

Senator's Appointment

Thursday, November 28, 1996

SENATE

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The Senate met at 1.32 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

SEN. ORVILLE LONDON

(RESIGNATION)

Mr. President: Hon. Senators, I have received communication from His Excellency the President of the Republic of Trinidad and Tobago as follows:

"By His Excellency NOOR MOHAMED HASSANALI, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

Noor M. Hassanali
President.

TO: SENATOR ORVILLE LONDON

WHEREAS by the provisions of paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, the President acting in accordance with the advice of the Leader of the Opposition, is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE, I, NOOR MOHAMED HASSANALI, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution, do hereby declare the seat of you, Senator Orville London, to be vacant.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 22nd day of November, 1996."

Senator's Appointment

Thursday, November 28, 1996

Mr. President: I have also received the following communication:

"By His Excellency NOOR MOHAMED HASSANALI, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

TO: DR. DHANAYSHAR MAHABIR

WHEREAS Senator Philip A.F. Marshall is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, NOOR MOHAMED HASSANALI, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DHANAYSHAR MAHABIR, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Philip A.F. Marshal.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 26th day of November, 1996."

OATH OF ALLEGIANCE

Sen. Dhanayshar Mahabir took and subscribed the Oath of Allegiance as required by law.

TOBAGO HOUSE OF ASSEMBLY BILL

Bill to repeal and replace the Tobago House of Assembly Act, Chap. 25:03, to provide for the membership, powers and functions of the Tobago House of Assembly and its Executive Council and matters incidental thereto; brought from the House of Representatives, [*The Attorney General*]; read the first time.

Motion made, That the next stage of the Bill be taken at a later stage of the proceedings. [*Hon. W. Mark*]

Question put and agreed to.

CONSTITUTION (AMDT.) BILL

Bill to amend the Constitution of the Republic of Trinidad and Tobago, brought from the House of Representatives [*The Attorney General*]; read the first time.

Motion made, That the next stage of the Bill be taken forthwith. [*Hon. W. Mark*].

Question put and agreed to.

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

That a Bill to amend the Constitution of the Republic of Trinidad and Tobago be now read a second time.

The Bill under reference has been circulated and I think its content is well-known. The purpose of this Bill is to include in the Constitution of Trinidad and Tobago, the existence of the Tobago House of Assembly with powers and functions to be prescribed by law. Also, to include the Executive Council of the Assembly and the establishment of a fund known as the Tobago House of Assembly Fund in the Constitution.

1.40 p.m.

Mr. President, this Bill is the forerunner to another Bill, and it is all part and parcel of a package to give greater autonomy to the people of Tobago. As Members of this Senate know, the Constitution of Trinidad and Tobago provides for the alteration of the Constitution of the Republic of Trinidad and Tobago; and that in certain cases, the Constitution requires that those alterations cannot be effected without prescribed or specified majorities but, in other cases, the Parliament of Trinidad and Tobago can effect those alterations or amendments without a specified majority. This alteration of the Constitution of Trinidad and Tobago does not require a prescribed or a specified majority. It can be passed by a simple majority but may I announce that the measure had the full support of the elected Members of Parliament.

I commend this Bill to Members of this Senate and I beg to move.

Question proposed.

Sen. Nafeesa Mohammed: Mr. President, I am rather amused this afternoon after hearing the hon. Attorney General move this Bill in such a different tone. It

Constitution (Amdt.) Bill
[SEN. MOHAMMED]

Thursday, November 28, 1996

may have lasted less than two minutes and, certainly, there seems to have been some transformation in terms of his usual delivery of contributions in Parliament. In the past, whenever he is in our Chamber, the atmosphere, mood and tempo changes drastically. I am indeed very happy that this afternoon he came with such a different tone.

Today, we are here to debate a very significant and important piece of legislation. For some time now, we in Trinidad and Tobago and, certainly, we in the PNM, have been seeking to work out a better arrangement designed to improve the relationship between Trinidad and Tobago. Over the years, we realized that this process is indeed an evolutionary one and today we heard the hon. Attorney General make mention of the fact that the Constitution (Amdt.) Bill that is before us this afternoon was unanimously passed in the Lower House. As a citizen of Trinidad and Tobago I feel very happy that there was some kind of consensus with respect to this very important piece of legislation, but when I look back at the events over the last few days I must, at the same time, express my disappointment at some comments that I have heard and read about.

This afternoon on my way to the Parliament, I heard on the 12.00 o'clock news a very respectable and senior statesman of this country making the comment that it is the fault of the PNM that the Tobago House of Assembly was not entrenched in the Constitution. We heard here this afternoon that the Bill requires a simple majority, but just three days ago, that was not the case. In fact, the Bill in its original form would have required a special majority to have been passed. Our position with respect to the Bill in its original form has been that we are committed to ensuring that there is greater autonomy for Tobago, but that in working out an appropriate relationship there has been concerns that the arrangements that are put in place are such that they should maintain the unitary state of Trinidad and Tobago and, certainly it will be done within the provisions of our Constitution.

When one looks at the Bill in its original form, one realizes that some of the provisions would have had some very far-reaching consequences therefore, we did express our concerns and our views. We commented on the provision designed to increase the number of Senators from 31—37. Our position has been made clear with respect to that particular provision, and we made it abundantly clear during the debate that took place on Monday and even prior to that, that we in the PNM were in support of the provisions designed to entrench the Tobago House of Assembly in the Constitution of Trinidad and Tobago.

In fact, since 1992, when the parliamentary representative for San Fernando East became the Prime Minister of Trinidad and Tobago and he visited Tobago, he addressed the Tobago House of Assembly. At that time there were certain concerns and feelings of insecurity that were being expressed. The then Prime Minister gave a commitment that steps would be taken to have the Tobago House of Assembly entrenched within the Constitution and after several years of intense discussion and dialogue with the people who really mattered in terms of working out an amenable arrangement, there was a situation that in 1995, a draft bill was in fact put forward. History will show that events intervened.

It is very unfortunate for us on this side to see that while the Government claims to be so concerned about giving greater autonomy to the people of Tobago, it came on Monday last and proposed certain amendments which certainly went way below what we on this side were prepared to support. I have read the headlines about a “watered down” Bill being passed and I am certainly very concerned at the statement being made by Members opposite.

Sen. Daly: Mr. President, on a point of order. I regret having to rise, but as far as I know, we are not debating a Bill which contains any provisions for the entrenching of the Tobago House of Assembly in the Constitution.. But that seems to be the measure which the present Senator is addressing. It does not seem to me to be relevant to the Bill. We seem to be debating something that was debated and determined in another place.

Mr. President: I agree with Sen. Daly that the Senator should debate what is actually before us.

Sen. N. Mohammed: I thank you, Mr. President. I did refer to the Bill in its original form which is before us, as amended today. Certainly, as I indicated before, we on this side are for giving greater autonomy to the people of Tobago. We are very happy indeed that Members on both sides of the fence were able to come together to arrive at certain amendments, though a bit weaker in form than what we would have been prepared to support.

1.50 p.m.

Notwithstanding that, we on this side are in support of the proposed amendments with respect to the Constitution (Amdt.) Bill. In those circumstances, before I take my seat, I would point out that this struggle for self-determination in Tobago is one which has been going on for years. I made the point earlier that it is an evolutionary process. We hope and pray that in the days, months and years to

Constitution (Amdt.) Bill
[SEN. MOHAMMED]

Thursday, November 28, 1996

come, we in the Parliament of Trinidad and Tobago would arrive at a model which could be an example for the rest of the world and of which we can be proud.

We are living in a time when the entire world is moving towards integration. In the Caribbean, we have been committed to Caricom and other movements. In these times when we are talking about greater integration, we need to ensure that we maintain the unitary state of Trinidad and Tobago, and do so within the context of the Constitution.

Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, I certainly support the Constitution (Amdt.) Bill with its objective of making provisions for more effective administration of Tobago affairs.

At this time, I would respond to that confident statement made a moment ago by the hon. Attorney General, namely that the Bill had the full support of the elected representatives. I would comment on certain features which confounded the evolution of this Bill. One would have preferred that such an important issue as the Tobago question with far-reaching consequences for the entire population of the Republic would have been settled peacefully, with the blessings and unanimous support of both Government and Opposition.

It was said that there was full support. There was a compromise by the major players. What was the kind of compromise, accommodation, consensus and nature of the full support that I heard about from the hon. Attorney General? There is an article in the *Daily Express* dated November 26, 1996. A Member of Government is reported to have made a certain remark. I will link this quotation with that statement of assurance and confidence that the Bill received the full support of the elected representatives. Page 3 states:

“During the debate we did not know if they were going to support the bill. We could not have trusted the PNM.”

In response, the Opposition described the amended Bill as watered down and a pale shadow of its 1995 proposals. In the press, the Opposition has promised Tobago a better deal when it is returned to power. We are telling the nation as we begin at this level of the debate on the Bill, that it had the full support of the elected representatives. I have a problem with that. What do you make of this? I am disturbed that it is not every day that Tobago gets the attention it deserves. In my most respectful estimation, the parties have continued to play doll's house with

Tobago. I am not sure about this full support from the elected representatives. Where is the political goodwill which ought to undergird such vitally significant legislation?

Over the years so much effort was devoted in search of justice for Tobago through the various commissions: the Seemungal Draft, the Wooding and Hyatali reports and the 1995 draft. We have copies of those and we add the Guya Persaud Report, a committee of 1996 that met 32 times. This must be a record. Added to this, our own Joint Select Committee of Parliament did some work. Yet today, political guile hinders a proper solution.

I have a problem with that confidence with which we begin the debate by saying that it has received full support. What kind of support? I question that support. When Parliament meets—in which resides the final say—there is so much suspicion, unhealthy and inconclusive horse bargaining, with minority reports of major significance. It is either that this betrays our political immaturity, or reflects the inadequacies and deficiencies of our present parliamentary machinery.

I would close by referring to Dr. Eric Williams in his *History of the People of Trinidad and Tobago*. He mentioned that in the 19th century Tobago lived in a state of betweenity, buffeted about from pillar to post. Page 150 states:

“Tobago’s humiliation was complete. Throughout the 17th and 18th centuries the great powers had fought over Tobago as if it was one of the world’s most precious jewels. In 1898 Tobago was virtually sold to Trinidad for \$19,200.”

In those days that was £4,000. Tobago then became a ward of Trinidad.

We have looked at the 17th, 18th and 19th centuries. What about the 20th century, our time? At the end of the 20th century, today, what do we see? The political parties in Trinidad have their reasons for considering Tobago as one of Trinidad’s most precious jewels. The political gold rush today is for Tobago’s favours.

Thank you.

Sen. Philip Hamel-Smith: Mr. President, I am indebted to Sen. Rev. Teelucksingh for giving me that cue. I think on looking at this Constitution (Amdt.) Bill as it relates to Tobago, it is important to do exactly what he did and look back a little. It gives us all the opportunity to look back at Tobago’s situation, and more particularly, its relationship with Trinidad. We can do so more carefully.

Constitution (Amdt.) Bill
[SEN. HAMEL-SMITH]

Thursday, November 28, 1996

2.00 p.m.

I surmise, that this glance back could be summed up in one word which was hinted at by the hon. Senator a few minutes ago. I would like to summarize it by the word “neglect”. I think that summarizes fairly Tobago’s history for many years. In fact, Mr. President, I went to the *Hansard* as far back as 1957, the date being June 7, 1957, which records the statement of none other than the late Prime Minister, Dr. Eric Williams. It was captured in the Guya Persaud report. The words quoted there were:

“Tobago exchanged the neglect of United Kingdom Imperialism for the neglect of Trinidad Imperialism.”

These words were just as valid on June 7, 1957, as they were on November 6, 1995, 38 years later. Other than a brief period of fresh air between 1991 and 1996, Tobago has been the victim of unconscionable neglect.

I have found great difficulty in reading this *Hansard* of 1957 and not relating Tobago’s plight of those days to the present-day situation. With your indulgence, Mr. President, it may be well to read into the records a few excerpts of this contribution to make this point. This is on page 1922 of the meeting dated June 7, 1957:

“In the past four years, Mr. Deputy Speaker, up to 1956, that long period of neglect, that betrayal of trust has been exemplified by the addition of a mere nine miles of road to the main road system of Tobago...”

The betrayal of trust, the years of neglect are exemplified in the most ghastly fashion by the broken down bridge at Parlatuvier lying in the water for eight years without any action taken on it. The long period of neglect, the betrayal of trust is exemplified by the slow rate of population increase from 18,000 in 1951 to 33,000 in 1955...”

So we had 33,000 inhabitants in 1955. I think we are just short of 50,000 now, in 1996. He concludes:

“... a rate of increase determined not only by the gross neglect...but also by the extensive and regular migration from Tobago to Trinidad...”

We can go on and on. It is quite instructive. In reading this contribution from 1957, one cannot help but conclude that one can have the same words read in

1995 and they would be just as applicable, including the broken bridges and the migration from Tobago to Trinidad.

