some sense of proportion; could we understand that none of the problems in this country are going to be wished away; and can we understand that scintillating performances on the electronic media are not going to be productive of anything. I think it is important that we understand those things.

Of course, Mr. Vice-President, I support this Bill, but I see it for what it is. It is a modest advance, and I appeal to the Minister of National Security to ensure

that the problem does not remain here. I am quite sure he is one of the more conscientious Members of this Government, not given to hyperbole, and I am sure that he will give us every assurance that the whole question of compensation will be kept under continuous review, because three years' salary is not going to help anybody, as some trade unionists used to say, "face the grocery". You cannot face the grocery with three years' salary. At least not for very long. So that I think we have to keep a sense of proportion. I support the Bill, but I urge the Government to continue to keep this question of compensation under review; to take into account the fact that different ages, different ranks, different occupations within the police service may face different risks, and to review all these things so that, eventually, we can come up with a much more comprehensive scheme than this rather modest measure.

Thank you very much, Mr. Vice-President.

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): First of all, Mr. Vice-President, before I enter into this debate I want to correct Sen. Daly, who has been challenging us for some time now, by indicating that land acquisition claims do not constitute a charge on the country's Consolidated Fund. That is the first point I need to clarify here, because *[Interruption]* It is not. It does not constitute a charge on the country's Consolidated Fund as he indicated a short while ago.

Secondly, Mr. Vice-President, there is a high degree of expectation in this country from all sources and quarters. I appreciate it because when one has become bogged down by a certain kind of order for years, and there is a change in the country, people expect rapid responses to a number of problems. But as I said at the last sitting, Mr. Vice-President, one cannot change a system or bring about fundamental structural reforms in the short space of eight months, ten months, or even a year. It is an ongoing process. But what is absolutely clear is that everyone who has eyes to see would be able to admit that there are, in fact, visible attempts, real efforts, being made to bring about stability and some degree of harmony in our country.

Of course, on the question of crime, as Sen. Daly said, who is happy with the crime situation? But the fact of the matter is that efforts are being made. We are bringing laws to the Parliament, having amendments made; trying to improve the morale of the police service which was completely depleted by the last administration, when they went on an all-out assault against the police service of Trinidad and Tobago.

We are trying our best, Mr. Vice-President, and what is very important is that the grassroots in our country, the masses of people, as manifested in the last local government elections, demonstrated in no uncertain way that they believe that this Government of national unity is doing well and trying its best. If the masses, not the middle-class, and when I say the middle-class we do not mean the middle-class in that sense, but there are elements in the society who are opposed to this Government. We know them, we see them, we hear them. Mr. Vice-President, the fact of the matter is that, while we have to hear them and listen to what they say, we also have to take into account the vibrations we are getting from the ordinary people on the streets, in the valleys, in every nook and cranny of our country, and we are paying attention to what they are saying, as well.

All I can say, Mr. Vice-President, is that nobody can say that this Government is not making a serious attempt to address so many problems at the same time. It is 40 years of accumulated madness that we have inherited. And the police have been crying out for years for vehicles; about lack of mobility. The Government has made a commitment that it will provide the police service with at least 100 vehicles, and I am happy to report that we are getting very near 100. We are not on the button, but we have passed over 60 vehicles in number.

In addition, in respect of the strengthening of the police service, the Government recently took a decision to expand and increase the strength of the service to have more visibility on the streets of Trinidad and Tobago. So while we are tackling the unemployment crisis which we have inherited, we have to deal with the security of the person and his property. We are making efforts and I think that we ought to congratulate ourselves and we need to be smug at times, if we want to be. Why not? Because we are doing our work [*Desk thumping*] and it is only those who really—I do not know if they have their own hidden agendas, but they come here and seek to denigrate and attack, unnecessarily, the good work of the Government, but as I said, I am a democrat, and I recognize, Mr. Vice-President, that everyone has a right to criticize, and I listen to them very carefully.

Sen. Mohammed: Trying to muzzle people?

Hon. W. Mark: Not me, I will never try to muzzle people. Never! Not Wade Mark, somebody else, not me!

Sen. Mohammed: All right, somebody else.

Hon. W. Mark: I am a democrat. Mr. Vice-President, I want to indicate, as well, that the question which Sen. Daly raised about the parliamentary agenda—I have to take him on, today, because he has been at me for some time now.

Sen. Daly: Have I?

Hon. W. Mark: I want to tell the Parliament, Sir, that we have been trying our best to accommodate an agenda that we have to complete. The Government of Trinidad and Tobago has a responsibility to carry out its duty in whatever areas we have to execute. We have to do that, but we do it in a co-operative fashion, in a collaborative effort.

4.00 p.m.

Whilst for instance, over the last week we have been placed in areas that have been described in different languages by the hon. Senator, the fact is that we have attempted to address that question, that is why we are meeting here today and not tomorrow. If we were to meet tomorrow we would go back in the same Chamber at which he has been attacking and levelling all kinds of charges.

Sen. Jagmohan: You mean the cubbyhole?

Hon. W. Mark: Yes. The fact is that we are trying to meet twice a week now. If it becomes necessary I would, in fact, advance to my colleagues that we need to meet three or four times per week.

For the time being, I wish to serve notice to Sen. Daly who seems to be getting his agenda confused, that we are going to be meeting twice a week, on a Tuesday and a Thursday. We would start at 10.30 a.m. and, if necessary, we would go until 10.00 p.m. to ensure that we get through with our agenda. I am prepared to go right through until the end of August. I have no problem with that, but at the same time we have a duty to complete our legislative agenda.

Sen. Jagmohan: Let the Bills go to the Lower House first.

Sen. Kenny: I thank the Leader of Government Business for giving way, Mr. Vice-President. Exactly what is this agenda?

Hon. W. Mark: Mr. Vice-President, one sees it all the time; everyday. What I think I told Prof. Julien Kenny some time ago is that in 1995 it was a bit difficult. We had just come into office in November, and it was a bit difficult to formulate a legislative programme for the Parliament as we would have liked. The Government of Trinidad and Tobago is going to make every effort in 1996 for the 1997 term, to at least advance its programme so that Members of Parliament and

the country would have a better appreciation. I indicated to many Senators that it was not possible in 1995 because of the particular deficiency we experienced. We are going to try to at least provide Members of Parliament with a long-range appreciation of the matters that we wish to introduce in the following year.

Mr. Vice-President, I rise in support of this very important Protective Services (Compensation) Bill. Sen. London made a statement in his presentation about taking a holistic approach to the piece of legislation that is before Parliament, and that we ought to have incorporated the defence force into this arrangement. For the parliamentary records, I just want to indicate that the defence force has its own Act and there is a study taking place right now to revise the Defence Force Act and, of course, that study is ongoing. I understand that preliminary reports have already been submitted and as soon as we revise that particular Act we are going to come to Parliament to incorporate the provisions that we have, in fact, put into being for the various protective services.

So, it is not that we have left out the defence force. There is an ongoing study taking place by a committee headed by Justice Cross to revise the Defence Force Act. We felt that instead of detaining the benefits to which the other services would be entitled, we should come with this piece of legislation, conscious of the fact that very shortly we are going to have a revised Defence Force Act at which time we would incorporate the provisions which we have outlined today.

So, I just wanted to at least calm the Senator's nerves and fears on this particular aspect. Mr. Vice-President, it was important that I mention that.

Prof. Spence: Mr. Vice-President, I thought the hon. Minister was winding up so I just want to ask him, for my edification, to inform us of where the funds for the land acquisition comes from if they do not come from the Consolidated Fund.

Hon. W. Mark: Mr. Vice-President, there is a vote under the Ministry of Agriculture, Land and Marine Resources.

Prof. Spence: That is the Consolidated Fund.

Hon. W. Mark: No. The point is that Sen. Daly had made a charge and I was seeking to correct that particular position.

Mr. Vice-President, if I may, I would like to indicate that there is no doubt that we have discriminatory practices in our society and this Government of national unity is committed to removing those practices. For instance, once we are dealing with the issues of discriminatory practices in our country, or inequality of treatment, the issue of justice immediately comes to mind and sets in.

Mr. Vice-President, justice is fundamentally a socially defined standard for the evaluation of resource distribution in human relations. Justice deals with issues such as what people think is fair and equitable, and how people respond when they are getting far less than they deserve. Therefore, the laying of this very important Bill is an example of this Government's move and commitment to deal with the issue of discriminatory practices and inequality of treatment in our country.

The members of the protective services in our country, as you know, have limited legal redress when it comes to this question of compensation when injured in the course of their duties and responsibilities. This has been so for a very long time, and this Bill is attempting to address and redress this deficiency in our legal framework in Trinidad and Tobago.

The various Acts in question governing the protective services—the Prison Service Act, the Police Service Act and the Fire Service Act—have failed to provide compensation, and provision for compensation, for policemen, firemen or prison officers and their families. Therefore, we have to deal with that matter. We are not boasting as Sen. Daly said. We have introduced a measure.

Sen. Daly: Mr. Vice-President, on a point of order. I know that people are very sensitive when they are in power, but I do not want the Member to mislead the Senate. I never once referred to boasting.

Hon. W. Mark: Smugness.

Sen. Daly: Ah!

Hon. W. Mark: So the question here is that we have to be complimented for bringing this piece of legislation. Even though the hon. Senator said that it is moderate and is a limited kind of advance, the longest journey begins with the first step. We cannot have overnight solutions. Maybe when I was romantically enchanted with my kind of philosophical outlook which I still hold, I also wanted to have overnight solutions, but maturity, responsibility and a realistic approach to development have taught me that one cannot take that kind of approach.

Clearly, I am learning and every single day as I grow older, I learn more. So, one cannot have overnight solutions. There are no Nescafe' solutions and free lunches. I have learnt this.

4.10 p.m.

Clearly, if we make a limited advance and a limited intervention, at least, we would bring some happiness to the defence forces of our country. We would like to bring about great changes. This is why we have said to the entire country that we are not going to be here to 2000, but a minimum of 2015. That is no joke. We know that we are going to be here because we are going to do the right thing. The PNM is across there now because it did everything that was wrong. We are very sensitive to the people's cries.

This piece of legislation is very important and it seeks to address a number of issues. The Workmen's Compensation Act provides compensation for workmen in this country who have died or have been injured during the course of their employment. However, under this same Act members of the protective services whom this Bill now seeks to compensate, are not afforded that privilege of seeking compensation should they die or are injured during the course of their duty. Our law is saying that we need to address this particular situation and try to provide some guarantees, limited as they may be, to these individuals to ensure equality and try to redress the discriminatory practices which currently obtain.

This Government is committed to taking the necessary measures to eliminate inequality in any form or fashion where it rears its ugly head in our society, and discriminatory practices whether they are against women, children, workers or businessmen. We want them to strive as well. We are committed to a society that is based on equality, justice and fairplay so that there can be harmony, peace and unity. We know that inequality exists in our compensation laws. This is why this measure is seeking to advance and eliminate some of these inequalities by allowing members of our protective services to access compensation whenever they are injured in the course of duty; or in the case of death, for their families to be compensated. This Bill deals with the issue of injustice which members of our protective services are faced with on a daily basis.

Equality before the law is essential if any society is to progress positively and productively into the future. If we are to allow inequality to persist in our country, then we would persist in promoting a structure, a kind of societal order which would not be in the best interest of our society and country. As you know, some groups would gain more power, wealth and privileges. Therefore, the struggle has to be that we must strive at all points in time to create a society that is just, fair and equal as far as is practically possible.

This Government of national unity is promoting and advocating equality of opportunity. Shortly, a joint select committee would be appointed on this whole question of equal opportunities to outlaw discrimination. Whether one comes

from Laventille, Belmont, Caroni or Penal; whether one is a Sikh, Muslim or Christian; it does not matter what one's class, background, race or creed is, there must be equality of treatment and opportunity in our country. It belongs to all of us. We know that today, in Trinidad and Tobago and under the PNM government for 30 years when one comes from behind the bridge, one has no opportunity.

A person could have six O'Level subjects, two A'Level subjects, a university degree and says that he is from Laventille, Beetham, Caledonia or Gonzales, the employers in this country, some in the private sector, would not acknowledge them. I know about that. I was a trade unionist and I know of instances when these matters were brought to my attention. Through consultation and discussion among the population, we are seeking to put a law in place which would deal with the question of discrimination in our country where people can have equality of opportunity. There would be a democracy based on meritocracy. This is what we are seeking to promote. Apparently, it is causing some fear in some quarters. Change is always difficult to contemplate and sustain.

Equality of opportunity ensures that individuals are allowed to compete fairly in their environment in an open arena in which self-effort determines the ultimate position in the reward system. Justice requires that like cases be treated alike. Morally, we cannot ignore the wrongs which members of the protective services have had to bear over these years. This Government is one of conscience. We are committed to the people. We are not ignoring the wrongs which we are seeing.

I went with the Attorney General on a visit to some of the courts in this country and I was amazed. What was the PNM doing for 35 years in this country? When one looks at the court in Sangre Grande, one would see the state of our justice system. When poor people have to go there not because they are charged, but for elementary things such as a police record—because when they have to go for a visa they want to ensure that they do not have a bad police record—they have to stand in the rain and muddy road. We have to take immediate action to acquire property for us to house the Sangre Grande court and similarly, Arima and Port of Spain. Everybody is making demands and they want things done quickly. We are trying our best but we must have priority.

The Bill is necessary to correct certain injustices which members of the protective services have been experiencing for a number of years. This legislation is sending a clear message, that the Government of Trinidad and Tobago values human life; that it has a commitment to the promotion of human values in our country; that it also values justice. I must indicate that justice would not be

limited to any one section of the community. This Bill also demonstrates our commitment to fairness as well.

Clause 19 states:

“All claims in respect of personal injury or death of an officer, occurring prior to the coming into operation of this Act, shall be treated in accordance with—

- (a) agreements executed between the Minister of Finance and the Associations representing the different Divisions of the Police Service, Fire Service and Prison Service;
- (b) the same principles applicable before the coming into operation of this Act, where there are no such agreements.”

4.20 p.m.

So, Mr. Vice-President, officers who might have been entitled to compensation with the coming into force of this legislation, because it occurred prior to the proclamation, are not to be left out, or are not going to be left out. Clause 19 ensures that there would be no discrimination in this regard.

Mr. Vice-President, a major concern within our society is that of the status of women, and this growing importance of women was reflected in 1975 when the United Nations declared that decade as the decade of women. Our concern is that there must be formal and legal equality in relation to the sexes in our country, therefore, this Bill will also ensure that women in the protective services are not put in a subordinate position. So the whole question about the status of women in the protective services is also taken into account in this piece of legislation. It is important to recognize that to place women in a subordinate position is to institutionalize discrimination and to promote social inequality in our country and society. This Government will not tolerate any form of discrimination in our country; wherever it rears its ugly head, we shall root it out.

Mr. Vice-President, this Bill guarantees that women will have equality in terms of legal rights in respect of compensation. When things are done in a very efficient and very effective manner, progress will be achieved, and this is what we are seeking to do as a Government.

The frustrations which the families and the officers of the protective services experience when they are injured or when they experience death of a family member will certainly be minimized within the legislative framework of this Bill.

We have not gone at this stage, as Sen. Daly said, as far as we would have liked to take the measure, but certainly, as I have said, it is a very important start.

This Bill, Mr. Vice-President, would be putting into place a system, which will ensure that members of our protective services are not discriminated against. The Bill itself exposes the level and type of discrimination which exists in our country to some extent and, therefore, we have taken positive steps to deal with this matter and we would hope that as we continue to consolidate our gains and as we strengthen our positions in government; as we seek to diversify our economy, and to re-organize our society, where we focus on tourism, manufacturing, construction, agriculture and housing; where we put on the agenda, for instance, the social questions which are pressing this country, that we would be able to satisfy, not only the claims of the protective services, but the children of our country who are homeless, helpless, and have been abused.

In our country today, even though the latest statistics have revealed that unemployment has been reduced from 17.8 per cent to 16.3 per cent, it is a minor advance, and we have to do much better, because our commitment is to move towards bringing unemployment down to at least 10 per cent, at least by the year 2000. In other words, Sir, we realize that if we are to maintain stability, confidence and credibility in our country, we have to target not only the economic but the social problems, and we are straddling two fronts at the same time. This is why the philosophy of this Government is different from that of the government that was there in 1995.

We are saying that we must have economic growth but with economic justice, with social equity for all of the people of this country. And whilst the economy is growing, people have to eat, they have to live. That is why for instance, Sir, when I say to my colleagues there—and I know that, for instance, it sends all kinds of strange waves up their spinal columns—I know, Sir, because they know they will take me on for the next 20 years. We intend to ensure that the needs of the people, the requirements of the nation are met, and we are doing everything in our power to ensure that we have equality, peace, justice and fair play for all of our people in Trinidad and Tobago.

Thank you, Mr. Vice-President, for allowing me to have this limited intervention this afternoon. I have not spoken for sometime, but I am going to get into stride, and you can expect me every so often coming at the PNM in particular, because they are the ones we have to keep there for a long time.

Sen. Prof. John. Spence: Mr. Vice-President, since I am fortunate to be on the Independent Bench, and there is no need to make a political speech, Sir, I am going to be very brief.

I would just like to ask the Hon. Minister whether I understood him in his presentation to say that currently, the system allows compensation to be given, and if I understood him correctly, there is therefore no limit, it is not guaranteed. There is some sort of system now where one can give compensation, but it is not guaranteed, and there is no limit. So I wondered if I understood that correctly; whether by saying three years, we are not in a sense putting a limit where there was no limit before. It would have been possible before to give a compensation higher than three years' salary, is that correct?

Sen. Theodore: Mr. Vice-President, the Cabinet Minute of 1983, confirmed the agreement reached between the protective services and the CPO, that three years salary be paid in addition to the other compensations they were paying. That was fixed.

Sen. Prof. J. Spence: So it was by Cabinet decision that it was limited to that. However, I would still like to ask the Hon. Minister to consider the possibility of just wording the schedule a little differently, which would give the Committee some leeway, and that is, would we consider saying, "an amount not less than three years gross salary"? I would just like him to consider that when he is winding up. Thank you.

Mr. Vice-President: Hon. Senators, I think it is a convenient point at which we could break our afternoon session. I propose taking the tea break now, and the Senate will resume at 5.00 p.m.

4.28 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, I thank the Senators of this honourable Senate for agreeing with the Bill, and for their very constructive criticisms and the suggestions that have come across which would perhaps make it a better Bill. I will try to go through the points raised by the various Senators, but you would realize that many of the points raised were put forward by more than one person.

I thank Sen. Montano for recognizing the value of members of the protective services. If this Bill does nothing else, at least it puts the police service at the level which I will certainly like to see them—as servants of the public. That should be given some recognition. The Senator raised the point about personnel who were

injured or traumatized; he said they get no benefit. This is not exactly true because they may not get any benefit under this Bill, but there are other provisions in the Police Act, the Fire Service Act and the Prison Act to deal with officers who are injured temporarily. I say, "temporarily" to separate it from the permanent disability with which we are dealing here today.

These members of the protective services continue to get their full pay; they get leave: sick leave, extended sick leave, if necessary, depending on the nature of the injury, and they also receive free medical. Depending on the nature of the injury, they may require specialist treatment or surgery. But whatever it is, the provisions provide that the person be restored to full health. I certainly would not like to deal with an injured person on a temporary basis in the same category as the ones we are dealing with under this Bill.

I will return to the point dealing with the Consolidated Fund. Sen. Daly also referred to the Consolidated Fund. The way the clause is worded, it states that the compensation will be a charge on the Consolidated Fund, which the drafters tell me translates to a guarantee that this money is to be paid.

In the Bill we are dealing with a time limit of four years and one year in respect of death and injury which was addressed in the House of Representatives. I would like to give the Senate the benefit of what was referred to, as far as this one year provision goes. We did take into account that in one instance, four years was used in the case of death, but in keeping with the existing law with respect to matters against private individuals, the period is one year.

The undertaking that was made by the Attorney General in the House, is that he will be drafting a Limitation Act, which, when drafted, will put members of the protective services, who are making claims against the state, on the same basis as those who are making claims against private individuals. There would be situations where there would be discretion given to the court, where there are extenuating circumstances and where the injury could not have been discerned at the particular time.

This deals with another point raised that the person could have been injured last week, and the injury not manifest itself for 18 months. This is quite possible. I know of cases where this has happened. But once the manifestation of this injury could be traced to the particular incident, there is a discretion that can be used in addressing the claim.

I am afraid that Sen. Montano was not being very kind to the insurance industry, because while he was seeking to defend the police who may wish to take out insurance to protect themselves or have some benefits go to the family—seeing that there are these crumbs, according to Sen. Daly, that they are being offered—he did stray to suggest that these policemen, being inexperienced, might have been deceived or misled by members of the insurance industry. I am sure he did not mean it that way. Maybe I should take note of that and hold seminars for the police to let them know how to go about investing their money taking out insurance—because it is all part of the education process—rather than simply depend on the state to provide for them.

Many police officers and members of the defence force—I am a member of the defence force insurance plan and I pay for it every month. It was the same reason: the Government did not seem to be prepared to give very much on its own, so we took out our own plan. I will come back towards the end because we have had some very good suggestions about an insurance scheme or some special fund being considered.