Mr. President, Justice Guya Persaud, in the course of discharging his responsibility as chairman of the Cabinet-appointed committee to review the constitutional and legislative arrangements for Tobago, appears to have informed himself and the committee of all the significant developments of Tobago's past. He said that such neglect was—and I quote from page 3 of that report:

“...manifested in years of relative economic backwardness and insecurity on the island. Indeed, the average Tobago resident has been disfranchised from the mainstream of the country's economic activities and attendant benefits.

High priority was therefore accorded...”

Sen. Prof. Spence: Mr. President, can I call your attention to Standing Order No. 35(1)?

Mr. President: Sen. Hamel-Smith, are you linking what you are saying with the Constitution (Amdt.) Bill? If not, I suggest that you move on to the Bill.

Sen. P. Hamel-Smith: Mr. President, my contribution is coming on the heels of the short contribution made by Sen. N. Mohammed. This is in response to what she has had to say.

Mr. President, this last statement by the chairman of that commission is quite instructive in that the words he used as he ends his statement forms the conceptual foundation of the Bill which emanated from that report. He said:

“High priority was therefore accorded to devising a legislative formula which would guarantee economic security on the island without rupturing the tapestry of the Unitary State. To this end, the entrenchment of Tobago's right to self-determination in the Constitution while respecting primacy of Parliament as the law-making institution in the country forms the conceptual foundation in the Bill.”

So, here we have the foundation stone of what eventually emerges as the Bill before us today. *[Interruption]* I am talking about the Constitution (Amdt.) Bill with which we are dealing.

Mr. President, it is coincidental, in reading the original Bill, that it is being referred to in some parts of the press as being part of a loaf. We heard earlier reference to it being a watered-down version. It reminds me of a recent visit I had

Constitution (Amdt.) Bill
[SEN. HAMEL-SMITH]

Thursday, November 28, 1996

to Tobago—to give just a little aside—and an incident which involved a fishing trip where I spent hours holding a line and catching nothing. Lo and behold, on the line, there was this big fish and on bringing it into the boat the major part of the fish was missing. On reading this Bill, I could not help but feel that the major part of this Bill is missing—the fleshy part. Notwithstanding this, Mr. President, the mere ability of this Government to have secured what was left of this fish for Tobago is evidence of the level of commitment of this Government of national unity to the welfare and well being of the brothers and sisters in Tobago. It is evidence of the level of commitment this Government has for the promotion and fostering of some form of self-government for our sister island; and for the democratic process. It has been described in the opinion column of the *Daily Express* of November 27, 1996 as a bit of give and take.

2.10 p.m.

I quote from that article which says:

“Democratic governments must, of necessity, set out from time to time to make compromises not the least of which must be with the parliamentary opposition. This is not a sign of weakness but a sign that the government understands that give-and-take is part of the parliamentary process and that good sense has to prevail if the country is to move forward.”

Mr. President, I think the Government needs to be commended on its commitment to that democratic process.

On the other hand, this Bill’s passage through the Lower House is evidence of the determination of the former regime—now, in Opposition—to deny Tobago what it has demanded and has been promised since 1976, it is evidence of the lip service that has been meted out to the people of Tobago for the past 20 years since the rejection of the recommendation of the Wooding Commission. In November, 1996, we are now confronted with a Bill to proceed as if it may be with some semblance of self-determination to Tobago.

Mr. President, the Constitution (Amdt.) Bill as originally drafted and laid in the Lower House reflected not only what the people of Tobago have been dreaming—

Sen. Daly: Mr. President, could I invite your ruling on the question of whether we are going to continue to debate the original Bill?

Mr. President: Sen. Hamel-Smith, I suggest that what is before us ought to be debated. The original Bill never came before us and we should not be debating any issues relating to that Bill.

Sen. P. Hamel-Smith: Thank you, Mr. President. A passing comment is that this Bill will go on record as being noteworthy, not so much of what it says and represents, but more of what it does not say but still represents.

In closing, I express a hope that this is not really an end for the cause of Tobago, but merely a means to that end.

Thank you, Mr. President.

Sen. Martin Daly: Mr. President, I am all too painfully aware that the Bill which we are debating today is the result of events which took place in another place earlier this week, and I may say in parenthesis, on the wrong day of the week because of course, on Tuesday, we should have been here, and it took place as a result of those events.

Sen. Rev. Teelucksingh, in my view, has correctly referred to it as political guile and, whether a division is taken or not, I do not intend to support this Bill and I do so for the following reasons and I wish other Senators to consider them.

We have had the very candid admission from Sen. Hamel-Smith, the Vice-President of the Senate, that this Bill is like a fish being caught with the major part of the fish missing. I thank him for his candour, and I do understand his discomfort in making some of the remarks which he was forced to make; and that is precisely my point. This Bill, at best, could be described as an upgrade in the status of the Tobago House of Assembly, but only to the limited extent that it is now mentioned in the Constitution.

The Constitution is not a gossip column where people and places are mentioned, it is the supreme law of the land and it represents the contract between the Government with a capital "G" and the people, and there is absolutely no business of career politicians to be seeking to amend the Constitution in order to provide an upgrade, or an honourable mention of any institution that exists in this country. This is not what constitutional amendments are considered for; so indeed, the major part of the fish is missing because there must have been some reason for introducing this Bill today in order to upgrade the status of the Tobago House of Assembly, but I have not heard any reason on the part of those who have spoken before.

We know that the Bill is deficient, defective and missing parts, vital organs, because the Government has confessed to that. Some suggestions have been made that, somehow, this Bill meets the neglect of Tobago. Well I ask rhetorically, Mr.

Constitution (Amdt.) Bill
[SEN. DALY]

Thursday, November 28, 1996

President, is that what this Bill is going to do? Does it represent a level of commitment to the people of Tobago? The cynical among us would suggest that it represents the level of commitment of a Government that requires Tobago's votes to stay in power—that is what it has a commitment to. [*Desk thumping*] One could be forgiven for thinking so, and if that is what it is, then I will have less of a problem with it because then I will really know why it is being brought here. That is for political commentators who are far more astute than I.

How in Heaven's name does this serve the democratic process? Does it serve the democratic process to seek to amend the Constitution in relation to an institution in respect of which election is now due, and in respect of which an election campaign is being held? How does it serve the democratic process to consider amending the Constitution in relation to the Tobago House of Assembly when an election has been called and a campaign is in progress? What it does, Mr. President, is lead to the obvious discomfort of Senators on both sides of the partisan political fence because their options and their political candour are circumscribed by the fact that we are debating a Constitution (Amdt.) Bill concerning the Tobago House of Assembly at a time when an election is in progress. That does not lead to political candour and it is extremely anti-democratic. If there was some desire on the part of any of the partisan political players to upgrade the status of the Tobago House of Assembly, or to do something constitutionally about the arrangements between Trinidad and Tobago, it should not be done while an election campaign is in progress or rushed in the way this is being done, and to capsize, once more, all of the parliamentary business.

Mr. President, this is a Government of "crazy ants." Every week we are just called out of our holes to follow this particular grain of sugar. That is what it is, it is "crazy ants" Government, and I speak of Government with a capital "G". All the Governments in power which I have experienced in my brief time here seem to think that when one talks about Government with a capital "G", one is talking about a particular political party, but I am talking about the process of government, and I take grave exception in attempting to amend the Constitution to deal with this very important Assembly in the circumstances which I have described. I think it is wrong and it has led to obvious discomfort on both sides.

It is an astounding situation to have before the Senate for debate today a Bill in respect of which both sides protest and protest too much. One side regrets the fact

that the major part or vital organs of the Bill are missing, and the other side now seeks to defend, retrospectively, the decisions which it took earlier in the week. Is that what we have been called here, on a Thursday, to do? Is that what we are called to do in the context of amending the Constitution?

2.20 p.m.

I well remember learning from the Leader of Government Business—when he sat on this side—the ferocity with which one must defend the Constitution, scrutinize amendments and the time that must be taken over it. We sat on a certain select committee together and I learnt these things from him. I am surprised that he has not passed on those lessons to whoever has perpetuated this absolutely pointless debate on a fish, the major part of which is missing.

I have been struggling all day—I am grateful to the Vice-President of the Senate—with how to describe this. I know it is crazy ants business to just drop something on the ground and run behind it, but I was trying to find a way to describe this piece of Bill that is left here. However, if it is the will of the elected representatives of the people to perpetuate such a piece of legislation, it is not in my place as an Independent Senator to defy that, but equally, it is not in my place as an Independent Senator to support what I consider to be a hollow exercise.

For those reasons, Mr. President, people seem to have difficulty in understanding—except, of course, when Sen. Moore-Miggins was caught in the difficulty—why abstentions are options for parliamentarians. I cannot vote for this Bill because I think everything about the way it has been gone about and the form in which it is presented to us today, is wrong. I cannot support it. However, Mr. President, I also cannot vote against it, because if that is the combined will of the elected representatives of the people, it is not my business to interfere with it.

Sitting in the Senate as I do, and as I understand my constitutional role which is to scrutinize, to criticize constructively, to advise and consent—it is not my personal role—I am bound to say that my view as a Senator, performing that constitutional function, is that this is a pointless exercise and I would not support the Bill, as a matter of conscience. I cannot understand to this day what we have been doing all this week—scrambling around like crazy ants. Perhaps the answer lies in the contribution of Sen. Rev. Teelucksingh.

If it is—and I do not say it is—that political guile is being practised, then, Mr. President, the people of the country deserve better. I do not wish to widen the

Constitution (Amdt.) Bill
[SEN. DALY]

Thursday, November 28, 1996

breach; I do not wish to increase the wounds that apparently sometimes exist between the twin islands of our country. However, as you know, Mr. President, the people of Trinidad have a very important say in any constitutional amendment affecting Tobago; just as with any constitutional amendment that may affect Trinidad more than Tobago, the people of Tobago have a say in it. We cannot treat this as some local barn dance to which we must divert national attention and propose to amend the Constitution.

Therefore, Mr. President, I very much regret that that seems to be the only option open to me. How could I be asked to support something which, it has been acknowledged, has no vital organs left? Why are we doing it? If everybody is dissatisfied with the Bill, there is an obvious something to do with it. If that is the will of the elected representatives of all sides, I respect it, but I will not support it.

Thank you very much, Mr. President.

Sen. Prof. Kenneth Ramchand: Mr. President, I am willing to give way to the Opposition Senator before I speak, since mine is a very brief intervention.

Mr. President, I do not oppose the provisions of the present Constitution (Amdt.) Bill, nor do I oppose the apparent decision not to entrench them in the Constitution. My decision not to oppose does not arise from any feeling that what we have, resolves the crucial questions relating to Tobago. In fact, if I do not oppose this, it is because time has been given back to us to think more seriously about the relationship between Tobago and Trinidad and about how we might offer—whatever one wants to call it—reparation or redress and how to make special arrangements to overcome the long years of neglect that Tobago, like some of the other regions of Trinidad, has endured.

The provisions dodge these crucial questions. It is very clear that when people talk about self-government for Tobago, there is an ambiguity. We do not know whether we intend to maintain and consolidate the unitary state and bring about greater integration between Trinidad and Tobago, or whether people want to say: We want to make arrangements that would allow Tobago, at a later stage, to declare itself a separate country if it so wishes. I am glad to say that the present Bill which dodges these questions, by the same token, does not answer them and this gives us time to consider these two crucial issues. Mr. President, it is an important matter.

My own feeling is that we want to bring about greater integration between Trinidad and Tobago. The time that has now been given to us would allow us to consider, in a rational way, the technical problems that would arise if we decided to dismantle the unitary state. The time allows us to go to the people of Trinidad and Tobago and to let them know that the issue is boiling as to whether we want to unify Trinidad and Tobago, or whether we want to tell Tobago, if you want to secede at a later stage, here are the arrangements. Let the people know that the loose talk about internal self-government for Tobago has implications.

I doubt very much whether the people of Trinidad and Tobago have been sufficiently consulted on this matter. I doubt whether enough technical considerations about the law of the sea, financial arrangements and foreign affairs have been made.

Mr. President, as I said, this watery Bill would not be opposed by me. I suggest that in the time given to us we might ask another question, whether we should think, not in terms of Tobago or Trinidad, but Trinidad and Tobago; whether the issue should be: Is there a way for Tobago and the other neglected regions of Trinidad and Tobago to have a voice in the proper governing of the country and in the planning for development in the country? If we want to do that, might there be some kind of necessity to look, not at the Senate, but the House of Representatives? If we want Tobago to play a part in the governing of Trinidad and Tobago and the other regions, there might be a necessity for some kind of reform of the whole system of representative government.

I would like to see the people of Tobago coming to Parliament, not to defend the interests of Tobago, but to talk about Trinidad and Tobago and the part that Tobago has to play in the whole political system and in the economy of our very fortunate unitary state.

2.30 p.m.

Mr. President, I am certain I am not going to vote for this Bill and it is very likely that I am going to abstain. I am very glad the Attorney General appreciates that we understand that the country is playing for time to resolve this issue properly. So, I do not think I need to say anymore. The Attorney General understands quite clearly that we are taking the present Bill as an admission that the question of the relationship between Trinidad and Tobago, the political, economic and social relationship, is a very important question and that the answers

Constitution (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, November 28, 1996

that have so far been provided are very inadequate and, therefore, cannot be entrenched in the Constitution.