Sen. Prof. Ramchand agreed with Sen. Montano with respect to the amount that is paid. As I said, I will deal with that in one lumpsum.

The matter of the drafting dealing with officers who have died, I have already spoken with a representative from the Attorney General's Office and we will make a suitable amendment during the committee stage. The matter of the phrases "in the line of duty", "in the course of duty" and "in employment" is something I am not going to get too involved in because, on the one hand, officers are on duty when they are physically in uniform and working; and, on the other hand, the claim is that members of the protective services are on duty 24 hours a day. There are

matters in the court right now where the determination of what is duty and what is not duty is being dealt with.

5.10 p.m.

What I am advised is that the expression "course of duty" is well defined in case law—the position he holds at the time, and he must be acting under the instructions of a senior officer. He must not be on what is called, "a frolic of his own". The committee is entitled to apply all the relevant rules established in the courts. It is not that there is so much ambiguity that there could be confusion as to whether the man is outside the gate of the police station that he is not yet on duty or whatever. A matter was raised where a policeman may be going home, may

come upon some illegal activity taking place, intervene and end up getting injured or shot. But the fact that he has intervened puts him on duty as it were. If the hon. Senator does not mind, I will prefer not to get into this. The point is that there is provision to assess the conditions under which the person may have been injured, whether it be call duty, at work or otherwise.

Sen. Prof. Ramchand: That is satisfactory. I do not know whether the Minister may still want to make sure that the phrase “in the course of his employment” is not used at all, and whether he might want to think about having a phrase to indicate “at moments of risk” or something to indicate that the kind of activity being carried out is normally regarded as risky or hazardous.

Hon. Brig. J. Theodore: Yes, we will look at it at the committee stage. I think the point the Member is making is that we want to get away from the 8.00 to 4.00 limitation, that when somebody locks up the place and goes home, he or she is off duty and what goes on at the premises is really not his or her responsibility. In the case of the policemen and the firemen, there is really no time factor involved; they are working all the time, we are told.

Sen. Dr. Eastlyn Mc Kenzie mentioned a concern about the length of time it may take for payment to be made. What I am advised is that once the claim goes before the committee, what we are dealing with is that the member of the protective service is the victim, so if there is to be an inquest or any other inquiry, one would be dealing with assigning guilt or responsibility on the person who inflicted the problem, so the victim in these cases would be the police officer or the fire service officer. We do not estimate any delays other than where they are trying to determine whether the man was legally where he was meant to be, whether he had gone off on his own, whether he was doing something, whether he was robbing a place, whether what he was doing would be such that his application would be dealt with by the committee. This is mentioned in the Bill and it is one of the amendments actually to Clause 13, I think it is—we will see it in the committee stage. The point is, we do not see with the way this is structured and the responsibility that the committee has, that there will be any lengthy delay.

What I can say is the same provision that had been made in the past, where the matter can be taken to Cabinet for it to deliberate on the matter of paying while whatever is being resolved is being resolved, we will be able to take care of that. It is purely a matter of administration. It means to say that the Police Commissioner and the Minister must show an interest in what is happening with the family and this, I trust, will happen.

Sen. Marshall dealt with the quantum of the compensation. I am glad he recognized that the salaries paid to the police officers are indeed very low. I fully support what he said and I trust that we can get this passed on more readily throughout the country so at least they will be recognized for what they do. But, of course, it is a vicious circle. If one perceives that they are doing nothing, they are corrupt and of no consequence, trying to get an increase in salary will be problematic. I am really trying to get them back up to speed, to restore the public's confidence, to restore their own sense of self-worth so that they will go about dealing with the public in a proper manner. I am not at all trying to defend any of the wrongs that the police may have done—if we do not recognize them we cannot deal with them. The matter of salary is something, I gather, the entire public service, several years aback, had a negotiated salary raise. But the point is taken. We will look at it from the point of view of how one applies this to the compensation package—the three-year salary package.

The Senator also mentioned preventative measures. Again, I fully agree with the point made. Preventative measures, in my estimation, are not only bulletproof vests and fire-fighting equipment. While these things are being acquired the preventative measures I would recommend are more intensive, more perceptive and better training. How does a policeman approach a vehicle that is suspicious? How does a policeman approach a suspect? Just walk up to him with two hands swinging, the man pulls a gun and shoots him in the head. The problem is not equipment; the equipment is a necessary prop; the equipment could create a sense of false security and make them a little too *bravé dange*, and create more problems.

But I personally would recommend that yes, we need to take preventative measures in the form of better training, have better prepared policemen, have policemen who would be more cautious and polite, of course. But definitely the fire-fighting—as would be known in Trinidad and Tobago, the wearing of a hard hat and protective gear was something that was frowned upon. Macho males in this place do not need that. But, from industry standpoint it is a necessary requirement, and I think it applies equally to the fire service breathing apparatus. In fact, we have people in the United States right now at a firm that is supplying breathing apparatus equipment. There are fire tenders on order.

Basically, I take the point that we need to do more than just buy equipment. I think they need to practise more. I feel the whole industrial safety measures that apply to industry could equally apply to the police and fire services. Because of the nature of the training, they persist in driving defective vehicles and, as far as I

am concerned, if they feel that working to rule means not operating a defective piece of equipment, well then work to rule, but do not operate a defective piece of equipment that might get out of hand and maybe damage somebody else.

Basically, we are looking at an entire programme of cutting down the risks that these people face. In fact, in a nutshell, we are taking precautionary and preventative measures just as the Ministry is trying to do with the whole issue of dealing with the criminal element.

Sen. St. Cyr again was concerned about the sense of risk but in another form and that is from the matter of illegal activity or negligence which would deny the claimant the right to make a claim. But negligence on the part of the employer—if the man is going down from the upstairs of a fire brigade building and he steps on a step which breaks and he damages himself, I am advised by the Attorney General that he has every right, as a citizen to take his employer to court for negligence which resulted in his injury. That in no way interferes with his right under this Bill. Well, it would not be this, because it would not be permanent; this would be temporary. He would be getting his medical treatment, sick leave and so on.

On the matter of illegal activity, let us assume there is a member of the protective services who moves in certain types of company because of the very same low wages; he decides he needs to improve his take-home pay and gets involved in some illegal activity, then the person will disqualify himself, because that activity will certainly, by no means, be official on the duty activity. From that point of view, if he gets involved in illegal activity, he will really have a problem.

Sen. Dr. St. Cyr: Thank you. Mr. Vice-President, I was really thinking about a sting operation.

Hon. Brig. J. Theodore: A sting operation, in the United States context, is quite a legitimate thing. I always wonder about a sting operation because they seem to entice the other person to do something illegal and then they arrest him. I am not quite sure how a sting works, but if it is that people are laying in wait to deal with some illegal activity that is going on, they are doing some surveillance or trying to catch somebody, that is a legitimate operation whether the man is working undercover or he is in uniform; he has been sent there to perform a duty and he is at risk. It goes with the territory. It is something which happens when one joins one of the services.

5.20 p.m.

Now I quite agree that maybe the compensation package needs to be bigger because of the risk at which the person puts himself. I think it was even mentioned that we were looking for people with integrity—people whom we can trust; honest people who will not use their positions to commit illegal acts. I quite follow the point, but this is a whole package.

If we have started to recognize that there is a requirement to pay adequate compensation for the work that these protective services people are meant to do, I applaud that because it would then give me an opportunity to make sure that as they improve and do what we want them to do, there will be a commensurate increase in the package of emoluments to which they would be entitled. In any field of endeavour the package must equate to the responsibilities and the work that they are doing.

We do want to attract the correct people, because up to a few years ago when nobody wanted a young man, he joined the police or maybe even the army. Even at that stage there were no academic requirements. If someone wanted to work in a firm, they required three or five 'O' Levels, but if one had three or five 'O' Levels, one was all right. It is the very people without the 'O' Levels who are "catching" and need to find work somewhere so they come to the protective services.

Now, there is a three 'O' Level entry requirement which has been imposed on the police service, which is creating some problems with the SRPs and which I will touch on in a while because the SRPs who are not designed to be full-time police are working full-time and that is where the whole problem is. SRPs are supposed to be SRPs, not regular police but when they are working as regular police, we are creating problems, because we are saying that they must get what the regular police get. However, SRPs have their own rules and regulations. They are not regular police; nor are volunteer soldiers regular soldiers; nor are auxiliary firemen regular firemen. They have their own Acts. They are there to supplement the regulars, not replace and become regulars.

So, again, we have had years of administrative problems where they have been admitted to the service on a regular basis and, on the one hand, while they are doing the work alongside the full-time brothers, they are not getting the benefits. When they retire, there is no pension for them, and there are some people in there for upward of 15 years. It might look good on paper, but it does create a problem because the actual strength of the force does not include them. We are trying to sort that out but maybe we have to balance out experience against the academic entry qualification. I feel that if they are doing work as a

regular policeman for a number of years and they can qualify for pension, they should be made regular policemen. There is obviously a need for their services.

Originally, the SRPs and auxiliaries were there as leave relief. The public service had that, but in the protective services and the army, if one needed 30 persons, one got 30 persons. One did not get 30 persons and three more for leave and two more in case some got sick and another one if one took casual leave and end up with about 35 persons. One got 30 persons and when anyone went on leave, the balance would pool together and do the work. This is how it works because the regulations say that this is the establishment and one cannot exceed the establishment. People have to find ways, so we leave our establishment where it is and supplement it with the part-time people who are now beginning to feel very hard done and that somehow they are not getting a fair deal. This is something we know. Maybe this is a starting point, which has given us an opportunity to bring these things out.

I would mention now that the matter of the SRPs is receiving attention because under their Bill they are entitled to certain benefits and the Minister has the authority to make regulations to cater for all these contingencies. However, I cannot put SRPs in the regular milieu. I cannot write regular police regulations for a part-time police. The part-time police is the part-time police. We have to make sure they remain and function as part-time police and go back to what they were originally designed to do. Even to call out the volunteers in the army has to be sanctioned by the President. We cannot just get volunteers doing regular work. They are not designed for that. They are there to supplement. So the whole matter of the SRPs, the auxiliary firemen—I am not aware that prison officers have an auxiliary arm—is being addressed right now. I know the drafts have started. It was purely something which was not felt to be important at the time, but the time has come to address it and that is what we are doing.

Sen. Daly also mentioned a proper insurance scheme and recommended that we keep the compensation package under review, taking into account the ages and ranks of the officers. Maybe I can address this whole matter now because I fully agree with Sen. Montano who said that it does not appear that this amount is enough. But, as has been said, maybe we ought to have some actuarial figure done. We cannot just pick a figure and say nine months or 12 years.

I assure this honourable Senate that we have made a start. That is all it is, a start. It might not be too dramatic, but we have made that start and we will keep an open mind. I have already raised the issue with the Minister of Finance and we

intend to see how this programme is working and start seeking advice. We will approach insurance companies. We will have a study done. We will have to look at the difference in the ages and the ranks.