I thank you.

Sen. Penelope Beckles: Mr. President, I rise to make my very small contribution on this Constitution (Amdt.) Bill, 1996. The general purport of the Bill is to make constitutional provisions for the existence of the Tobago House of Assembly and for the establishment in relation thereto, of the Executive Council and the Tobago House of Assembly Fund. Mr. President, I must say that after the Attorney General spoke, to my mind, I was very certain that having looked at what is before us today, I do not really think that the necessity arises to make any long—I do not want to say unnecessary, but to speak unnecessarily on this Bill that is before us.

Mr. President, I was quite disappointed a while ago when I heard him say, in responding to Sen. Prof. Ramchand, that the reason he brought this simple majority is because he felt that he would not have gotten the support. Those of us who are familiar with the practice of law would know that in relation to constitutional law the Attorney General's name is mentioned in several of the very historic West Indian cases and no doubt when the history of constitutional law in the West Indies is written, I am sure that tremendous credit would be given to him for the development of constitutional law. I have had the benefit myself of listening to some of his lectures and reading some of his submissions and he has persuaded several persons, including the Privy Council and others, and his opinions and advice very often have been sought in matters relating to constitutional law. That is why I say I am disappointed.

Mr. President, when one listens to Sen. Hamel-Smith, another attorney, making statements about half of a fish and using that sort of example to describe what we are doing here today, it is extremely unfortunate. He was referring to 1957 which means that this issue has not been settled for almost four decades. We have to ask ourselves as Members of Parliament: are we satisfied to continue being in that state?

Therefore, notwithstanding what the Attorney General has said, I still feel and I am convinced that if a proper approach was adopted, particularly in relation to consultation and bringing together all the minds that we have in this country in relation to constitutional law, that there would have been no need to say what he said today. I am not sure that all the Senators including, Sen. Daly, Prof.

Ramchand and others who have their reservations, may have very well taken a different approach from what we have taken today.

Just last week, you would recall our concern about noting the contents of a particular report in relation to this Bill and the other one. It is even more unfortunate that we would want to take a position that he brought it as a simple majority because he was sure that the PNM and some of the Independent Senators would not have supported it in its present form. It is almost as though he is saying that we know that we have not done as best as we should. Mr. President, I have a difficulty with that. I feel that we all have a responsibility in Parliament, and we are committed, as Senators on all sides, to ensure that whenever any legislation comes before this Senate, it is the best piece of legislation.

We do have several other examples in the Caribbean, such as Grenada, Carriacou, St. Kitts/Nevis, Anguilla, St. Vincent and the Grenadines, and Antigua/Barbuda to a lesser extent, where some of these issues that are discussed in relation to this Bill would have been discussed and I felt that we could have drawn on some of the experiences of some of those other islands. Because what Nevis says to St. Kitts and what the Union Island and Carriacou say to St. Vincent and what Barbuda says to Antigua, is very similar to what Tobago is saying to Trinidad. They may not have been able to have a perfect piece of legislation at this point in time, but certainly they have worked at it.

Our hope would have been that at the end of the day, having completed this exercise, that we may very well have been able to have something that is close enough to perfect, which some of the other islands of the Caribbean which are going through a similar exercise or have similar problems in relation to some of the larger and smaller islands, that we would have been in a better position to assist them.

I think the fact that an election would be called in the next few weeks, obviously influenced the timing of this Bill. Therefore, we have to ask ourselves, when some of us, as we may want to do, go on a political platform and claim, yes, we have now given Tobago what Tobago deserves or what Tobago should have gotten so many years ago, would we be comfortable 40 years hence, when other Senators are reading in *Hansard* exactly some of the contributions that we have made in relation to this Bill?

Mr. President, it is very easy for the Attorney General to come today and say that he has brought it in a simple form because he did not feel that he would have gotten support because one would get the impression that the opportunity to make

Constitution (Amdt.) Bill
[SEN. BECKLES]

Thursday, November 28, 1996

changes never existed. You would recall, Mr. President, at a certain point in time a particular government had 33 seats to three in the Parliament, and they were able to change almost anything, and at that point in time the Prime Minister of Trinidad and Tobago was the present Minister Extraordinaire and Minister of Tobago Affairs, and that opportunity would have been there.

2.40 p.m.

It is very unfair to come today and suggest that certain things could not have been achieved because of the present scenario that exists.

Mr. President, I think we all know that because of the manner in which this Bill has been brought, Tobagonians are anxiously listening, awaiting the outcome of this exercise in order to determine how the various parties and other persons view this Bill. We must admit that debating it a couple of weeks before the election may not necessarily have been the best thing.

The fact is, the Government has chosen to do that and it will say that is its prerogative, and as I said, I hope that 40 years hence, when anyone is reading our contributions on this Bill, that those who have indicated about this half of fish and whatever, will be comfortable with it. That is my contribution. [*Desk thumping.*]

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I intend to respond both generally and specifically to what has been stated by the hon. Senators, but I think that some of the things which have been stated here today have demonstrated the feelings of distrust and suspicion the people of Trinidad have had for the people of Tobago.

I am surprised that in a matter like this, in which the Bill came in a particular form, and in which there was objection by the hon. Senator to matters which are not relevant to the Bill, that the hon. Senator Martin Daly himself, mentioned matters—and I will mention them to show whether or not they were relevant to this Bill. But since those matters have been raised, it will be my duty, Mr. President, to deal with them.

I think it should be clearly understood that the Constitution of Trinidad and Tobago provides for institutions to be included in it, even though the amendment or the alteration of the Constitution is not by a specified majority. It also provides for things to be done in relation to institutions in Trinidad and Tobago, and for those things to be done—I should say those changes to be made, even though they are not altering the Constitution by a specified majority. The reason for this, is that

the inclusion of an institution in the Constitution is a recognition by the state that the institution is being upgraded in some form or the other.

It was the intention of this Government not only to have the Tobago House of Assembly entrenched in the Constitution, but also to give it certain powers, even the powers to make laws subject to a veto of the national Parliament. It was the intention of this Government and it was in the Bill in its original form, to give greater autonomy to Tobago but those organs of the bill are missing and it is correct—Sen. Hamel-Smith is correct that to some extent it is a watered-down Bill. The government of the day had to make decisions; either to give Tobago no loaf at all or give it half a loaf. It is in this context, because of the opposition that was raised to the Bill by the PNM in the Lower House and by the national community, that the Government decided to come to this Senate with the Bill in its amended form.

Whether one says the vital organ is missing, whether one says there are missing organs, the fact of the matter is, yes, the Government of Trinidad and Tobago was prepared to implement the decision of the people of Trinidad and Tobago through the Parliament to give internal self-government to Tobago. It could not do that, and the two bills had to be amended. The Constitution had to be amended because the PNM opposed the measures, and that is the truth. That is history. So that, yes, we would have preferred to have the original one, but we cannot have it and we cannot have it because this administration does not have the required constitutional majority in another place. The Government therefore decided that it had to plan a strategy in order to give to Tobago the greatest autonomy it could possibly have given to it under the circumstances.

It is in this context that the strategy of the Government—and we are not afraid to say it because it is the truth—was to ensure that the Constitution (Amdt.) Bill was one which required a simple majority so that the Government could control its passage in both Houses of Parliament, and the Tobago House of Assembly Bill was one which would require only a simple majority. It is this context that we have these measures before the Senate.

This is not the first time that a bill is being passed to amend the Constitution relating to an institution, for which a simple majority is required. As a matter of fact, I remember Act No. 17 of 1995, which amended the Constitution of Trinidad and Tobago was done under the last administration and it had to deal with the Speaker of the House of Representatives. I should put it in this way—it

Constitution (Amdt.) Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

had to do with the Office of Speaker and the removal from the Office of Speaker by a resolution by a simple majority. When was that Bill introduced? It was introduced whilst the Speaker was under house arrest and whilst there was a state of emergency in relation to the Speaker. I did not hear anyone talk about “crazy ants” government. I did not hear anyone say that one cannot legislate when one has circumstances like those. As a matter of fact, I sent just now to get the contribution of the hon. Sen. Martin Daly and what did he say? On July 20, 1995 at what time in the day, I do not think this has the time, the Senator supported the Government.

Nothing was mentioned about circumstances that one cannot legislate at this time at all. I will quote some of his words: “That is just a measure of the magnitude of the problem. Therefore, if the problem is sufficiently big...there is some justification for amending the Constitution.” Well, this Government believes that the problem with respect to Tobago is a big problem. [*Desk thumping*]

We believe that the people of Trinidad and Tobago regard the problem as a big problem, and we believe that urgent action was needed. It is in that context that we considered the injustice to the people of Tobago should be redressed as quickly as possible. But I will come back to what the hon. Sen. Daly said. I would like first to deal with some of the matters hon. Sen. Nafeesa Mohammed mentioned.

2.50 p.m.

Mr. President, before I do that, I think it will be only fitting for me to congratulate the hon. Senator on her elevation to acting Leader of Opposition Business in the Senate. I remember when she was appointed a PNM Senator, I heard the voice of her father, stating, "I am disappointed." And I do not know if I hear the voice now, but Mr. President, may I offer my congratulations to her.

Mr. President, she said that the PNM wanted the Tobago House of Assembly to be entrenched in the Constitution. That means, Mr. President, as you know, that if it is to be entrenched, we would have required, not a simple majority in the Lower and Upper Houses, but a specified majority. It would have also meant that if it were to be removed from the Constitution, it would also require a specified majority. It would have also meant, Mr. President, that having regard to the provisions of the Constitution (Amdt.) Bill, if that Bill was not passed in either House, then it may not have been possible to go along with the Tobago House of

Assembly Bill. So we had to consider what was more important for the people of Tobago, in respect of giving them greater powers.

Instead of having the Tobago House of Assembly entrenched in the Constitution, and stand the risk of it not being supported with the required majority in either House, or supported in one House and not being supported in the other, would it not be more practical and more effective for the people of Tobago to have the Tobago House of Assembly included in the Constitution of Trinidad and Tobago? That is to say, the signal is there from the state, that this institution is in the Constitution, is in the supreme law of the land, and we believe that as long as it is there, no government, not even the PNM—if it ever gets into government, which is hardly likely—can take a decision to remove that, even by a simple majority, without consequences.

So we decided, Mr. President, that we would put the Tobago House of Assembly in the Constitution with a simple majority, have it there, and make changes in the Tobago House of Assembly Bill. These changes were required as a consequence of removing from the initial bill, the provisions dealing with an increase of Senators and powers to make laws and other matters, and would put the Tobago House of Assembly Bill in a form in which the administration in Tobago would be improved. There would be less bureaucracy, and more direct management of the affairs of the country, so that the people would be able to get at least half a loaf, or three-quarters of a loaf.

So, Mr. President, it is not correct for the hon. Member to say that by not entrenching the Tobago House of Assembly in the Constitution, the people of Tobago are denied greater autonomy. What she should have said, is that if the Tobago House of Assembly had the powers to make laws subject to veto by the national Parliament—to which the PNM objected—that would have given them more autonomy in Tobago; and, that if the Tobago House of Assembly had an increase of Senators as proposed by the Government, that would have assisted in giving them greater autonomy in Tobago.

I think it is important for me to put that to rest and, therefore, the quotation to which she referred, by this great statesman in Trinidad and Tobago, who said that the PNM was responsible for not delivering internal self-government for Tobago, that statesman was correct.

Sen. Mohammed: Mr. President, on a point of order. I did not make that statement. I referred to a statement made by a statesman in connection with the

entrenchment of the Tobago House of Assembly, blaming it on the PNM. I did not make the statement the way he said it.

Hon. R. L. Maharaj: Mr. President, whichever statesman that is, whichever great statesman said that I would say that statement is correct.

Mr. President, it has been mentioned that this matter is being rushed. That has been a general comment made, and also made by the hon. Sen. Martin Daly. It would be necessary, therefore, to show that it is unfair to say that this issue of giving greater autonomy to Tobago, is one which is being rushed. As a matter of fact, it would be fair to say it is an issue which has been delayed for too long. The hon. Sen. Daniel Teelucksingh mentioned certain commissions, but I think these commissions and their reports ought to be put in perspective.

In 1974 the report of the Wooding Commission recognized that there was need for Tobago to be treated as a special case. Then there was the report of the Joint Select Committee of Parliament in 1978, which was agreed to by Parliament. Mr. President, the Parliament of Trinidad and Tobago represents the people of Trinidad and Tobago. So, therefore, the people of Trinidad and Tobago agreed, through the Parliament in 1978, that Tobago had to get full internal self-government, compatible with the question of it being part of a unitary state of Trinidad and Tobago. The resolution further stated, that steps must be taken to implement that decision. What happened thereafter was that there was a Draft Bill, the Seemungal Bill, which the Government decided to reject and the Tobago House of Assembly Bill, came into being.