The Defence Force has an insurance plan and this was done after we had presentations from about five insurance companies and came up with the best package. We all pay. It goes up to age 70. This is offered by the company, so there is something to cater for large groups of people as opposed to individuals. It is something that I will certainly attempt to have addressed because I have had experience in the army, and "scrubbing a bench" in the Casualty Department of the General Hospital is not free medical treatment in my book. If my wife has a problem, I will not depend on this free medical treatment that the government used to produce when I was in uniform. I encourage the medical plan and we pay for it because we are interested in our families. I am glad to see that people in this Senate have raised the issue because if I had raised it myself, they may have reminded me that I am no longer in the army and am now in government.

I thank the Senators on the other side for highlighting the issue because it is important, and I care very much for the security of this country. The only way we can get it is with the help of the Ministry of Social Development, the Ministry of Sport, the Ministry of Community Development; we all have to work in this.

Again, we need proper law enforcement agencies; we need to make sure, as someone said, that our firemen do not just contain fires, but put them out; that the prison service is more efficient and that we reduce the prison population and start a

very good rehabilitation programme so that we will have less violence on the streets. So we have a job to do.

5.30 p.m.

This is a small start, and maybe from small things ripples will be created that will cause better things to happen. The whole matter of training, the whole issue of recognition for services rendered come under this. I assure this honourable Senate that we would be looking seriously at this whole issue of compensation for members of the protective services which may have to include some sort of insurance or plan which will guarantee payments in keeping with the duties we are calling on our members of the protective services to perform.

All in all, Mr. Vice-President, I am very pleased to have been in a position to move this Bill today because, as I have said publicly, I have been one of the critics, when I was in uniform, of the cavalier fashion in which the military and

the police service were treated: You are there, you need the work, you are bound to serve. That, I do not feel, is how one gets the best out of one's subordinates.

So for all it is worth, I am extremely pleased with the contributions which were made this afternoon. I trust that this Bill will be the start of better things to come for members of the protective services.

Mr. Vice-President, I beg to move.

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. Prof. Ramchand: Mr. Chairman, I want to know whether we could say: “in circumstances arising out of and in the line of duty on behalf of the State...” or “in the course of carrying out his duty on behalf of the State”?

Sen. Brig. Theodore: Mr. Chairman, we are using this term because these are clauses already interpreted by the court for which there is a meaning, and if we introduce something else we may have some difficulty.

Question put and negatived.

Clause 3 ordered to stand part of the Bill.

Clause 4.

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

Sen. Brig. Theodore: Mr. Chairman, I beg to move that subclause (3)(b) be amended by deleting the words “illness or” occurring in the penultimate line.”

Mr. Chairman: There has been an amendment circulated that arose out of the sitting of the House of Representatives on Tuesday, July 9, 1996.

I withdraw that statement. Clause 4 (3)(b) is taken as previously amended, in that the amendment that is circulated has already been incorporated in the draft before us.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

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

Sen. London: Mr. Chairman, I am still a little concerned about the lack of flexibility in this compensation committee and I am proposing that clause 5(3) should read:

“(3) The Committee shall comprise of seven persons included among whom would be...”

and the rest remains.

Sen. Brig. Theodore: So you would retain the five listed. Is it just the wording? It is really only five you know. Three members shall constitute a quorum, if you look at clause 7. Out of five persons you can have up to two absentees and there is also provision for someone to take the place of the chairman should he be absent.

Sen. London: The first thing we should do is find out whether people are comfortable with the seven, then maybe we can look at the quorum.

Mr. Chairman: What may be worth looking at also, is the fact that clause 9 provides for acting appointments so that there should at all times be a full complement of five. So the eventuality of someone being unavailable does not seem too—

Sen. Montano: I think Sen. London’s point really is that he wants the expertise. The suggestion is that perhaps one or two members from the protective services might be appointed to the committee and it should be a body of seven as opposed to five.

Sen. Brig. Theodore: Mr. Chairman, the matter of the appointment of members from the protective services was discussed at the Law Review Commission but the protective services can be represented before the committee. Like any other union, they can have their selected representative appear before this committee. *[Interruption]*. An attorney in court is just advisory. I mean they make a case for their client, these persons are going to be there, either an attorney or someone appointed from the Association because if we put, let us say, a member of the Police Association on the committee, the question would be asked whether we are going to put someone from the Fire Service, and then the next question would be, how about a Prisons Officer. So you are going to have to put at least three more persons on this committee and then the composition of the

committee—should any of these persons be absent—would appear to be somewhat out of balance.

Sen. London: It really means that you would put the President in a position where he could be flexible if circumstances arise that we cannot forecast at this particular time. What we have done here is constrain him only to select individuals with certain specific skills. I am saying if we increase it to seven and give him the option to include two other persons, regardless of how circumstances change down the road, he will have the flexibility without us having to return to Parliament to actually cater for those exigencies.

5.40 p.m.

Sen. John: Just as the Bill seeks to propose and is working very good at that, it does not pose a problem where you have five persons and a quorum is three, and you could substitute the President in the absence, it could work.

Sen. Brig. Theodore: Mr. Chairman, I take Sen. London's point but if we just put "and two other persons", what criteria would be laid down to assist the selection of these two other persons by the President?

Sen. London: Is it necessary to have specific criteria?

Sen. Brig. Theodore: Yes, it would be a little too open. You know, there must be some guidelines. To simply say increase the number by two, leaves it very indeterminable. As I say, this is not fixed in stone, I mean this is a start. There

are five persons who, as the Chairman pointed out, can be replaced should they become unavailable and there is also provision for a quorum of three. From the records, there are not really a large number of persons who need to come before the committee for permanent disability or death. In the last eight or ten years, we are looking at maybe 23 people for death. So, I suggest we see how it works, but as I said, we will keep looking at it with a view to improving it.

Sen. St. Cyr: Mr. Vice-President, without wanting to prolong the discussion, I think Sen. London's point is, we have two lawyers here, two doctors and an insurance person, are we happy with that tight structure?

Sen. Prof. Spence: I was going to ask the question this way, Mr. Chairman, again not to prolong it. How would the committee get an input to make a decision as to whether a person was acting in his official capacity or whether he was, as you put it, freelancing? You would do that by calling witnesses presumably, but there is no obligation on them to do so. So I ask you not to enlarge the committee

but to consider that it would be useful to have in this composition somebody who knows something about it.

Mr. Chairman: I think the nature of the role of the committee which is set out in clause 13 suggests that—obligated might be a strong word—their normal *modus operandi* would include receiving, investigating and hearing, and therefore, the likelihood of arriving at a decision without hearing the circumstances surrounding the injury would be very remote. I myself am inclined to believe that the terms of reference of the committee are being stretched a little too far to want to have members of the protective services included there. It is more of a judicial forum along the lines of which the registrar operates the workmen's compensation programme for instance.

Sen. Prof. Spence: What was the rationale for having two doctors and two lawyers?

Mr. Chairman: I would not know the rationale but I would guess one of the substantive issues that would come before the committee is a medical certificate and the interpretation of the injury. You know when you read a certificate to a lay person it means one thing, to a doctor it means something else. I would assume that the Minister could help us.

Sen. Montano: On that point, it was one of the matters I raised in my contribution, that the insurance person, I think, should be someone at least experienced in occupational health and safety claims specifically as opposed to just insurance generally.

Sen. London: Mr. Vice-President, I think that Sen. Spence's point should be underlined. There is a medical practitioner with at least four years and a medical practitioner with at least seven years experience—and I think Sen. Spence's point is well taken—why was there a need to have two doctors or two medical practitioners when you run the risk of duplication of skills? Is there anything that a medical practitioner with at least seven years' experience would add to the mix that you would not get from a medical practitioner with at least four years' experience in the field of occupational health? I have a little problem with that.

Sen. Brig. Theodore: Occupational health is a specialized field and we are looking more from a balancing of views rather than a surplus of views. You see, there is also the possibility that—no, I would not go into that. This was done to make available more expertise to the committee.

Mr. Chairman, I would like to take up Sen. Montano's point. I was going to raise it. Under (e) a person who has at least seven years' experience in the

business of insurance—it could virtually be anybody—I would like to know whether he would like to propose an amendment to maybe qualify the sort of person one would like to see filling this spot here.

Sen. Montano: I am not a draughtsman, but in layman's language what I would like to see is someone who has experience in the processing of occupational health and safety claims. I mean, if we can find that in terms of a medical practitioner we should find the same thing from the insurance industry; someone with real experience in what he is doing, in terms of looking at the documentation and the nature of the accident and so on, and assessing whether it is a legitimate and valid claim. They have the experience that most of us do not have.

Mr. Chairman: I think a word of caution there is, if in fact we are going to define the interpretation of business of insurance, I think it may be dangerous to leave the seven-year qualification. We may find people who have not spent seven years in that particular aspect of insurance, so maybe it should in fact be somebody who has experience in occupational health and safety insurance.

Sen. Montano: Well, I suggest at least three years' experience in that area, which is reasonable.

Sen. Daly: Mr. Chairman, would the problem not be solved if experience was defined as experience in the business of health insurance? Would that not cover everything?

Sen. Brig. Theodore: Well, I would like to make a proposal that we try to satisfy Sen. Montano's request by saying, "a person who has at least seven years' experience in determining claims in the health insurance business."

Sen. Daly: Mr. Chairman, would it not be sufficient to say a person who has experience in the business of health? I think Sen. Gabriel is also suggesting health and personal accident insurance. After all, when the Cabinet is appointing this committee one has to assume they will be responsible and appoint somebody who has the requisite experience. Why are we pinning down this thing?

Why not just say a person who has experience in the business of health and personal insurance? One has to assume that the Cabinet will advise the President to appoint people who have some experience.

5.50 p.m.

Sen. Prof. Ramchand: Mr. Chairman, if we just put in the word, "appropriate"; "the appropriate experience is the business of health insurance" as Sen. Daly says.

Sen. Kuei Tung: Mr. Chairman, this could easily be settled, "a person who has at least three years in the business of accident and health claims." That is it. Accident and health is an accepted division of insurance; it is well known. So it is as simple as that. You have about 300 people like that.

Mr. Chairman: We have an amendment tabled to clause 5(3)(e) which reads as follows:

"a person who has at least three years' experience in the business of accident and health claims."

Question put and agreed to.

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

Clauses 6 to 12 ordered to stand part of the Bill.

Sen. Brig. Theodore: Mr. Chairman, did you say a while ago that the amendments made in the other place are contained here in the draft?

Mr. Chairman: Just for clarification, the Bill that we are looking at is a Bill that has already adopted the amendments that were made in the House of Representatives, so there is no necessity to be looking back at those amendments. The document in front of us is the amended document.

Clause 13.

Question proposed, That clause 13 stand part of the Bill.

Sen. Daly: Mr. Chairman, I was not going to raise this because I did not want the Government to have the chore of going back to the House of Representatives with the Bill, but now that we have made one amendment, I am a little concerned about clause 13(3). Can I try and explain it very simply? In order to get compensation you have to have been acting in the course of your employment. Now the way clause 13(3)(a) is drafted:

"whether the injury to, or death of the officer was caused by his participation in any type of illegal activity and whether any compensation is payable under the circumstances;"

I just want to raise with the drafting people whether we are not running into difficulty by limiting the enquiry of the committee. I am very anxious about that clause, whether we are not, in fact, limiting their enquiry to only one type of activity outside of the course of employment, namely illegal activity. I do not

know if I am making myself clear. There really should be enquiry into whether he was acting in the course of his employment, and doing something illegal might only be one of many ways in which he might have been acting outside of the course of his employment.

If the drafting people are happy with the way the House of Representatives did it—but I have a little anxiety about it.

Mr. Chairman: This sheet is, in fact, part of the document we are looking at, so this document is, in fact, clause 13(3). There is no other clause 13(3).

Sen. Prof. Ramchand: It is not slotted in.

Mr. Chairman: It is just a printing problem. What I am suggesting is that you read this document as if this was part of it. You see, one of the issues that needs to be looked at when you are having an enquiry is, in fact, by definition, whether the guy was in the course of his employment or not. He cannot be carrying on an illegal activity if he was in the course of his employment.

Sen. John: You are looking at, "illegal activity". If a policeman was ordered to drive a vehicle that was found defective and he gets damaged, this committee could apportion blame and he may lose compensation, even though he was carrying out an instruction.

Sen. Daly: I suppose, you know, Mr. Chairman, if you look at it, clause 13(2) means that in every case you have to satisfy the committee that you were in the course of your employment, so probably it is all right.

Sen. John: In any event, a claimant, I believe, would have representation.

Sen. Daly: I am relieved of my misgivings, Mr. Chairman, when I look at clause 13(2), because clause 13(2) means that in every case the claimant has to prove that he was in the course of his employment.

6.00 p.m.

Sen. Brig. Theodore: This was designed to determine the percentage and the proportion of his involvement which would influence the determination of the claim, whether he was told simply to drive his car down Independence Square and while it might have been illegal, it was not something to which he contributed, or whether he stole a car and took it to—I take the Senator's point, but the intent is to give the committee an opportunity to determine how much he contributed to his own injury.

Sen. Daly: I just do not want to find—

Sen. Brig. Theodore: Is it the word "illegal" that is bothering the Senator?

Sen. Daly: What is bothering me is whether we are limiting the enquiry in the course of employment only to illegal activity. I think the draftspersons understand what I am worried about.

Mr. Chairman: I think subclause (2)—

Sen. Daly: All right, I would not pursue it.

Question put and agreed to.

Clause 13 ordered to stand part of the Bill.

Clauses 14 to 16 ordered to stand part of the Bill.

Clause 17.

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

Sen. Prof. Ramchand: Mr. Chairman, is clause 17 on the amended sheet? Could it be an officer or his beneficiary?

Mr. Chairman: There is a typographical error there.

Sen. London: Mr. Chairman, I had noticed that the President of the Police Association had a concern about that particular clause. I do not know if it was addressed.

Sen. Brig. Theodore: Mr. Chairman, in fact, the amendment deals with the concern. The concern expressed by the Police Service Association was that if somebody had a claim in court the way clause 17 was worded, it appeared to deny that person the right of making a claim on the committee. His argument was that you were getting a private concern to pay for the damage and he was prevented from doing that and must come to the committee. It is a very unreasonable assumption. The amendment is showing purely what happens in the courts of law in that the whole section was changed to read:

"awarding compensation for injury or death under this Act, the Committee shall take into account any damages awarded to an officer or his beneficiary..."

In other words, if you go to a court and get a certain amount of money it will be simply taken into account; you would not be prevented from having that money. That, in fact, was an amendment made to satisfy that observation.

Mr. Chairman: There is a typographical error on the sixth line—it should be “or”.

Question put and agreed to.

Clause 17 ordered to stand part of the Bill.

Clauses 18 to 22 ordered to stand part of the Bill.

Clause 5, recommitted.

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

Sen. Prof. Spence: Mr. Chairman, before you go back, can I ask a question on clause 5(3)(c)? Why is the medical practitioner required to be a registered member of the Medical Board in subclause (c) but not in (d)?

Sen. Brig Theodore: The requirements ought to be the same. If it is stated in the first one then it should go in the second one as well.

Mr. Chairman: I am suggesting an explanation here. There is another difference to the clause. Clause 5(3)(d) has the words, “other suitably qualified person”, and I suspect that means “other suitably medically qualified person” which means it includes someone who is not a member of the Medical Board.

Sen. Prof. Spence: Then we should word it differently and have the medical practitioner as the member of the board or somebody who is not on the Medical Board at all.

Mr. Chairman: I personally feel what we are seeing here now is the explanation we were looking for the last time we were dealing with it. If we read clause 5(3)(d) “a medical practitioner”—and I agree all medical practitioners should be registered under the Medical Board Act—but then it goes on as a separate qualification to say “or other suitably qualified person with at least four years experience in the field of occupational health and safety.” That now could be an insurance person or anybody else. We could in fact, find our answer to the original question in this clause.

Sen. Prof. Spence: It really should read, “a medical practitioner registered under the Medical Board Act or other suitably qualified person.”

Sen. Brig Theodore: Mr. Chairman, it should follow clause 5(3)(c).

Mr. Chairman: I am inclined to say that maybe clause 5(3)(c) should read, “two medical practitioners registered under the Medical Board Act with at least seven years experience” and clause 5(3)(d) should read, “other suitably qualified

person with at least four years experience in the field of occupational health and safety.”

Sen. Daly: Then you would have six instead of five. Is it the intention to have somebody as a specialist, so that clause 5(3)(c) is a medical practitioner to whom you have not tied any qualifications? Clause 5(3)(b) is a medical practitioner to whom you have tied the speciality of occupational health and safety.

Sen. Prof. Spence. No. It is implying that he need not be a medical practitioner.

Sen. Dr. Mc Kenzie: Mr. Chairman, when I looked at it I thought of other people in the medical profession but not necessarily doctors. I looked at if one lost an eye, it is an ophthalmologist, and if one's teeth were knocked out somebody in the dentistry field. That is how I looked at it and so a specialist. I think it covers it.

6.10 p.m..

Mr. Chairman: So those people are registered under another—

Sen. Dr. Mc Kenzie: That is right. That is how I looked at it.

Mr. Chairman: So shall we leave clause 5(3) untouched? I still think we have a problem, because we are talking about a medical practitioner. A medical practitioner is a medical practitioner. It would not be a dentist or—You have two different possibilities there—a medical practitioner or other suitably qualified persons; and a medical practitioner should be registered. So we will insert in clause 5(3)(d) the words “registered under the Medical Board Act”, as in sub-clause (c). So, in clause 5(3)(d), there is an amendment which reads: “a medical practitioner registered under the Medical Board Act...” Then it continues, “or other suitably qualified persons”.

Question put and agreed to.

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

The First Schedule ordered to stand part of the Bill.

Second Schedule.

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

Sen. Prof. Spence: Mr. Chairman, would the hon. Minister consider this wording for (a)(i) “an amount not less than 3 years gross salary”?

Sen. Brig. Theodore: This is in fact the wording used in the Workmen's Compensation Act. I do not know if we need to stray from it at this stage. We depended a lot on the terms of that Act to formulate these conditions, but as I said, this is not set in stone, we are going to review it so I prefer to leave it as it is for the time being.

Sen. Prof. Spence: Well, I accept that, but not for the reason you gave, because I do not think whether it is tied to the Workmen's Compensation Act or not, is really relevant.

Mr. Chairman: I think what the Minister is saying is that he is bringing it in line with the provisions of the Workmen's Compensation Act.

Sen. Prof. Spence: I think it is rather important so I would like us to consider it and put the amendment. I would like my suggested amendment to be put.

Sen. John: Mr. Chairman, if I may contribute at this stage, even conditions that are laid down in present benefits for workers, the maximum that is paid is two years under group life insurance and these things, you know, it is not outside the limits. In fact, it is an improvement as to what exists now in contracts that cover workers generally.

Sen. Prof. Spence: I am certainly not suggesting that it be increased, you know.

Sen. John: We know that. The value of money these days, 10 times that should be paid.

Sen. Prof. Spence: I am just suggesting giving the committee the flexibility rather than putting in law that they must not exceed a certain amount.

Sen. Brig. Theodore: Well, I do not know how we can afford to give the committee this flexibility. We are giving them a formula, but you say "not less than". It could be 10, 15, and what is the upper limit? What we are giving them is a figure which the people can anticipate. Because, again coming out of this would be certain claims of favouritism and bias, and so forth. So this is really why we have a fixed formula that would be a guide to the committee.

Mr. Chairman: What would be useful to note is, that all the heads of compensation here translate into a fixed figure, and that is the nature by which the Workmen's Compensation Act—it is a very strange way of computing people's damages. You know, you have a broken finger, you actually come up mathematically with a dollar value for it, but the reality is, there is a formula.

What the Minister is saying is that the criteria that they want to adopt are, that the Second Schedule must translate into—and not allow the committee any flexibility as regards award of damages at all. So in fact, if they want to increase it they will increase it to four, five, six years, but not give the committee what you are suggesting, which is the flexibility of determining how much the particular claimant gets.

Sen. Prof. Spence: I am just wondering whether, in fact, we are creating the possibility that people would not be as well off now as they could have been before. Previously, an act of Cabinet could have given them a greater compensation. Now, in fact, what we are doing is to limit it [*Interruption*]. No, that was a Cabinet decision. I thought that was what you said in your reply.

Sen. Brig. Theodore: It was a Cabinet decision.

Sen. Prof. Spence: So, Cabinet could alter its decision. Now by law, even if Cabinet wanted to give them more, it could not. We are putting in law that Cabinet, no matter what it wanted to do because of the special circumstance, could not do it. So, in that sense I was saying that we may, but I am not pressing the point.

Sen. Brig. Theodore: Well, the salaries themselves vary. Everybody does not get the same salary. When we were talking earlier about age and rank—the salary increases. So the three years will, in fact, be different amounts for various people who have served longer and who have senior ranks.

Sen. Prof. Spence: I appreciate that.

Sen. Brig. Theodore: No. I take your point about the Cabinet.

Sen. Prof. Spence: I just find it a little strange that a trade union person would be arguing against that possibility, and I was trying to put that on record.