Mr. President, from then to now, there have been other reports, and during the NAR administration, the Hyatali Constitution Commission sat, and the issue of Tobago was addressed. It was also recognized in that report that Tobago was a special case. So that the issue—the policy decision—that Tobago had to have internal self-government, was one which had been determined by the people of Trinidad and Tobago, a long time ago. Therefore, the actual details or wording of a Bill, were not major matters.

Mr. President, I think the problem has arisen because the people of Trinidad and Tobago—some of them at least—do not seem to appreciate or understand, that self-determination, self-government, is consistent with being part of a unitary state, and it does not, in any event, undermine the sovereignty of the state.

3.00 p.m.

If you would permit me to refer to a recent book: *Autonomy, Sovereignty, and Self-Determination*, written in the revised edition in 1996 by Hurst Hannum and

published by the University of Pennsylvania press. I refer to page 467 where it states that:

‘Self-determination’ may be exercised by a people in any manner it freely chooses, from full integration with an existing state to total independence;”

Then it states that there is no inconsistency.

“For purposes of comparison, however, one might expect a ‘fully autonomous’ territory to possess most of the following powers:

- 1) There is a locally elected legislative body with some independent legislative authority, limited by a constituent document.
- 2) There is a locally selected chief executive, who may be subject to approval by the central government; the executive may have responsibility for the administration and enforcement of state (national) as well as local laws.”

One sees how far one can go—

- “3) There is an independent local judiciary with full responsibility for interpreting local laws.
- 4) Areas of joint concern may be the subject of power-sharing arrangements between the autonomous, and central governments, in which local flexibility is permitted within the broad policy parameters set by the central government.

The above summary of ‘full autonomy’ is applicable to Western, or oriented democracies based on separation of powers...”

Mr. President, I think that Trinidad should recognize that Tobago is entitled to full internal self-government. That has been a decision of the people of Trinidad and Tobago and I can only say that this administration was prevented from giving Tobago full internal self-government. It was prevented by the PNM Opposition, but we are saying that the people of Tobago would get that in due course. We feel confident that this is only the first measure and there would be a second measure in order to give Tobago full internal self-government, subject to the whole question of the doctrine of sovereignty.

If we think of the United Kingdom, Scotland is a part of the unitary nation of Great Britain and Scotland has its own local judiciary, subject however, to final appeals in London. One can think of several countries where there is a legislature

Constitution (Amdt.) Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

having the power to make local laws subject to veto by the national parliament. When Sen. Daly says that this Bill—and I want to get his words, I like to quote him correctly—does not serve any purpose, and it is merely upgrading the Tobago House of Assembly, I agree with him on that insofar as it is upgrading the Tobago House of Assembly. But to say that it does not serve any purpose, I do not agree with him. It is a signal by the Parliament of Trinidad and Tobago that the Parliament and the people of Trinidad and Tobago have recognized that enough has not been done for Tobago, and this is a step in the direction to give Tobago internal self-government.

There are some other matters that I would like to deal with in respect of what Sen. Daly said. I am going to deal with these in context in order for us to analyse them to see whether they were very fair statements. I find it very significant that Sen. Daly has made these statements without considering, in my view, whether they are fair or not. I think he said that the Bill is deficient; he said that there are missing organs in the Bill; he endorsed what Sen. Hamel-Smith stated and said that this Bill is being passed because the Government depends upon the Tobago vote to remain in office.

This Bill has to do with the provisions for the Tobago House of Assembly. Yes, there will be elections in Tobago soon and those elections would be held, with people being elected, but I cannot see how those elections would have any effect on the national Parliament. To say that the Government has to proceed with this Bill and the Government has to rush this Bill because it depends on the Tobago vote to remain in office is incorrect. I took a note of what Sen. Daly was saying. If he thinks he did not say it, he could probably get up and say what he did say about it, and I will abide by what he says. I assure Sen. Daly, through you Mr. President, that this is the note I have taken.

What the people of Tobago have shown, however, through their representatives, is that they are committed to national unity, and they believe that the best way this country can go forward is to have national unity. They have done that and I do not think that anyone should penalize them, nor should anyone have them in mind, nor should they be spited for that. I think that they should be commended for that. The way in which the Tobago people have been treated over the years by the PNM, is justification for the Tobago people to have hate against the PNM. I think the people of Tobago must be commended for not nurturing that hate and for showing that they are committed to the unitary state of Trinidad and Tobago.

Sen. Daly said that this Bill was a hollow exercise. I cannot agree with him. If it is that the Bill will facilitate the upgrading of the Tobago House of Assembly, and it may not be the whole loaf, but it is to take a step, it certainly cannot be a hollow exercise. I did not hear him say in the debate on the Bill to amend the Constitution with respect to the Speaker, that was a hollow exercise; as a matter of fact, he commended the Government for acting.

Sen. Daly: Mr. President, I accept the Attorney General's invitation if he strays. If he would take the time to read my contribution, far from supporting the bill, it was passed on the basis of certain amendments which were proposed by Independent Senators of whom I was one. I was far from supporting the bill, very far from supporting the bill.

Hon. R. L. Maharaj: Mr. President, I must confess I did not read the whole contribution, but I say—and this is what I am relying upon—that if the problem is sufficiently big, then there is some justification for amending the Constitution, and it was not an amendment by a specified majority, so there is justification. Is he saying that there is no justification for upgrading the Tobago House of Assembly? Is the hon. Senator saying that there is no justification, no matter how much the upgrading is, for upgrading the Tobago House of Assembly? If there is some justification for that, then I would have expected him to come here and congratulate the Government for doing this; but I do not understand why it is so difficult for Sen. Daly to congratulate the Government.

3.10 p.m.

I do not know. As a matter of fact, I remember listening to a lecture by Professor Telford Georges and he was arguing and he traced the history of the Senate in Trinidad and Tobago. He said that the Senate being nominated, there is the perception that some Members of the Senate over the years are not really independent, that they support the Government at all times. I am not saying that about Sen. Daly, but I think what Professor Telford Georges said is that Independent Senators, yes, are entitled to express their views, and we welcome that. But I think that when the Government is to be criticized there should be criticisms based on facts and not based on emotions.

Sen. Daly said that this is a “crazy ants” Government. I wonder if Sen. Daly could say what he said.

Sen. Daly: Yes, Mr. President, with pleasure. I made it absolutely clear I was talking about the process of Government. This is “crazy ants” Government with a

Constitution (Amdt.) Bill
[SEN. DALY]

Thursday, November 28, 1996

capital “G”. I said that many times. I did not refer to this specific Government. I am talking about this crazy process where you bring bills on a Friday, we get it by messenger on a Sunday. I made it crystal clear, that this process is what I am objecting to. I made that absolutely clear.

Hon. R. L. Maharaj: Mr. President, well I am reassured that he did not refer to this Government and so he is saying that he did not say that this Government is a “crazy ants” Government. He was speaking generally, that Government is a “crazy ants” Government. Anyhow, Mr. President, the fact of the matter is that he used these measures to support his philosophy, whatever it is, that the Government is “crazy ants” or it is a “crazy ants” Government.

Mr. President, where are the facts? What does he mean by that? He obviously means that this Bill has come here willy nilly and the Government does not know what it is doing; it just decides to react to this, and it comes here to pass this Bill because an election is pending. But the facts do not support that. What are the facts in this matter?

Mr. President, does the fact that an election is pending mean that the Parliament cannot function, or that the Parliament cannot pass a bill relating to that election? The fact that there is a state of emergency and a speaker is arrested, means the Parliament cannot pass a bill relating to the institution of the House of Representatives? Where is that doctrine? I have not been able to find it anywhere, either morally, politically, or legally. So that, what are the facts in this matter?

The facts in this matter are clearly that this is an issue which has been debated in the national community, at least since 1974, and history shows that this administration decided that the Cabinet-appointed committee would look at the reports. There were extensive consultations and then there was a Joint Select Committee. There may be criticisms about the Joint Select Committee and its report, but the fact of the matter is, that was the process. So how can there be any justification for using this measure to support the philosophy that Government in some cases of process, may be adopting a “crazy ants” policy?

With the greatest respect to Sen. Daly, I think that his contribution reflects “crazy ants”, and that was a “crazy ants” contribution. If he is talking about “crazy ants” following the grain of sugar, I would say that whenever Sen. Daly wants to get an opportunity to attack the Government—attacking the Government is like sugar or whatever it is—he attacks the Government and, I think, that is very unfortunate.

He said that he is going to abstain from voting on the Bill. Yes, that is Sen. Daly's entitlement—whether to vote for or against, or to abstain—but I do not think that he should abstain on such an issue. I could express my opinion, if, as he said, this measure would facilitate at least an upgraded Tobago House of Assembly. Mr. President, if he abstains, I would ask him, why. What does he hold against the people of Tobago? Is it because the people of Tobago, through their representatives, support the Government of national unity? He must tell the country and this Parliament what he holds against the people of Tobago. Why must he abstain from voting on a Bill which will at least upgrade the Tobago House of Assembly? No, this is a serious matter.

Every Member of this Parliament took an oath to uphold the Constitution and the law and the Senator is entitled to abstain, but we are entitled to scrutinize the decision to abstain.

Sen. Daly: Point of order, Mr. President. There is a rule against anticipation. I have not abstained as yet and, perhaps, the Attorney General would consider his talent that I know him for, which is persuasion, rather than insults. I appeal to the rule of anticipation.

Hon. R. L. Maharaj: Mr. President, on behalf of the people of Tobago, I beg Sen. Daly not to register any dissent in a measure like this. If he feels strongly that there should be more, I feel the same way. I assure him that I feel the same way and I am sure Independent Senators feel the same way.

Sen. Daly: Well, in the spirit of debate, I thank the Attorney General for giving way, even at this late stage. Would the Government consider putting forward an amendment to entrench the Tobago House of Assembly? I would welcome it. Let us do it.

Hon. R. L. Maharaj: Mr. President, we have many more plans for Tobago and the entrenchment of the Tobago House of Assembly is not a priority at this stage. Having regard to the history of this Bill where the people of Tobago would be denied Senators, would be denied the power to make laws, entrenching the Tobago House of Assembly is not a priority at this stage. If Sen. Daly would abstain because we do not do that, I ask him to rethink that position, because he should not hold it against the people of Tobago for the Government taking a decision in the light of this matter—how it transpired in the House and how it came here and what it had to delete in order to get this package of legislation through both Houses of Parliament.

Constitution (Amdt.) Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

So, Mr. President, I know that perhaps Senators may have felt very strongly about this matter and they have been emotional but I cannot blame them. This Government, however, had to make decisions and has done so. I do not want to go into the particulars of the other Bill, but when the history of Trinidad and Tobago is written, history will absolve all those who, in these circumstances, in light of the PNM's obstruction to the people of Tobago getting internal self-government—Members in the Parliament of Trinidad and Tobago, even though it was a little step towards upgrading the Tobago House of Assembly, supported the Government in such a measure.

Mr. President, I beg to move.

3.20 p.m.

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 4 ordered to stand part of the Bill.

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

Senate resumed.

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

TOBAGO HOUSE OF ASSEMBLY BILL

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

That a Bill to repeal and replace the Tobago House of Assembly Act, Chap. 25:03, to provide for the membership, powers and functions of the Tobago House of Assembly and its Executive Council and matters incidental thereto, be now read a second time.

Mr. President, the Bill which I have the honour to propose for second reading, takes place against a background in which the issue of Tobago and the kinds of powers which the Tobago House of Assembly should have, were discussed at length and there was considerable debate on the matter.

I do not propose to go into the history of the measures, but I would like to say that the provisions of this Bill would, in effect, improve the administrative machinery in Tobago to give the Tobago House of Assembly and the people of Tobago greater latitude and powers in the management of their affairs.

The purpose, as the long title of the Bill has stated, is to repeal and replace the Tobago House of Assembly Act, 1990. There seems to have been agreement by all concerned, and in particular, by both the Opposition and the Government, that the time had come for the Tobago House of Assembly to be given greater powers to manage its affairs. Just before the last election in 1995, the Opposition, then in government, was on record as recognizing the need for the powers of the Tobago House of Assembly to be enhanced. As a matter of fact, consultations were had and a draft Bill was prepared by the then administration, recognizing that there was need for greater powers for the Tobago House of Assembly.

This administration believed that that Bill and those provisions did not go far enough and, therefore, in this Bill, we have gone a bit further. We have gone the furthest route that we could possibly have gone to act within the constitutional restraints in order to give the Tobago House of Assembly greater autonomy.

I think it would be important for me to put on record, just so that this Bill can be put in its proper perspective, that when one looks at the history of the administration in Tobago, one would see that there has been a pattern which existed when Tobago was regarded as a ward; when the only representative institution in Tobago was the county council; when there was a warden, and later when there was a Ministry of Tobago Affairs, then there was the Tobago House of Assembly with similar powers under the present Bill. With those institutions and with the powers that they had, it has been recognized that those powers were not sufficient for Tobago to effectively manage its affairs.

What is needed in Tobago is an upgraded administration. This is even more important in the context of the freeing up of the economy, the globalization of Trinidad and Tobago, its entry and its attempt to fit into the pattern of the global marketplace, which, in effect, places Tobago into that marketplace as well. It would therefore be important that if Tobago is to be part of the focus of the global marketplace, as part of the unitary state of Trinidad and Tobago, the administration must be upgraded; the machinery and the powers must be so given, that the Tobago House of Assembly would be able to effectively perform the administration which is required for that kind of role.