Sen. John: The Minister said they will review it as time goes on.

Sen. Prof. Spence: Cabinet, of course, always has the flexibility to make other kinds of compensatory arrangements outside of the Act.

Mr. Chairman: Shall I put the question?

Sen. Prof. Ramchand: I thought we were trying to work in something about beneficiaries.

Sen. Brig. Theodore: Mr. Chairman, this is the title. What you are saying—"an Act to provide for the payment of compensation in respect of officers of the protective services."

Sen. Prof. Ramchand: That is right.

Sen. Brig. Theodore: Thanks for the reminder.

Mr. Chairman: What I can draw to the Senator's attention is that the heading there is not officially part of the legislation. The undertaking we have from the drafting department is that the word "to" will be deleted and "in respect of" would be substituted.

Question put and agreed to.

Second Schedule ordered to stand part of the Bill.

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

Senate resumed.

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

6.20 p.m.

PROCEDURAL MOTION

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. Vice-President, I move that this House continue sitting until the completion of the Second and Third readings of the Bill to amend the Old Age Pensions Act, Chap. 32:02, as well as the Bill to amend the Public Assistance Act, Chap. 32:03.

Question put and agreed to.

OLD AGE PENSIONS (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Old Age Pensions Act, Chap. 32:02 be now read a second time.

Mr. Vice-President, this Bill and the other Bill standing in my name, an Act to amend the Public Assistance Act, Chap. 32:03 are interrelated. I therefore beg to move that they be dealt with in one presentation.

Question put and agreed to.

Mr. Vice-President, I am very honoured to be here for the first time, and I congratulate you and the Members for the efficient way in which you do business.

Mr. Vice-President, what we have before this Senate is a Bill to amend the Old Age Pensions Act, Chap. 32:02, and a Bill to amend the Public Assistance Act, Chap. 32:03.

What these Bills purport to do are as follows. The Old Age Pensions (Amdt.) Bill seeks to improve the efficiency and effectiveness of available systems of the Social Welfare Division. Clause 4 would increase from two to five years, the aggregate period during which a resident may be temporarily absent from Trinidad and Tobago and still qualify for old age pension. We also plan to sue and recover, and extend the scope of existing provisions under which Regulations may be made.

Mr. Vice-President, in 1939 when this Old Age Pensions Act was enacted in Trinidad and Tobago it stated in section 4(1)(b):

“the person must be a British Subject and must have been ordinarily resident in the Colony for the twenty years immediately preceding the claim for pension: Provided that a person shall not be deemed to have ceased to be resident in the Colony merely by reason of temporary absence therefrom for an aggregate period not exceeding two years during the said period of twenty years;”

Mr. Vice-President, since 1939 governments have come and gone and they left this section in our Old Age Pensions Act. During the 1970s, Mr. Vice-President, economic times had changed. We had increased activity in this country, and people left these shores to go away for medical treatment, to see their relatives, and so forth; and these times added up to more than two years. When they went on these trips they did not do so to earn income. When they returned to this country and applied for old age pension, if they had been away for one day more than two years, they would not have been granted old age pension. Mr. Vice-President, we in this Government of national unity, which cares about socially displaced persons, feel this has been an abuse and we are here, after a

short stay in office, to correct this. We are proposing in the Bill that this period be increased to five years.

Mr. Vice-President, an old lady came into my office yesterday. She was about 71 years old, and as she entered my office she started to cry. She said, "Mr. Minister, I came here to thank you very much. I have no means of support and the only crime I committed in my 71 years of age was that I stayed away three years when I went to visit my relatives abroad." This lady cried, uncontrollably, for quite a long time, then she left. Mr. Vice-President, I think that alone has made my stay in politics very, very worthwhile; and this is what this Government is here to do.

Mr. Vice-President, in this Bill we also want to avoid some of the abuse that takes place in our system. We know that there are many cracks or leaks. For example, in clause 6 we see:

"Where a pensioner is paid pension to which he is not entitled in accordance with the provisions of this Act..."

Sen. Montano: On a point of clarification. Thank you for giving way, Mr. Minister. Before you get on to clause 6, I have a question with regard to clause 4, as you sort of glossed over that. It refers to the limit of the pension—clause 4(1)(c). The amount is limited in section 3(1) of the original Act to \$4,500. That section allows the Minister to raise that limit by Order. Can you tell me whether or not that limit has been raised, and if it has, to what amount?

Hon. M. Ramsaran: Mr. Vice-President, we have not raised that, but we are looking at the entire old age pension package with a view to widening the net, which brings me to the point that, if our economic activities are met, we will ensure that the social net is widened. We would not do as was done in the past and leave out the socially displaced. We in this Government, in consultation with the Cabinet and the Minister of Finance, would ensure that if our economy allows, our social programmes will move with it. I assure Sen. Montano that this would be done. As soon as we find the money to do so, we would increase the amount in relation to clause 4(c), but at this point it has not been moved from \$5,000 per annum.

Mr. Vice-President, as I was saying, we are tightening the delivery system. We are giving our officers more autonomy so that they can get the people who attempt to defraud the old age pensions scheme. It is very sad to know that there are people who would cash cheques that were made in the name of a pensioner

who died. We are going to ensure that this is discontinued, and we have introduced measures in this Bill to deal with that. The Old Age Pensions (Amdt.) Bill would, among other things, allow us to sue and recover overpayments, as is stated in clause 6.

6.30 p.m.

Mr. Vice-President, I would not go into all the procedures we are introducing to tighten the nets, but merely to say that we have passed an amendment in the other place where a person could be in the country for an aggregate period of 60 years. What this means is that in addition to the five years somebody would have been away, we are also saying that if somebody is about 76 years old and has stayed away for about 16 or 17 years, but has spent 60 years ordinary resident in this country, that person would be given a chance to get pension. We have made this Bill as humane as possible at this time and in considering what was said, we would ensure that we look at the financial increase from time to time. We are working on it and that would be done very shortly.

Mr. Vice-President, the Bill to amend the Public Assistance Act, Chap. 32:03 has mainly to do two things: Firstly, and most importantly, is that we are going to give public assistance grants to disabled persons between the ages of 40 and 65 years who are certified as being disabled by a government medical officer. When I

looked at the Act as it was when I came into office, I saw that there was a discrimination against people with disabilities and that only blind people were paid pension. I questioned why this discrimination existed and was told that in the bill that was prepared by the previous administration to level the playing field they had planned to remove the blind people from getting pension. I reversed that and said that my idea of levelling the playing field is to ensure that all people with disability received the disability grant.

Mr. Vice-President, that is the vision of this Government. We are looking at ensuring that the people who are displaced socially would receive fair treatment by this Government of national unity. In clause 7 we note how people would be receiving this disability assistance. The Bill states that:

"(a) his total income does not exceed the total income specified in section 3(1) of the Old Age Pensions Act;"

What I am trying to say is that this is not an automatic grant. One must be in need. We want the wider population to know that social assistance, whether it is the old age pension or public assistance, the main criterion is need. Some people

out there feel it is a right that if they reach 40 years and they start to limp they will be given a public assistance grant. I want to explain to hon. Senators and the public that this grant is for people with disabilities and they must satisfy the other criteria.

Mr. Vice-President, we have widened the net to include people who are handicapped with a disability that is attributable to intellectual, psychiatric, sensory or physical impairment or a combination of such impairments. This Government is looking at all these people and at the first instance we have about 5,000 persons who would be benefiting from these two measures; 5,000 persons who are out there and needy. Our officers come to me and say, "Mr. Minister, these people are really poor, but because of the existing Act we cannot do anything. Our hands are tied". For years the minister could have made regulations, but for some reason or the other, none was made from 1939 to now. This Government has now come to ensure that we deliver to the needy people of this country something that they would find helpful. *[Desk thumping]*

Sen. Daly is not here. We would not beat our chest and say that the money that is paid is enough to sustain one's everyday life. We know that. We appreciate that, but as I said before, our economy at this time does not allow for that and as soon as we can do better, I assure everybody that this Government of national unity would definitely deliver to the people of Trinidad and Tobago. *[Desk thumping]*

Mr. Vice-President, we are much more serious on this one, in that we are going to ensure that leakage—somebody in the other place mentioned that I am always talking about calling in the police, but as Minister of Social Development, when I look at people who are trying to steal from those who do not have, I feel that it should be taken more seriously than that. That is why in clause 8 we are seeking to increase the fine for giving false evidence or for making a false declaration, from \$400 to \$1,000. That is still too small, but we know we are dealing with socially displaced persons, and so forth.

Mr. Vice-President, these two Bills are just the start of what we, in the Ministry of Social Development, intend to do for the socially displaced in this country. We are looking at an overview of the Ministry of Social Development and at the vagrancy problem. We know that this is something that was tried and if I remember correctly, the first verse I read in the last administration's attempt to deal with vagrancy was that many governments have attempted but for some reason or the other they withdrew.

Mr. Vice-President, we are not withdrawing. We are going to fight this battle in a holistic manner. Cabinet was informed that we cannot treat all vagrants as one block and throw them in an institution. We have to look at vagrancy in different areas, for example, those who are mentally and physical ill; those who are poor and destitute and those who are just homeless and live in Port of Spain, San Fernando and other towns.

So we are looking at this in a holistic manner. Also, we need a space to put them. We are looking at an assessment centre so when we take them to these centres we would know which one they qualify for. We are not dragging our feet, but we appreciate that this is a huge problem and we cannot come here and say we have a magic solution. I have spoken to various ambassadors about the vagrancy problem, and they have informed me that no part of the world has it been solved but it has to be approached in a humane manner. That is what we are doing.

There is talk about street children. My ministry already has a pilot project which would be started soon in Port of Spain to deal with the issue of street children. We heard some "hahs" and "hoohs" from opposite, but only a year ago the Minister of Social Development denied there were street children. We appreciate there are street children and we would start to do something for them. We are looking at the whole delivery system in the Ministry of Social Development and these two Bills—Sen. Daly is not here, but as I said, we are not beating our

chest, we are here to ensure that we start to deal with the people in a manner that would benefit them.

In my ministry, for example, we have had many programmes and I would like this to reach the wider community. Ninety per cent of the population was not aware of these programmes and we are now in the process of letting people know about these programmes because we feel that poverty is not a problem for one part of the country, but for the whole of Trinidad and Tobago. So we are in the process now of lifting the Ministry and letting people know what we want to do in social development.

Mr. Vice-President, with these few words, I beg to move.

Sen. Dr. St. Cyr: Mr. Vice-President, would the hon. Minister say whether they have costed for one year—say next year—what these two packages are likely to be in increment, and how much?

Hon. M. Ramsaran: Mr. Vice-President, I omitted to say that funds are available for this year. We have \$10 million. These are not Bills in name. We have the money; we have already sourced the funds. As soon as these two Bills are proclaimed and they become Acts of Parliament, the money is available and would be accessed and of course in the 1997 Budget we would ensure that this continues.

6.40 p.m.

Sen. Dr. St. Cyr: Roughly what would be the annual cost next year? Does he have a figure?

Hon. M. Ramsaran: It would be about \$20 million.

This is a point we want to make. People would ask: "Why do you not increase the pension?" That is why I mentioned earlier that if our economy grows then social development matters could be addressed. For example, if we increase old age pensions by \$30 it would cost this country in excess of \$40 million. This is what we have to be careful of. The sum is a huge one. We are not making excuses. Once our economy could afford it, we would increase the old age pensions as we go along. We know and we see what is happening outside there.

Thank you.

Question proposed.

Mr. Vice-President: Let me remind Members that they can make their contributions on both Bills at the same time.

Sen. Danny Montano: Mr. Vice-President, I have only two matters to raise on this legislation. The first of which I raised a little while earlier to be clarified by the Minister; that is, whether the limit of \$4,500 which was contained in the 1976 legislation had been changed. He indicated in the negative. My colleague behind me is not here. I am sure he would have had words for that. I would certainly not use any of the words he might have.

The Government having addressed the issue of old age pensions specifically, and recognizing that the net had to be widened to include persons who may be excluded and should, in fact, be included, has done so. I regret that I have not had the opportunity to measure the impact of inflation between 1976 and 1996 and what the index figure would have been. It is disappointing—when the Minister of Finance taunted a couple months ago that if things go as they are going there would be a budget surplus of about \$500 million, which is almost obscene—to

hear him say now that they have not bothered to raise the limit of the pension or the amount. I express with great chagrin the order of priorities of the Government.

I venture to suggest that the limit could have and should have been addressed in this legislation. In view of the fact that he had visited the whole issue of social support in these two pieces of legislation, it would not have taken a lot to do a little arithmetic and draw down on some of the surpluses which the Minister of Finance has generated to do some positive good for the elderly citizens of the country. A sum of \$4,500 is poverty by any standard.

On my second point, in clause 6, I understand what the Minister is driving at. He referred to persons who were in receipt of overpayments and could be pursued and the money brought back to the Treasury. However, the wording of this clause does not take into account the fact that in the overpayment, the state itself may have been culpable. The individual recipient may be totally unaware of the fact that he had been overpaid. It seems to me to be a very harsh measure on one of the poorest sections of the community to have the state, with its resources, pursue persons like this to recover funds which they may have accepted innocently. They would then find themselves in a position where it would be a hopeless situation for them to try to repay those funds. They would find that what small assets they are leaving for their families could be pursued by the state. That claim by the state would be as a priority charge.

I have no difficulty whatever if the Minister's intention, I think, is to say that it is for persons who wilfully set about to deceive the state. This clause as it reads here does not say that. I dare say that looking at the educational base of our pensioners, they may not really understand what their pension should be or how it should be paid. They may go along happily accepting something which they do not understand and then find themselves in the very unusual situation where the state would be coming down on them.

At the committee stage I would be proposing some changes here so we could rethink that.

Thank you.

Sen. Dr. Eastlyn Mc Kenzie: Mr. Vice-President, I compliment the Minister for the measures taken. I have to make two points. Firstly, I hope that very soon there would be an increase from \$4,500. I know a man 65 years old and his wife 60 years who did a little gardening and farming all their lives. They have no national insurance to get. They rent a part of their house for \$400 monthly and they are over the limit. I would be happy when that is increased.

Secondly, I would like the Government to discourage the fraud. This is my personal experience. A pensioner died on the second day of the month. The cheque for the preceding month came. That pensioner had a nominee to draw the pension for him. The nominee took it back to the Social Welfare Division and informed them that although the month had passed, the pensioner had died before he cashed his cheque. They wrote deceased on the cheque and the date of the death. The nominee kept getting that old age pension cheque for three months and returned it to the Social Welfare Division on every occasion. I think that encourages fraud. The nominee could have said that probably nobody knew that the pensioner was dead, he could have cashed the cheque and left the country. He could do anything. When this was brought to the attention of the Social Welfare Division, the reply was that the computer was programmed and they had to turn it out until the computer was reprogrammed. In a situation like that, both the person who received the cheque and the person who continues with this type of inefficiency should be sued. Again, I congratulate the Minister on the measures.

I come now to public assistance. In the case of the handicapped or the challenged people as we call them these days—we try to erase this handicapped stuff.

Sen. Mark: Like Manning.

6.50 p.m.

Sen. Dr. E. Mc. Kenzie: I do not need any help from Sen. Mark.

Sir, I applaud this. I am one of those people who do voluntary work with these challenged people, and I know their plight is a difficult one. I ask that we try to ensure as much as possible that what is going to them, is actually used by them. We have had instances where public assistance would be given to these people, but the able-bodied people who are in charge of them would use it in such a way that they could not even get their basic toiletries. So I urge that some sort of education, counselling and advice be given to them when they bring in their documents; that it just does not stop with the handing over of a cheque. They can bring in their families and explain what the money is for and ensure that the benefits really go to them. So, again, Sir, I say congratulations and thank you very much.

Sen. Philip Marshall: Mr. Vice-President, a brief contribution. Congratulations to the Government for this help to our less fortunate and older citizens.

I just have one point of clarification in both Bills. In the case of the Public Assistance (Amdt.) Bill, clause 9, this is in connection with the recovery of the overpayment. I certainly support that this should be only valid where there has been a wilful and deliberate fraud. Subclause (3), "the amount adjudged to be paid by the defendant", was that intended to be repayable? It has the same wording in the other Bill. I wondered if it should have read, "the amount adjudged to be repayable or refundable by the defendant" as opposed to "paid." It has the same wording in the Old Age Pensions (Amdt.) Bill, clause 6, same subclause (3). That could probably be dealt with in the committee stage. Thank you.

Sen. Mahadeo Jagmohan: Mr. Vice-President, Members of the honourable Senate, I deem it a privilege once more to have to speak on a matter in this Parliament. I would like to compliment the Minister for his very cool manner of presentation, and commend him for having an approach that is reasonable, but he is under the spell of the other Senators, where he boasted out of context. This is a sad thing for the Senate.

Mr. Vice-President, the two Bills would have been placed within or based on a much wider framework if it had anything of substance to offer. The fact that the less fortunate in the wider society needs greater attention and assistance from this Senate, we believe that the Government should have had a more comprehensive plan, because when the last Government took office the unemployment level was between 20 and 22 per cent, and when it demitted office, unemployment went down to 16 per cent. It simply means that because of the generation of income, the Government has more money at its disposal, therefore, some thought should be given to handling this in another way.

We have heard some boastful expressions from the hon. Minister, but the question is: Whose policy framework is the Government following on this issue? Whose strategic plans? Whose micro and macro policies are they speaking about time after time? This is a very important question. The infrastructure is in place for development in an intelligently structured manner, but instead the Minister came with two very small measures, bearing in mind that promises were made by so many of our Friends on the other side during the election campaign.

One Minister in the other place—who talks a whole lot about policy—was always demanding vociferously and advocating that the qualifying age for pension should be reduced from 65 to 60 years, but we heard nothing in the presentation of the hon. Minister in this regard. Already, there are indications by experts, that Trinidad has experienced a 4 per cent economic growth, so there is money to do something substantial about it. We have not heard anything.

There should be greater changes. We have just had two minor changes, and that is one consideration that we are serious about—say something about the less fortunate to whom you will give public assistance. You will change up the qualifying system or whatever you want to do and the old age pension, all you have done is to place people in a situation where they will be fearful.

As my colleague, Sen. Montano, mentioned, they would not know the procedure to be considered and followed, and these people would be in fear, whether they are receiving more than they should receive. The recovery procedure is going to be very harsh, and would traumatize people if they get into it. This provision should be given serious thought.

We believe the less fortunate in the society could have received a package in this Bill, an increase in food vouchers or travel arrangements whatever, but none of these considerations were gone into. The hon. Minister again, said if money was available they would have been gone into. We know money is available, but perhaps that is the consideration the less fortunate is getting on this matter.

So, Mr. Vice-President, whilst we support the intent of this Bill, and we strongly advocate protection and increase in benefits for old age pensioners who deserve it, we are wondering about this question on the Public Assistance (Amdt.) Bill. You considered people from 40—65 years for public assistance, what about those who were released from the Princess Elizabeth Home and the Lady Hochoy Home and they are under 40 years but unable to earn? We did not see or hear anything about them and this is of tremendous concern to us.

The residency qualification—that just scratched the surface, to increasing it from three to five years because there are a number of young people under 40 years, in some cases even under 30 years, who migrate or travel to other countries and they become seriously ill and either both their parents, or one of them, will travel to the country of their present domicile to take care of them and some of them will stay for longer than five years and they are true, true Trinidadians. Some consideration should have been given to that figure; it would have looked better had it been 10 years of absence from the country.

We heard the hon. Minister say—and I am making this statement with some caution and all the humility at my disposal—that a number of diplomats, ambassadors, and high commissioners visited his office, and in discussions on the vagrancy problem, they indicated to him that it is not an easy problem or it is a problem that they cannot solve. I very humbly wish to tell this Senate that no diplomat is any expert on vagrancy; and they do not have at their fingertips all the

affairs of each of the countries from which they come. I feel the United States of America has controlled vagrancy where it is at the minimum. I am questioning whether the American Ambassador could have said anything like that.

Mr. Vice-President, we can look at this from all angles and have so much to say on it, but I wish to point out that the haste in which so many of these pieces of legislation are being brought here, sometimes at unholy hours for some people, a definite signal is being sent, but the Government is not using good diplomacy to send that signal; they want to hurry Bills so that they would claim fame for them. One of the signals that this Government is sending is that its Members are first-class "PRs", but that there is to be a general election before the year ends. This is one of the signals.

Mr. Vice-President, I thank you very much.

Sen. Prof. Kenneth Ramchand: Do not be afraid, Mr. Vice-President, I will be very brief. As someone who is still young enough to want a more radical redistribution of wealth and opportunity in the country, and as someone still believing instant rather than percolated solutions, I should not be too anxious to praise this small trickle down to the needy members in our society, but I am praising it. If Sen. Mark can change his run-up, who am I?

Sen. Mark: I have changed!

Sen. Prof. K. Ramchand: I did not say that you have changed, I said that you have changed your run-up.

I thank the Government for introducing this measure to bring some relief to certain especially needy sections of the community. I am also happy to thank them because I want to believe them and to bind them to that belief. I am accepting their word in this Senate that more and better will come, and that more and better structural solutions will come.

I thank you.

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. Vice-President, let me start by saying the normal cliché, I did not plan to make a contribution on this particular Bill, but I will be very short given the lateness of the hour. I will address one or two of the concerns that had been raised, particularly, because I myself have had some exposure to some of these.