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

Trinidad and Tobago has selected Tobago and put it under focus as a growth point for the tourist industry. One would recall that, quite recently, when the Foreign Investment Act was passed, there was a situation where the Act had to be implemented and information had to be obtained in respect of matters in order to cause the Act to be implemented. For Tobago to really perform its role as a focal point for tourism in Trinidad and Tobago, it requires that Tobago must have upgraded administration.

The island of Tobago, therefore, must be prepared to be in contact with all institutions in Government in order to have effective evaluations of proposals put forward to deal with matters relating to investment activities in the island.

3.30 p.m.

Mr. President, there are situations where investment in Tobago involves hundreds of millions of dollars and the Tobago House of Assembly cannot get information and consider proposals because it is bogged down by the bureaucracy which exists in the administration of Trinidad and Tobago.

When one looks at the Bill, one sees that clause 3 provides for "Assembly Law" which is defined pursuant to clause 29. One would recognize that having regard to the missing or lost organs of the Constitution (Amdt.) Bill, it was not possible, in this Bill, to give to the Tobago House of Assembly the full powers to pass laws subject to veto of the Parliament of Trinidad and Tobago. This administration has decided to include a clause in this Bill which will fit within the constitutional constraints of the executive and legislative arms of the state under the Constitution of Trinidad and Tobago.

Mr. President, clause 29 states that:

"(1) In exercise of its powers under this Act, the Assembly may propose and adopt Bills in relation to the matters for which it is responsible under section 25."

Section 25 refers to matters of the Fifth Schedule.

(2) Such Bills shall be debated in the Assembly in accordance with its Standing Orders and, if adopted, shall be transmitted by the Chief Secretary to the Secretary to Cabinet with a request for its introduction into Parliament for enactment into law in accordance with section 61 of the Constitution.

- (3) Upon the decision of Cabinet for the purpose a Bill that is so adopted shall be introduced into Parliament with a view to its enactment in accordance the relevant Standing Orders.
- (4) A Bill adopted by the Assembly shall not seek to abrogate, suspend, repeal, alter, override or be contrary to any written law of the Republic of Trinidad and Tobago or impose any direct or indirect taxation whatsoever.
- (5) When passed by Parliament such a law shall be known as an Assembly Law and shall be so designated in its Short Title."

Mr. President, we do not have the Assembly being able to pass laws and for those laws to be transmitted to the national Parliament and, if necessary, for the laws to be vetoed. What we do have, however, is that the Assembly can debate laws in relation to policy matters for Tobago as mentioned in the Fifth Schedule. What would happen is that those laws would be passed and then be transmitted to the Secretary to Cabinet. The Cabinet, obviously, has the power, under section 75 of the Constitution of Trinidad and Tobago, to make decisions in matters affecting the policy of Trinidad and Tobago and the Government can then introduce those laws in the Parliament of Trinidad and Tobago. They can be debated as any other law and, when passed, would be known as Assembly Laws.

Mr. President, yes, the provision is missing some vital organs, but it is not the fault of this administration. This administration has decided to go the maximum in that respect. *[Interruption]* The organ is still alive. Once the heart is in the measure, the issue is alive.

Mr. President, clause 4 of the Bill, which makes it quite clear that:

"No provision of this Act or of any Assembly Law shall be construed or interpreted..."

This is really a clause in order to have the safeguard that nothing done will be in derogation of the Constitution and law of Trinidad and Tobago.

Mr. President, the provisions in Part II of the Bill deal with the Assembly. Those provisions are well known to Senators and I will assume that they have read the Bill. What it does, in effect, is to make provision for 12 assemblymen, four councillors and a presiding officer for the Assembly. It states in the Bill how these officers will be sworn in and how the councillors would be appointed.

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

Mr. President, clause 15 of the Bill deals with the qualifications for membership, and it states what the qualifications are for assemblymen. There is a situation where the Bill is so designed to ensure that people who reside in Tobago would be entitled to contest the elections subject to certain exceptions by which they can be disqualified.

Clause 16 of the Bill deals with the question of the Chief Secretary. I do not think there was much controversy with that particular provision, but, if I may say so, the Chief Secretary, under this Bill, would be equal to that of a Minister in respect of terms and conditions of service with the exception that the state shall provide the Chief Secretary with an official residence in lieu of a housing allowance, an official car in lieu of a travelling allowance and appropriate security services.

Mr. President, obviously, the office of Chief Secretary will be an important position in the Tobago House of Assembly, therefore, in accordance with the dignity, position and functioning of the office, these provisions are necessary. In respect of the other members, that is to say the Deputy Chief Secretary and other members, their terms and conditions of service would be determined by the Salaries Review Commission. I should mention here that there was some objection to a secretary having the same terms and conditions as a minister and it was decided that the Salaries Review Commission should, in effect, determine the terms and conditions of those officers.

Mr. President, the Bill deals with the filling of vacancies and the dissolution of the Assembly. I do not propose to read the entire Bill clause by clause, but when one looks at the functions of the Assembly, clause 25—this is an important clause, but before I go to clause 25, I should mention that a provision has been added in clause 8 to provide for a minority leader. In the Tobago House of Assembly one never had a minority leader so clause 8A states that:

"Immediately after administering the oaths of office to the Chief Secretary and the Deputy Chief Secretary under section 8, the President shall appoint as Minority Leader the Assemblyman who, in his opinion, commands the support of the largest number of Assemblymen who do not support the Chief Secretary."

Mr. President, in respect of clause 25—I would explain this to assist Senators in trying to look at other provisions to see whether some of their fears may be answered by this provision. Clause 25 states that:

"(1) Without prejudice to section 75(1) of the Constitution, the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect of the matters set out in the Fifth Schedule."

Mr. President, the matters set out in the Fifth Schedule—I do not need to read them—are stated there. This clause says that "the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy" in those matters but without prejudice to section 75(1). Section 75(1) of the Constitution states that:

"There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament."

3.40 p.m.

Mr. President, one sees, therefore, that in relation to the functions of the Assembly, and in relation to all those matters, they are obviously circumscribed by the Constitution of Trinidad and Tobago and in particular, section 75(1) of the Constitution.

In respect of clause 26 it states that the Assembly shall have responsibility for the matters set out in the Sixth Schedule.

The way this is drafted, the matters in the Sixth Schedule are not exhausted and it does not in any event affect the executive or the legislative powers of the Government in relation to matters which affect Tobago, and in relation to matters which may affect the Fifth and Sixth Schedules or even any residual matters which are not there at all.

As already mentioned, clause 29 deals with Assembly Laws. One sees that this administration decided to go as far as it could have gone. Having regard to section 75 of the Constitution, there would be no entitlement for a member of the Assembly to attend Cabinet meetings, and that would need a constitutional amendment. What we did with respect to clause 30, which reads:

"...the Chief Secretary to attend meetings of Cabinet in order that the Chief Secretary may—

- (a) apprise Cabinet of decisions taken by the Assembly in the exercise of its powers under this Act; or

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

- (b) represent the interest of Tobago in any matter having or likely to have an adverse effect on Tobago, but the Chief Secretary shall not have the right to vote on any matter before the Cabinet.”

Clause 31 states:

“The Prime Minister and the Chief Secretary shall hold regular discussions with a view to formulating administrative and legislative mechanisms for the promotion of harmony in the affairs of Trinidad and Tobago.”

Mr. President, clause 32 provides for an annual report to be presented to the Prime Minister and that the Prime Minister within one month would cause that report to be laid before the Parliament in relation to the Tobago House of Assembly.

Part III of the Bill deals with the composition of the Executive Council, its duties and so forth, and I do not think that there could be anything controversial there, but that remains to be seen. What I would like to deal with is in relation to Part IV, Finance. One would see under Finance: Estimates—

- 41(1) The Secretary shall in each financial year submit to the Assembly for its approval, draft estimates of revenue and expenditure respecting all functions of the Assembly for the next financial year.”

There shall be, in effect, an approval of the estimates with respect to draft estimates—capital and recurrent—subsequent to which those recurrent expenditure shall be submitted to the Cabinet. It also provides for late submission of estimates in clause 42.

Clause 43 provides for the Cabinet to consider those estimates and it expressly states that:

“...Cabinet shall give due consideration to the financial and developmental needs of Tobago in the context of Trinidad and Tobago and shall allocate financial resources to Tobago as fairly as is practicable, and in determining what is fair and practicable, the following considerations, among others, shall apply:”

One sees how this Government wanted to put it in the legislation as a criterion and as a guideline:

- “(a) physical separation of Tobago by sea from Trinidad and Tobago’s distinct identity;

- (b) isolation from the principal national growth centres;
- (c) absence of the multiplier effect of expenditures and investments (private and public) made in Trinidad;
- (d) restricted opportunities for employment and career fulfillment;
- (e) the impracticability of participation by residents of Tobago in the major educational, cultural and sporting facilities located in Trinidad.”

One sees that this administration has put into this Bill, measures which would give the entitlement to the people of Tobago, so that the matters which they must consider are the considerations which any government must take. It is not that it is by word of mouth; it is there in the legislation. It goes further to say:

“44. Where the Assembly is dissatisfied with the allocation or any part thereof referred to in section 43 it may refer the matter to the Commission within one month of the date of its receipt of notification of the Cabinet decision.”

There is a dispute mechanism.

There is a provision in clause 48 for the retention of moneys which have not been expended and in effect, for the Tobago House of Assembly to collect money on behalf of the Government of Trinidad and Tobago.

There is also a clause which gives power to the Tobago House of Assembly to borrow by way of overdraft. The clause reads:

“51. The Secretary may—

- (a) with the approval of the Assembly, borrow by way of overdraft, such sums as the Assembly considers fit for the discharge of its functions; or
- (b) with the approval of the Minister, borrow sums by way of term loans for the purpose of capital investment.”

Sen. Prof. Spence: Mr. President, I thank the hon. Minister for giving way. Can the Minister, perhaps, explain who would be responsible for the repaying of those loans?

Hon. R. L. Maharaj: Mr. President, I would think that question can be answered by the Senator himself. In effect, the Tobago House of Assembly. It is still a unitary state of Trinidad and Tobago. The people of Trinidad and Tobago

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

assume responsibility for everything that happens to the people of Trinidad and Tobago. It is a national debt.

Sen. Montano: On the question of loans and overdraft, is there intended to be any type of limit as to the extent of the borrowings that can be unilaterally made by the Assembly in clause 51(a) or is there any limit to the currency that they could borrow in terms of the overdraft? As I understand from the minority report, it is a charge on the Treasury. Is there anything in this Bill that is going to limit that?

Hon. R. L. Maharaj: Mr. President, I am sure that hon. Senators know it is not everything one can legislate for. What one does is to legislate, give powers and provide safeguards. Therefore, we must trust the people of Tobago and their institutions; they are institutions of Trinidad and Tobago. In any event, there are safeguards of the estimates and of these matters being scrutinized by the Cabinet and Parliament. That is how democracy works.

We cannot presume that there would be misuse and abuse of power. What we can do is to provide the machinery in order to safeguard any misuse or abuse of power. Even under the laws of Trinidad and Tobago, and under our Constitution, the Parliament is one of the greatest safeguards for any misuse or abuse; there are questions and motions which can be filed. This Bill gives power to the Assembly to borrow; it gives power to the Assembly with the approval of the Minister to borrow in certain circumstances. It will be a national debt and obviously, like all national debt, it will be dealt with in the same way. There is scrutiny.

3.50 p.m.

Sen. Mahabir-Wyatt: Mr. President, with your permission, I hate to interrupt the hon. Minister like this, but it may mean that we would not have to address certain issues afterwards.

In relation to the same money issue, I refer to clause 49(2) which states:

“Upon the coming into force of this Act, any company, financial institution or a person operating a business in Tobago shall pay in Tobago all taxes, fees, duties, levies, and other imposts in respect of its operations in Tobago.”

Would this be paying in Tobago, only what is earned in Tobago? That money would not come into the Consolidated Fund or into the Government's fund. Am I correct?

Hon. R. L. Maharaj: Subsection (3) states:

“Monies credited to the Fund in accordance with subsections (1) and (2) shall be set-off against the annual allocation appropriated by Parliament to the Fund.”

As a matter of fact, under the Municipal Corporations Act in Trinidad and Tobago, municipal corporations have the power to collect moneys on behalf of the Government of Trinidad and Tobago. By giving the people of Tobago power to collect these moneys, these moneys would be collected on behalf of the state of Trinidad and Tobago. Those sums would be set-off. It is not novel in Trinidad and Tobago.

One must also remember that in the world of commerce in order to borrow, there must be a willing lender. A lender would lend under certain circumstances and with guarantees and assurances. [*Interruption*] That is why I said that we cannot legislate for everything because the Government is accountable to the people through Parliament. If the Government is not utilizing the funds of Trinidad and Tobago in a responsible or partisan manner, or in accordance with the national interest of the country—governments have lost elections because of that. One cannot legislate for that. That is a matter in which there are safeguards and would depend upon the exercise of power in a responsible manner. The Bill deals with the surrender of surplus moneys.