In supporting the two Bills that are before us this afternoon, let me congratulate the Minister for doing a very good job. The first item I want to talk

about is the question of old age pension and the income bands. I think that many people do not realize that it could end up being an accounting nightmare if we attempt to start up with bands. Now, there is a big challenge to us to increase the bands.

If, for argument sake, we have a band of \$5,000, what happens is that if someone is not earning money and he pays \$300.00 a month—I will just use this for illustration purposes—it means that his total income for the year is \$3,600. But the guy who is at the top of the band who still gets the \$3,600, his total income is \$8,600. The question of equitable treatment comes into play, because in essence what you have done is that you have topped off a man who earned up to \$5,000 a month by \$3,600 a year; and the guy who is at the bottom of the scale, who earned zero, you have left him down at \$3,600. So in essence, the challenge is to find a way to bring that into equity.

What we want to do and what we are trying to do at this time and for the next year, is to see how we can give people assistance, so that at the lower end you get more, at the higher end, you get less. We are bringing people into bands where they can get some form of equitable treatment. It will never be totally equitable, but it is a challenge to the Government in that we are trying to see how we can bring everyone to earn, what may be considered reasonable. I say “reasonable” because we do recognize that even this is living below the poverty line.

The second point is the question of public assistance for the physically and mentally challenged. I think the Minister ought to be commended because we are saying that people who are at least age 40, by the time they have resigned themselves to the fact that their income-earning years are down to nothing, we are hoping to be able to improve that from 40 and work backwards. So, we are introducing a system that is being managed; we are introducing systems that are affordable at this time, and, as the Minister said, as our fortunes improve, we are going to increase and improve on the system.

I would, therefore, end by congratulating the Minister. I know that he is very concerned about those who are socially displaced. I suggest to him that there is a possibility that there are those who may be politically displaced. *[Laughter]* This Government, because of its very humane nature, will consider them. I am not sure if our Friends on the Front Benches there will be here after next week, seeing that there is going to be the possibility of a new leader. If they are, we would welcome them; if not, we would like to thank them very much for the very important contributions they have made.

I thank you.

The Minister of Social Development (Hon. Manohar Ramsaran): Mr. Vice-President, just to answer a few of the queries raised by Senators opposite. To Sen. Danny Montano, the ceiling is not \$4,500, but as far as we are concerned it is already increased; it is \$5,000. So we would be looking, as the Minister said, to raise that ceiling as the economy allows us.

Sen. Dr. Mc. Kenzie mentioned that the income ceiling is now \$5,000 as I just said, not \$4,500. With respect to unclaimed cheques prior to death, the estate is entitled once the persons apply via the Administrator General. So if the person dies after the cheque is issued to him, his estate could receive it. Mechanisms are also now in place to ensure that cheques are not made out to people who have died. So we are on the ball. We will consider Sen. Marshall's amendment at the committee stage.

Then we come to Sen. Jagmohan and his boast—he said that I boasted. Well, Mr. Vice-President, one could be allowed a boast when something has been here from 1939, and we had a government who “cared”, but here we are on this side, a government that knows the meaning of the word “care”, and we have introduced these measures.

Sen. Mark: We must take credit for that.

7.10 p.m.

Hon. M. Ramsaran: He spoke about persons under 40 years. Mr. Vice-President, apparently people come to this Senate and accuse us of things about which they know nothing. Public assistance is payable to people 18 to 65 years of age. Once they are disabled, they are in receipt of public assistance at this time. What we have done, for want of a better word, we do not use the word “pension” because of the people's feelings and so forth, but at age 40, in fact, they are going to get a sum of money equivalent to pension. Those who are under 40 and over 18 would continue to receive a public assistance cheque. So his fears are not even justified. They are in a state of public assistance.

Children under the age of 18 will continue to receive a child grant of \$80 per month once they are disabled. I must repeat because some people hear and yet they do not hear, that the key words in this Ministry are “people in need”. Even if someone is disabled but from a very rich family, that person may not qualify for some of these grants, because we are dealing with the needy people in the society.

The residential qualification, Sen. Jagmohan said it moved from three to five years. That is the same mistake made by somebody who spoke in the other place, so apparently he must have read the *Hansard*. It was really two years and it

moved to five years, but we also take into consideration, as I mentioned before, that somebody could live 10 years abroad, but if they have lived 60 years in total here, we still give them old age pension. We are looking at delivering to the needy people; the people who qualify to all the criteria would get their old age pension and disability grant.

Mr. Vice-President, we in the Ministry of Social Development have already determined that should this grant take effect, that is disability assistance grant, at least 2,000 people would benefit and this would exceed \$4 million in payment for the rest of 1996.

Under other public assistance, 3,000 needy elderly persons would benefit from the increase from two to five years. In effect, what we have done here is to ensure that 5,000 people receive some sort of financial help from this Government and yet from opposite they say this is a scratch. If every year I could come here and make 5,000 people happy, I think this Government would be doing a great job. The statistics would show that almost 75 per cent of persons over 65 are in receipt of old age pension and we know that the remaining 25 per cent who might not qualify for it, have other forms of income.

To take the Finance Minister's words a little further, we are in the process, at the Ministry, of doing a sliding scale effect of pensions and on the election promises, we might include people who earn \$12,000 and less as Sen. Jagmohan asked. The fact is, we are doing this in a sliding scale effect. If one earns \$12,000 per year one would receive less pension than say the person who earns \$1,000 and less. We are looking holistically at this. I will allay the fears of the Senators opposite—and I saw that after Sen. Kuei Tung's presentation about political displacements, some faces looked sad, but this is part of life and we have to live with it. *[Laughter]*

Mr. Vice-President, we all laugh but yet we must remember that we are dealing with people who are in need. I welcome the people opposite, especially the Independent Senators and I say that it is time that we in this country look at the less fortunate in our society. I am very pleased to note that a few Senators on the Independent Benches are on various NGOs and they work towards the improvement of the life of the needy people. I ask them to continue and I will repeat, that no government, no NGO, nobody on his own could do it alone. We need the co-operation of everybody and I make this public appeal through this medium to ask them to work with us. They are needed, the business and private sectors are needed, the government and non-government sectors are needed.

When one reads these notes coming from the United Nations which talk about poverty, if I may read just one line here:

“Poverty is a complex multi-dimensional problem that casts long shadows over many areas of existence.”

It continues:

“Poverty is the world’s deadliest disease.”

Mr. Vice-President, we of this UNC/NAR Government, a government that cares, know that we will be here more than 15 or 20 years. The scare is that if we stay here, we deliver.

Thank you, Mr. Vice-President.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Mr. Chairman: We are dealing here with the Bill to amend the Old Age Pensions Act, Chap 32:02 and, as you are aware, we are dealing with a document that has already been amended pursuant to the sitting of the House of Representatives of Friday, July 12. We have also circulated a list of amendments to be moved by the hon. Minister of Social Development, specifically an amendment to clause 4.

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

Clause 4.

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

Mr. Chairman: We have the amendment circulated here.

Mr. Ramsaran: Mr. Chairman, what we have here is that we worded it in proper perspective to put into the Bill. This was mentioned during the debate—“a period of twenty years immediately preceding the claim for pension; or for a period of sixty years in the aggregate”. We just put that in for administrative purposes.

Mr. Chairman: What we are doing here is deleting clause 4(1)(b) and substituting the new words. Maybe I can ask the Minister to read the new clause 4(1)(b).

Mr. Ramsaran: The full amendment will read as follows:

- A. In subsection (1), delete the proposed paragraph (b) and substitute the following paragraph:
- “(b) the person must have been ordinarily resident in Trinidad and Tobago—
- (i) for a period of twenty years immediately preceding the claim for pension; or
- (ii) for a period of sixty years in the aggregate.”.
- B. In subsection (2) delete “(1)(b)” and substitute “(1)(b)(i)”.
- C. In subsection (3) delete the words “Chap. 32:03”.

7.20 p.m.

Sen. Dr. St. Cyr: I take it that a person must be in the country in order to receive the pension. I am considering the case where a person lived here to age 60, leaves at that point, returns at age 70 and so he qualifies. Does the state owe 10 years back pension?

Mr. Chairman: No.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. Chairman: I have one query which is the word “paid” at the end of the first line in subclause (3). Was there another question?

Sen. Marshall: No. That is it. I was asking whether that word “paid” should be “repaid” or “refundable”.

Mr. Chairman: The Minister is indicating that he is prepared to alter the word “paid” to “repaid”.

Sen. Montano: Is the Minister willing to alleviate my fears and concerns with respect to section 8A(1)—“knowingly or improperly,” whatever. I am no draftsman but the intention is that he has fraudulently and improperly received the pension.

Mr. Chairman: Just for clarification, in the new 8A(1) the sentence at the start should read:

“Where a pensioner knowingly causes himself to be paid a pension to which he is not entitled.”

Subclause (3) will be:

“The amount adjudged to be repaid by the defendant.”

So there are two amendments to clause 6.

Question put and agreed to.

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

Clause 7 ordered to stand part of the Bill.

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

Senate resumed.

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

PUBLIC ASSISTANCE (AMD'T.) BILL

Order for second reading read.

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

That a Bill to amend the Public Assistance Act, Chap. 32:03”, be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 7 ordered to stand part of the Bill.

7.30 p.m.

Clause 8.

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

Mr. Ramsaran: Mr. Chairman, there is an amendment to clause 8 which reads:

“In the proposed section 11A(1) (d) (iii), delete the word “inadequate” and substitute the word “adequate”.

Question put and agreed to.

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

Clause 9 ordered to stand part of the Bill.

Clause 10.

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

Mr. Ramsaran: The words that were used in the previous draft would be amended in the proposed section 15A (1) to read:

“A. In the proposed section 15A(1), line one, insert between the words “person” and “is”, the words “knowingly causes himself to be”.

“B. In the proposed section 15A(3), line one, substitute for the word “paid”, the word “repaid”.

Question put and agreed to.

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

Clause 11 ordered to stand part of the Bill.

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

Senate resumed.

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

ADJOURNMENT

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. Vice-President, before adjourning this Senate, may I take this opportunity to extend to all my senatorial colleagues an invitation to have dinner, because as you know, we were planning to go until 10.00 p.m., but unfortunately we were unable to meet that particular time. *[Laughter]* We have in fact ordered dinner and we invite all to participate. I thank them for taking part in this very important debate this evening.

Mr. Vice-President, I beg to move that this Senate be now adjourned to Tuesday, July 23, 1996 at 1.30 p.m.

Question put and agreed to.

Old Age Pensions (Amdt.) Bill

Thursday, July 18, 1996

Senate adjourned accordingly.

Adjourned at 7.35 p.m.