Clause 53 states:

“In any civil or criminal proceedings in respect of any monies or other property whatsoever belonging to, or under the control of the Assembly, it shall be sufficient to describe the same as being the monies or property of the Republic of Trinidad and Tobago.”

Clause 54(1) states:

“Upon the coming into force of this Act—

- (a) all lands and other property of every kind located in Tobago vested in the State except the residences of the President and the Prime Minister are hereby vested in the Assembly in right of the Republic of Trinidad and Tobago;
- (b) all lands and other property of every kind, including things in action, vested in the former Assembly are hereby vested in the Assembly;

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

- (c) all the rights, privileges and benefits and all the liabilities and obligations that, immediately before the coming into force of this Act, the former Assembly was entitled or subject to, are hereby transferred to and conferred or imposed upon the Assembly.”

This gives powers to the Assembly. Obviously, there must be administrative matters to comply with section 75 of the Constitution. Section 75 of the Constitution would give the Government the power to ensure that whatever powers are exercised by the Tobago House of Assembly would not be inconsistent with national policy.

Sen. Daly: The Attorney General might be aware that this section may be controversial having regard to the amendments which have been circulated. I wonder if he could explain the significance of the phrase “in the right of the Republic of Trinidad and Tobago” by way of practical example. Does this alter the procedure by which one would take a conveyance of state land located in Tobago, and the person doing the conveyancing?

Hon. R. L. Maharaj: I do not see it altering the procedure, but the wording of the conveyance. The lands are being held by the Assembly in trust for the state of Trinidad and Tobago. Whatever procedures and laws exist are subject to those laws, whether it is the State Lands Act or any other act. Additional administrative machinery would be put in place to give effect to these matters, but it would not alter the conveyancing.

May I indicate to Sen. Daly that it is a measure which attracted a lot of attention in another place. The Government has been very careful. The clause been worded in this way to ensure that the existing law is not undermined in any way, or affects whatever procedure exists which is entrenched in law.

Sen. Daly: Why is it necessary to change where the lands are vested? What is that designed to assist in the development of Tobago?

Hon. R. L. Maharaj: Whenever there has to be development of agricultural land in Tobago, it can take years to get the institutions in Trinidad to act. As a matter of fact, there are instances in Tobago where lands have to be developed both by the Government and private enterprise. In Trinidad there has been one case in which there was no answer for 15 years. This would give the Assembly the power to deal with matters on behalf of the Government of Trinidad and Tobago. The Government would put machinery in place to ensure that power is exercised in accordance with law. It would not affect the whole question of IDC or state lands

because those pieces of legislation are still in effect. The aim of this provision is to ensure that the Tobago House of Assembly can deal with land in Tobago, subject to the powers of Cabinet and existing laws.

Sen. Daly: I wonder if I can trespass again. Perhaps we can do this in a calmer way. If the Government has considered making legislation, it should say so; that the Tobago House of Assembly may deal with lands, or dispose, convey or otherwise dispose of lands in Tobago on behalf of the Government, rather than vesting the lands. That is my difficulty.

Hon. R. L. Maharaj: Here is a difference in policy. In Trinidad and Tobago lands are vested in the municipal corporations. We do not believe that by vesting the land in the Tobago House of Assembly for the people of Tobago, in trust for the state of Trinidad and Tobago, subject and without prejudice to section 75 of the Constitution, and without prejudice to existing law, would in any way jeopardize the rights of the people of Trinidad. It is a matter of policy. We believe that we should go the further route of vesting the land in the people of Tobago, thus giving them the ability to deal with the land, but subject to existing law and the powers of Cabinet. The hon. Minister of Finance has reminded me that lands are vested in the Port of Spain City Corporation.

4.00 p.m.

Sen. Mohammed: Can the hon. Minister indicate whether a separate land registry connotes as part of the machinery which will come into place?

Hon. R. L. Maharaj: That is a minor effect of it. One can set up a land registry in Tobago without even having a bill. The PNM Government could have done that years ago. This administration is in the process of doing that, and it does not need a bill to do it. What it will do is use the institutions in Tobago. Remember there will be the chief secretary, secretaries and staff who will be able to deal with these matters, whether it is the development of agriculture, or tourism. All those developments will be processed in Tobago, subject to the national policy enunciated by the Cabinet and subject to existing laws. Whether it is the Tobago land registry or any other institution, it will be put in place to ensure that the machinery works.

Mr. President, I think that one of the greatest drawbacks of public administration is the bureaucracy and red-tape which exists. If Trinidad and Tobago are separated by sea and all the major institutions of Government are in Trinidad, one really cannot talk about having proper administration in Tobago if

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

the Tobago administrators do not have the power to deal with land and with other matters, subject to national policy. There is where I think the history of the relationship of Trinidad and Tobago has been dealt with on the basis of mistrust and suspicion—perhaps on both sides. I think that the time has come for us to emancipate ourselves from that mistrust and suspicion and see, by giving the people of Tobago this ability and latitude to do it, how it will work. That is the way democracy is nourished.

The people of Tobago are entitled to this. We should not find ways to prevent them from having it. We should give them the maximum. Let them prove themselves and if it is done unworthily, then history will judge us. We ought to have confidence in the people of Tobago, just as we have confidence in the City Corporation and Couva/Tabaquite/Talparo Region to manage their affairs. We also have confidence in ministries and boards to which we give powers. In respect of Tobago, I would ask us not to be distrustful because the land in Tobago belongs to the people of Trinidad and Tobago.

Mr. President, we have to be fair and just. If there are genuine political demands for internal self-government and if the people of Trinidad and Tobago have agreed to that; if we or any institution prevent that, it would give legitimate action for secession and civil war. International law has seen that where small countries were part of a nation and that nation decided not to give them their due, the end result has been injustice to the whole nation. We know what internal self-government means, so let us give it to them in the fullest measure that we can, in this Bill.

Mr. President, Part V of the Bill deals with The Dispute Resolution Commission and gives the procedure for dealing with those matters. I should mention that there are transitional provisions in Part VIII because elections would be held, the Bills passed, proclaimed and become law. What the transitional provisions do is provide that the persons elected would constitute the Assembly under this Act and would be given the powers under the new piece of legislation.

Question proposed.

Sen. Prof. John Spence: Mr. President, I would like to start my short contribution by reiterating a position I stated when we were addressing the Motion. I think it is important to do this because I fear that one's position—I would not say motive—is sometimes either misrepresented or misunderstood.

I want to start by saying that I am fully in support of the people of Tobago having their just due. Of course, I may differ from others as to what that just due may be. I am in support of the position which states that the island of Tobago has not been developed as I certainly would have liked to have seen it developed. I myself have been involved in efforts to add to the development of Tobago—sometimes unsuccessfully—so I can understand that position quite clearly. I also would like to state the position from which I start with respect to the move for greater autonomy for Tobago.

I have been in contact with the situation with respect to island states from a very early age. I grew up in St. Vincent, and in that regard, too, I can be sympathetic to small islands with respect to a bigger island like Trinidad. I left St. Vincent at the age of 10. In those days my father was a senior civil servant in St. Vincent and so, at a very early age, I heard discussions taking place about the relationship between St. Vincent, Grenada, St. Lucia and the rest, with administrators in the separate islands and a central Governor in Grenada.

When I left Trinidad, after going to school here, and went to university in the United Kingdom and met persons from other West Indian islands, of course, the subject in the late 1970s was very much the integration of the Caribbean and the relationship between the islands.

I worked for 35 years, a regional organization, which had contact with all the islands. The Faculty of Agriculture and the Faculty of Engineering were the only faculties of UWI which had regional aspects. So, I have certainly had contact with, and have thought about, the matters that we are discussing here, many times over during the years of my career. I have not found myself altering my position with respect to how I think the West Indies could be best served in relation to the arrangements between the islands. I have always, and I still do maintain that as great an integrated process as possible is the way that we should go, and I see over the last few years that we have been going quite in the opposite direction. It is from that point of view that I look at the developments that have taken place here. Also, I look at them from the point of view of having worked in the Ministry of Agriculture in Trinidad and Tobago and, therefore, having as a technical officer to deal with matters concerning Tobago.

4.10 p.m.

My duties in the Ministry of Agriculture included both research and advisory work, which means advisory work in Tobago. I was travelling to Tobago to give advice to farmers. So I have seen the problems from that perspective as well, and it

Tobago House of Assembly Bill
[SEN. PROF. SPENCE]

Thursday, November 28, 1996

is with that background that I judge whether what we are doing now will really address the problems as I have seen them in Tobago, and whether at the same time we are not moving towards a separateness in the Caribbean.

With a great sympathy for the position of the people in Tobago with respect to how their development may be served—and the Minister of Finance will confirm that over the last three years I have tried as an individual to pursue the matter of the way to a resumption of development in Tobago, and the risks that we run by central government policies with regard to Tobago, and I will touch on that matter again in a little while.

Part of my difficulty is trying to decide how unanimous is the thrust for the position that we have taken in Tobago. We are constantly told and we have consulted so many times, and everybody is in agreement with how we should go, but part of my confusion arises from statements which come from the Government Benches. I will read a statement which was made during the debate on the Motion on the noting of the Tobago House of Assembly Select Committee Report by Sen. Cuffy-Dowlath in *Hansard* of November 18, 1996, 11.30—11.40 a.m. Before I comment on the report, Mr. President, I will be very grateful if the Attorney General could listen to this because I think it is most important that he hears it. The hon. Minister of Finance, perhaps could tell him what I have said when he comes back because it is extremely important. It reads:

“Before I comment on the report, might I preface by assuring the hon. Prof. Spence that the matter of internal self-government has not been addressed because it is not part of the policy agenda of the United National Congress/NAR Government.”

May I repeat it and may I ask the hon. Attorney General to listen. Thank you, Sir.
[Statement read again]

Mr. President, this is not a backbencher, this is a Parliamentary Secretary, so is there any doubt that I am confused as to how unanimous the version that we are taking is on the Government's side. It is from that angle as well, that I have to address my responsibility as an Independent Senator. I have to weigh all these various things and then decide what position I must take in relation to my honest belief as to how we should integrate the Caribbean rather than to disintegrate it.

I believe that the hon. Attorney General has put his finger on the problem when he referred to the bureaucracy and the delivery of services in Tobago. The most

important part of this Bill, is that which deals with the Schedule with respect to the delivery of services. I am not convinced that the rest of the Bill will necessarily promote those delivery of services and as I will mention, some of the aspects of the Bill are causing further problems with respect to the relationship between the two countries and these are the things that worry me.

I want to make it clear that although I have a position which I certainly feel very genuinely and strongly about with respect to how these countries should relate to each other, for example, I am alarmed by what is happening to St. Kitts/Nevis. I have toured the Bahamas where there are a number of islands, but if we take the four large ones which have populations of some 80,000 persons and three or four others of substantial population—thank heavens for integration in the region, and that they do not want to have four separate governments or Houses of Assembly in the poorer islands. I do not accept the position that because there are 20 miles of water, the problems of bureaucracy and separation in other ways cannot be solved other than going in this direction.

I will point out that the Bahamas has 760 miles between the top island and the bottom island, just think if all those islands were to become separate ones. That is why I am not convinced that the way we are going will solve the problem. However, I can be convinced that the majority of persons—and certainly it would seem so from the vote in the House of Representatives, because it was an unanimous vote—believe this is the way we should go because it is a majority view, I certainly would not obstruct it. I would try my best to suggest amendments as I am doing in order to make what we have agreed to, work in the best possible manner.

I think it must be perfectly clear that if we do not address the other issues with respect to how Tobago confronts it, and how its development is to take place and so forth and what sort of tourism it should have, we still will not have solved the basic problem in Tobago and we will have all these different processes which may lead, I fear, to a weakening between the two countries.

With that general background, I will just say on the matter of policy, that I can sympathize with the people of Tobago with respect to not being completely in charge of their own affairs and I will illustrate this. I will hope that the people of Tobago will influence what happens in Trinidad and Tobago rather than saying they are not sure of what is happening in Trinidad, so let us make sure that we do the right thing here. In this regard, I view with great alarm, a report in the *Sunday Mirror* of November 24, 1996 which reads: “New Casino Break for Ish.”

Tobago House of Assembly Bill
[SEN. PROF. SPENCE]

Thursday, November 28, 1996

The article is reporting that the Minister of Finance is expected to pilot an amendment to the Gaming Act soon to allow two casinos in Tobago and one down the islands.

I do not know whether this is true, I hope it is not, but if this were the case, then I am sympathetic to the people in Tobago who might not want a casino there but would prefer to have the laws that will allow them to prevent it from happening. Surely, we do not want it happening in Trinidad either, so let the people of Tobago help us to persuade the Government that this is by no means the way to go.

With respect to the Bill itself, Mr. President, as I have said in my effort to do what I think is best with respect to how this Bill may operate, I would like to draw attention to three clauses. One is clause 4 to which I have suggested two amendments which I hope would strengthen what I interpret to be the intent of the clause. The first is in subclause (c) in which I suggest that after the provisions for conventions, declarations, treaties and so forth, should be added after the words "foreign state" the words, "or inter-governmental organization". This is because many of the agreements or treaties that we would have, relate not just to foreign governments, but to inter-governmental organizations, so I think that would help to tighten that particular subclause.

I am suggesting an additional subclause (d) which really is intended to deal with agreements that we already might have entered into, and it is emphasizing again that the Assembly Law should not be interpreted to authorize any interference with existing treaties.

4.20 p.m.

Subclause (d) would read:

"Anything that is inconsistent with, or contrary to, or in derogation of any convention, declaration, treaty, protocol agreement or any international compact of any sort whatsoever, between Trinidad and Tobago or any foreign state or inter-governmental organization."

Mr. President, that is in the same context of trying to strengthen that clause and look at all eventualities.

I come next to clause 37B. Again, this is in an effort to help the process of administration in Tobago. It seems to me that perhaps by omission, there is no

provision for acting secretaries. Clearly, the Secretary in Tobago would be comparable to the Minister in Trinidad and Tobago with responsibility for a certain area of activity. He would no doubt have on occasion to be either out of the country or he may be ill, therefore, it would be useful to have a provision whereby an acting secretary would be appointed. I therefore suggest the addition to subclause (3):

“The President may, on the advice of the Chief Secretary, appoint a Member to act in the office of the Assistant Secretary if the substantive holder of that office is unable to perform his duty due to his absence from Trinidad and Tobago or illness.”

This is something that just occurred to me that might help with the administration of the Tobago House of Assembly.

We have had much discussion on clause 54 of which the hon. Attorney General was very helpful in explaining the details. I really do not want to interrupt him again, but I would be grateful if he answers one question which, to me, would get at the heart of my problems with this subclause. Suppose the Tobago House of Assembly decided, after the Bill was enacted, that it wanted to sell the Kendall Estate—Government owns about six agricultural estates in Tobago, Kendall, Goldsborough, Roxborough and so forth—could it do so on its own right or would it have to go through some process with respect to Cabinet?

Mr. President: The Attorney General would answer that on the next occasion.

Sen. Prof. Spence: I could, in fact, withdraw the amendment if the answer to that is as I hope it would be, because that is part of my difficulty.

There are a couple other concerns I have with respect to other aspects of the Bill, although I have not worded any amendments. For example, I am concerned about the dispute resolution clause and in that regard I am in support of an amendment that has been tabled, I think, by Sen. Dr. St. Cyr. I am worried that if this dispute goes to the Dispute Resolution Commission and, let us say the commission recommends in favour of the position taken by the Tobago House of Assembly, it goes to Cabinet and then to Parliament, but the Minister of Finance and the Cabinet cannot agree with the position taken by the commission because of some shortage of funds; it goes to Parliament and it ends there. Mr. President, to me, that is setting up, again, for the increase of the disenchantment and frustration

Tobago House of Assembly Bill
[SEN. PROF. SPENCE]

Thursday, November 28, 1996

of the people in Tobago. One would now have a very public airing of this difference between the two governments. Personally I think that is one which could lead to further disputes without resolution, because it does not really resolve the dispute, it just makes the recommendation between the two countries.

There is one other amendment which is being tabled and that is to do with the Fifth Schedule with which I also had some difficulty. Again, I support Sen. Daly's amendment because it would seem to me that it is important. Just as we are doing now in the approving of this Bill, we are assigning certain matters to the Tobago House of Assembly and reserving certain matters to the central government, and we are doing it as a Parliament, it would seem to me that in the future, any other matters that arise which one may want to assign to the Tobago House of Assembly, should also come to Parliament for similar agreement by this body, rather than it be done by order, which may imply that it would not get the scrutiny that it would get if it came to Parliament for affirmative resolution.

I would like to conclude by reiterating my desire to do whatever my part may be in assisting with the problems that appear to exist between Trinidad and Tobago, but particularly with the developments in Tobago. I really think that is the critical issue, as indeed, we have been pointing out, it is also a critical issue with the development of parts of Trinidad, but at this time we are dealing with Tobago. I hope—although I have my scepticism—that the way we are going will deal with those problems. I think if we do not do other things we still would not achieve it and we would have even further frustration which, again, I hope would not lead to any stresses between the two islands but I have some fears that that may occur.

Thank you very much, Mr. President.

Mr. President: Hon. Senators, the sitting is now suspended. We would resume at 4.57 p.m.

4.27 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Diana Mahabir-Wyatt: Mr. President, I have listened with considerable interest to the debate so far and much of it is related to people's political positions. I would just like to make the point that speaking as an Independent, I am speaking as a parliamentarian, not a politician, so I do not have any side in this politic arena—who did what to whom and when. There are a few questions I would like

to ask and there are a few mistaken perceptions that, with your permission, I would like to correct.

Insofar as this Bill is concerned, and what it sets out to do, personally, I think that it is a very good idea. In fact, there can be absolutely no doubt that Tobago looks after its own affairs and, in many ways, better than Trinidad does, especially when it comes to roads and public utilities. If one drives down the main roads in Tobago one would see that potholes are repaired much quicker than it is done in the part of Trinidad and Tobago where I live.

From my various experiences in Tobago—Sen. Prof. Spence presented his credentials when he started to speak; I am presenting mine and it is not bias because I have children, grandchildren and other relatives living in Tobago so I have had a little experience of being back and forth to Tobago and experiencing the citizens of Trinidad and Tobago's interactions with officialdom. I have also had the experience of having the frustrations of my various children and grandchildren poured out as though it was my fault every time they could not get something done in Tobago. I have found that today in Tobago, it is far easier to get a passport than it is in Trinidad; it is far easier to get a driver's licence than it is in Trinidad; it is far easier to get one's car licensed than it is in Trinidad; it is done much quicker—and I have done it in both countries. As far as I am concerned, Tobago has no problem at all in administering its own business when it comes to these official bureaucratic matters.

There were a few misapprehensions—and I say misapprehensions—that I would like to see corrected. There have been many protestations in this Senate about how Tobago has been neglected. We even had Sen. Hamel-Smith quoting from *Hansard* of 1957 which stated that Tobago was very badly neglected, and things are the same today. Personally, I do not find they are the same today at all. As I said, the roads seem to be repaired quicker than those in Trinidad. That neglect happened before we became a unitary state or before we became self-governing; it certainly does not exist as far as I can see and as far as I have experienced today.

However, last week I thought, perhaps, that I had better take a closer look at this because in this Senate last week when we were noting the report of the Joint Select Committee there were some comments made about the contributions of Independents which dismayed me considerably and, which as far as I could see, were not based on anything that happened in this Senate. I took the trouble to get

Tobago House of Assembly Bill
[SEN. MAHABIR-WYATT]

Thursday, November 28, 1996

Hansard so that I would not be fighting battles that do not exist. One of my early advices was, do not fight a battle that does not exist because you would waste your energy. So I think I would look for some facts and try to figure out why this phenomenon of the Attorney General, Sen. Hamel-Smith and various others has been referred to so often, as if mutual suspicion exists, and the comments made about how certain Members of the Independent Benches did not want to give any power to Tobago.

When I went through the contributions I could not find any reference by any Independent Senator that indicated for a moment that there was anyone who did not want to give any power to Tobago. There were questions raised about the historical process and what “unitary state” meant in relation to self-government and what a federal state meant and the process that one went through from one to the other. There was a comment made by Sen. Donaldson as follows:

“...there are very surprising concerns to me...”

referring to what Sen. Prof. Kenny, Sen. Teelucksingh and myself said relating to what Tobagonians will do with an added degree of power.

He went on to say:

“...to assume that they would abuse the additional power that these Bills seek to give is an insult...we want a better standard of living...Senators to give Tobago its chance...the benefits should be more; they should be selective...it is unjust to assume that Tobagonians do not have sufficient intelligence and experience to know where their best interests lie.”

I was completely astounded, however, because there was no reference about any of these things in any of the contributions that had been made previously. So in looking at the Bill before us today, because this Bill is at the heart of giving power to people in Tobago to handle their own affairs—which, as I have said, I think they would handle far better than anybody else could—I think we have to make it quite clear that sometimes one gets the impression that people are fighting battles that do not exist.

Sen. Moore went on, in fact, even further referring to the same sort of comments. I want to echo a point made by Sen. Spence here because I, too, am a bit confused:

“We are dying in a unitary state...The word ‘unitary state’ is being used to deny the people of Tobago their rightful due...”

Some people on this side, and even among my Independent Friends, have no confidence among the people of Tobago as human beings. I was appalled to hear the amount of distrust that is placed in the people of Tobago.”

Mr. President, I do not want to repeat all the statements he made because I cannot really believe that he heard what people said, because at that time none of us on the Independent Benches had implied that anyone doubted the ability of people in Tobago to handle their own affairs. The concerns expressed were philosophical and the principle dealing with structure and process. I want to make that point clear because I thought afterwards when I had talked to them, maybe, it was something different; something historical. Maybe, it was something to do with reports in the media, so I took the time to go through two years of media reports but I could not find one in which the people in Trinidad said the people in Tobago should not have the power to run their own affairs.

5.10 p.m.

I make this point because several contributions from the Government’s side indicated that they are fighting against what seems to be a phantom dragon or somebody, somewhere that does not want Tobago to administer it’s own affairs. I cannot find any report in any newspaper or any speech that suggests that anybody does not want this to happen. I must say that it has taken good time for it to come about to the extent which Tobago wants it to happen. But, to say that anybody is against this, is, I think, a little bit of an exaggeration.

What I did—because I took the objections of these gentlemen so very seriously, and I really would not have bothered going into the sort of research that I did, had they not raised these matters, but since they were raised, I thought that it was out of respect to them that I should investigate a little further, and of course, out of respect to those members of my own family who keep saying: “But you do not understand. The people in Tobago have to come to Trinidad for certain things. You people in Trinidad”—you notice how it is “you” and “us” now—do not have to come to Tobago unless you want to.

Because I sort of grew up, I suppose, in a liberal, democratic tradition, it is very easy for children, especially as they grow up, and those people who wish to challenge certain assumptions, to make me feel guilty. So rather than going around feeling guilty all the time, which I think my children do try to make me do—all children try to make parents do as soon as they grow up—I decided to look around and get a few facts.

Tobago House of Assembly Bill
[SEN. MAHABIR-WYATT]

Thursday, November 28, 1996

I started off by asking people currently involved in the political process in Tobago; people who are residents; people who are friends, professional colleagues: What is the problem? What are the things that you lack in Tobago that you want to have which you are not getting now? I wanted to be sure when we went through this Bill that if there is anything left out, I will have an opportunity to bring it up here. They thought and they made complaints and some of those complaints, most of them had to do with travel and I will come to those. But, I found the responses overall were rather strange.

I was quite interested when I heard Sen. Teelucksingh talk about the MPJ status that Tobago had enjoyed for many years. You have all heard of the MFN status that countries have—most favoured nation status. The MPJ status is the most precious jewel status, which is an historical thing. It seems that when I tried to check up on the neglect which has come out from the arguments, so far, that there has been great neglect of Tobago on the part of any government which the speaker is not a member of.

I took a hard look at some of the facts and I want to repeat that I want Tobago to handle its own affairs. Everybody I have spoken to wants Tobago to handle its own affairs. It is good sense. It is cheaper. They do it better. It is good housekeeping. I still cannot find anyone arguing against this. In part, to be perfectly honest, Mr. President, I feel the same way about other areas in Trinidad and Tobago, too. I do not see why people of deep south, Point Fortin, Cedros, Siparia, Toco, and Biche, should have to come all the way to Port of Spain.? Why can we not have more regional handling of people's regional affairs. Well, I mean, the Attorney General has said, "Half a loaf is better than no bread." Why can we not give half a loaf to other areas of the country as well?

Once again, we are giving Tobago the most precious jewel status. There are reasons for that which are vested in this particular Bill, some of which I agree with, and one is the physical separation of Tobago by sea. I am not sure I agree with the absence of a multiplier effect in expenditure and investments. According to figures which I took the trouble to dig up, when we got to the details of estimates on expenditure and development programmes for the year 1996, I discovered that Tobago, in fact, did get a considerable part of money. In addition to that, there are loans which came in for special projects which have been going on for the last three or four years, which are not included.

There is something like \$321 million dollars which has been invested in Tobago over the 1996 period. So, to say that there is no multiplier effect, surely those

projects are being built by people in Tobago and there are people spending money in Tobago to get material and food and what not, who are employed there. Well I agree with the others. I do not think the people in Tobago are excluded, for example, from major educational, cultural, and sporting facilities. People in Tobago take part in Pan Trinbago's Steelband Festival, in various school festivals. The various ministries ensure that they do. I will not talk about football, because I do not want anybody to go on strike.

Mr. President, my point is that while it is very easy to talk about neglect, I think that this country has a lot to be proud of in terms of what has been happening in Tobago over the last 20 years, and this goes through three different governments, so I am not picking governmental sides. I think that everybody has recognized this, because when I asked what were the things that they do not get in Tobago that they cannot get now, I discovered that they get licences easier; they can get a passport easier; they handle many things more efficiently.

I realize these services will now be vested in the Tobago House of Assembly, so the House of Assembly is going to have to make sure that all the people from the ministries who now handle these service get fired, and the House of Assembly will have to train people to do what was being done before by the Ministry of Transport, and other ministries. I am not sure how this would work and I will appreciate the hon. Minister giving me a little information. Will the House of Assembly, for example, take over the staff from the licensing office, because they will now be responsible for licensing? Or, will they train their own staff? I mean, Tobago House of Assembly already employs something like 70 per cent of the people who are employed in Tobago. Does this mean that they are just going to have to employ more? How is it going to work?

I say this, Mr. President, because I do not want to lose the efficiency that already exists in Tobago. Those people do it so well, that to have to start somebody else in a new system and train them, worries me. Following the contribution of my learned colleagues on the other side, about how Tobago is not getting the effects or benefits from what happens in Trinidad, I took a look at the Ministry of Social Development's September, 1996 Report on the Indications Determination of the Measurement of Poverty in Trinidad and Tobago.

Of all the households living in poverty, by local government districts in Trinidad and Tobago, the one which is the poorest is Rio Claro, which has 56.3 per cent of the households living in poverty, and the one which is the best, is Diego Martin, which only has 8.3 per cent living in poverty. Tobago is second best.

Tobago House of Assembly Bill
[SEN. MAHABIR-WYATT]

Thursday, November 28, 1996

Behind Tobago is Chaguanas, Couva, Talparo, Port of Spain, San Fernando, Penal, Arima, Laventille, San Juan, Siparia, Princess Town, Sangre Grande, and Rio Claro, which does indicate that we know Tobago suffers other disadvantages.

I think we cannot really say that Tobago has suffered such total neglect that it is worse off than the other parts of this unitary State, because the 24.7 per cent of families in Tobago who are living in poverty, according to this study that is 2.8 per cent of the families of the nation who are living in poverty. So, let us not exaggerate for political reasons, the suffering that happens in Tobago. I really dislike intellectual dishonesty and I am not going to be blackmailed emotionally into agreeing to something simply because people are twisting facts that exist.

I think Tobago is perfectly competent. I think it does things extremely competent in itself. I do not think that we can come here and moan and groan, and say it has been so hard done by everybody, and nobody trusts it when we do not tolerate the facts. I am sorry to have spent this much time, Mr. President, but I think that it is important that we start calling a spade a spade, and naming the game that is going on here. Let us get on to something which is realistic.

5.20 p.m.

If we are going to define the actual nature of the problem, I think that is important, too. Now there are a couple of questions that I would like to ask about the Bill before I accept it, given the family pressures, or no family pressures, whether there was a blood family, a political family or whatever.

The first question I had was on clause 4(2), which I think has been answered, and which I am not worried about now. I wonder if the hon. Attorney General would return to clause 49(2), for I had a problem and he answered part of it. He did answer part of this, for which I am very grateful, because the Attorney General is always very thorough in answering questions like this. He should get a tribute for that. But I was not sure what would happen here, where we have consolidated accounts.

For example, if I ran Kentucky Fried Chicken, and I had several branches in Tobago, as well as 30 or 40 branches in Trinidad—normally, when the company does its final year accounts, it would have these consolidated—does this mean that we would now have to deconsolidate accounts for companies which operate branches in both Trinidad and Tobago? So that in Tobago one pays taxes on what

is earned in Tobago, and in Trinidad one pays taxes on what is earned in Trinidad. What clause 49(2) says is:

"Upon the coming into force of this Act, any company, financial institution or a person operating a business in Tobago shall pay in Tobago all taxes, fees, duties, levies, and other imposts in respect of its operations in Tobago."

If there are taxes which have to be paid in relation to the operation of a business in Tobago, presumably they are going to be paid in Tobago.

This is important to me, this whole financial aspect. When I looked at the income which Tobago generated—and Sen. Moore is absolutely right; in the comments in the budget documents, what is put down as the income generated by Tobago does not reflect the real position. I think that was something like 25 per cent, \$25 million. But when one looks at the income generated by hotels—hotel tax, head tax, VAT and taxes on alcohol. I think it is closer to 50 or 60 million dollars, that Tobago has generated because this comes under the companies and it is not allocated separately. Would that tax, the money which comes in relation to those taxes and VAT, be collected in Tobago and paid in Tobago, or would those funds go into the Consolidated Fund? Out of the Consolidated Fund comes the development funds. I know that the Attorney General has answered some concerns here, but there are others which still remain and have not been satisfied.

Just in reference to the monetary or financial arrangements between Trinidad and Tobago, this Bill does not ask Tobago to contribute any part of its income by primary responsibility to the Consolidated Fund of Trinidad. In other words, let me give an example, Mr. President. Let us take the Netherlands Antilles where there is Aruba, St. Maarten, St Eustacius, Sabre, and what is the other one?

Hon. Senator: Aruba.

Sen. D. Mahabir-Wyatt: Not Aruba, Aruba is out. I mean Curacao.

Hon. Senator: Bonaire.

Sen. D. Mahabir-Wyatt: Bonaire. Each of those separate islands, some of them considerably smaller than Tobago, pay a quarter of all their generated income to the general fund and are given from the general fund development funds, pays salaries and various other things. But they feel that they are making a contribution to the central government. Therefore, when they ask for something, they are asking for it, not as a beggar or a beseecher, but as a contributor to the central funds.

Tobago House of Assembly Bill
[SEN. MAHABIR-WYATT]

Thursday, November 28, 1996

Clause 50 says that, any money left over, the surplus, after the first quarter shall be surrendered to the Consolidated Fund; all that does is return a fraction of the balance of the excess. If there is an excess, of income over expenditure that fraction of the balance will go back into the Consolidated Fund after the first quarter in the new year. We all know that there is not going to be any money left over, there cannot be, because Tobago does not generate that amount of money. But at least, should we not give Tobago a chance to say, "I am contributing in my own right", so that it can feel the pride of contribution?

I was very touched by the contribution made by Sen. Moore when he said the time may come, as well it may, when Tobago, in the future—we never know what is going to happen—may have to support Trinidad. I mean, it may sound impossible now, but if oil all of a sudden is replaced by solar energy, and tourism becomes our chief money earner, it is possible that this might happen. If that does happen, then the shoe is on the other foot, this could have a totally different meaning.

Mr. President, I turn now very briefly, to the amendments which have been proposed, and insofar as the amendments proposed by Sen. Spence are concerned, I would like to support these entirely. I think that this is probably an inadvertent admission, because it is via inter-governmental organisations such as United Nations, UNESCO, UNICEF, the ILO, and various others that we ratify conventions, which then become binding on this country, in the same way as any other international contract would. I think it is important to make sure that we reflect in this, that nothing that Tobago can do, can jeopardize a binding treaty or convention that has been signed in relation to the unitary state of Trinidad and Tobago.

Likewise, I think the recommendation in clause 37(b) about appointing a secretary in the absence of the secretary of the Assembly, is a necessary, perhaps a bureaucratic and not a major point, but I support it entirely.

Insofar as the recommendation proposed by Sen. Daly is concerned, this seems to be consistent again with the whole tenor of the Bill, and the procedure which we have gone through on this occasion. While I am all in favour of the Attorney General's proposal for the future, or for anytime, of entrenching the Tobago House of Assembly in the Constitution—we can do it now as far as I am concerned—until such time as that is done, I think that this proposed amendment by Sen. Daly, would be consistent with what we are trying to do.

The third amendment that has been proposed is by Sen. St. Cyr, and this is in relation to the alternative dispute resolution procedures, and I think it is very sensible. Part of it is consistent with alternative dispute resolution procedures which exist in other parts of the world and have been found to be very successful, so I would also like to support that one. I think these are the major points which I wish to make.

I would just like to close by saying that, unlike those of my colleagues who have spoken from political platforms, I think that the Bill before us, and what has happened in this entire debate for the last week or so, has not been a watering down or a disembowelling or anything else. I think it has been a realistic process which is taking place, which I think is to the benefit of both Trinidad and Tobago at this stage in our development.

Most of the questions that I had to ask, in spite of the areas of responsibility which are outlined in the Fifth Schedule, have been answered, but I would like to ask just two more if the Attorney General would be so kind, because when I tried to find out what it was that people wanted in Tobago, that they do not have, all the business people I talked to, the only thing they could think of was registering a company. Everything else they wanted to do, they could do already; except shop in various shops which are in Trinidad but have not yet moved over to Tobago.

5.30 p.m.

There are three points that I would like to bring out and one of them has to do with fisheries. I gathered from speaking to someone who fishes in Tobago that there is a great concern, and this relates to clause 4, about the trawlers. Apparently our regulations dealing with trawlers expired on November 07, and the trawlers have not been policed. This is affecting fishermen in various parts of Trinidad; in particular Tobago because red fish are just not being fished. But nobody does anything about this, there is nobody in Trinidad to protect the fishermen in Trinidad. So I was wondering if perhaps once this Bill is passed, if the Tobago House of Assembly would have the authority to pass its own trawling regulations, because ours were passed in 1989, our traditional fishermen are being marginalized, they are just not making catches. I would like to have the reassurance that the Tobago House of Assembly would have the authority, at least in relation to the off-shore waters in Tobago, because it seems quite obvious that nothing is going to be done about it in Trinidad to protect the fishermen here.

Tobago House of Assembly Bill
[SEN. MAHABIR-WYATT]

Thursday, November 28, 1996

Secondly, in relation to item 16, 'infrastructure' including air and sea transportation, once again, my information from Tobago is that one of the greatest complaints has to do with transportation. Their argument is that they have to come to Trinidad, we do not have to go to Tobago, whether one accepts that or not. At the present time BWIA cannot pick up passengers in Tobago and my question is: can the Tobago House of Assembly give BWIA the authorization under this legislation—because it says air transport—to pick up passengers in Tobago? I am not going to ask—although I see the Minister of Finance here—whether these flights would be subsidized because I do not dare go quite that far now, but I will do that when we get to the budget.

The other point has to do with dealing with awards and airports and public utilities. I think Tobago takes care of these things much better than we do. I think it is a good idea once we have agreement as to who is going to pay for it and I think that the Minister answered that.

One last point is that when it comes to item 25 which is education, including the curriculum, I am very grateful that some of my grandchildren are growing up in Tobago, because if the curriculum and educational matters can be determined in Tobago it probably means those children's futures are going to be assured. I am sure that the people in Tobago handle things like school books more sensibly than in Trinidad and that they would not have to keep buying new school books for each successive child in the family as each one moves up. Like Sen. Spence, I hope that Tobago, with its inherent good sense in coping with these things, will start to influence Trinidad in the way it is carrying out its policies and by giving us examples that they can go ahead and get things done without delaying year after year in argument. This perhaps will shame us in Trinidad into getting things done as well.

Thank you, Mr. President.

Sen. Elizabeth Mannette: Mr. President, we on this side, do support this Bill. We are certainly in support of greater autonomy for the Tobago House of Assembly, but I take this opportunity to make a few comments about one part of the Bill that concerns me. I am not going into the details and all the provisions, but I am just concerned about the Dispute Resolution Commission as established by Part V of the Bill. I have a general concern about what I see is the underlying principle which is being eradicated as well as some concerns about the whole procedure and also a technical point.

Mr. President, section 75 of the Constitution establishes a Cabinet which is authorized to have direction and control of the Government of Trinidad and Tobago. This Cabinet shall be collectively responsible to Parliament. I am concerned that Part V of the Bill, clause 56 and following, are establishing a Dispute Resolution Commission, which seeks to go against the constitutional authority of Cabinet. Here is a commission which is going to be chaired by the Ombudsman, and the membership of the commission is not really outlined. One can only imagine that the members would be non-parliamentarians, or people who are not members of government, and so you would have appointed persons being authorized to review the budgetary allocations made by the Cabinet, and the Minister of Finance.

The Minister of Finance and Members of the Cabinet are the duly elected government officials of the country, and it is troubling that an appointed body can have the authority to review and recommend changes to the proposals made by the Cabinet and the Government. I think this is even more troubling when one considers sections 64 and 65 of the Constitution. Those sections limit the extent to which this Senate, this body of appointed persons, can frustrate or even hinder the work of the House of Representatives, the elected body. In democratic systems such as ours, and even those that are based on presidential governments, or parliamentary governments, there is always a concern that the appointed body should not have more power than the elected body, especially with regard to money bills, and acts dealing with revenue, and taxation. This concern stems way back from 1909 in the House of Lords. I think, given the fact that there is this provision in the Constitution, we should be very concerned when any bill comes before us which may seem to give an opening to a non-elected body to have oversight of revenue and budgetary allocations. I do not know if this principle is any reflection of a lack of confidence in the current Minister of Finance, but I would assume not, and I hope that the hon. Attorney General could perhaps give his perspective on this particular constitutional matter.

The Dispute Resolution Commission, notwithstanding the constitutional concerns, has some procedural mechanisms that I have a bit of trouble with, because if one looks through the provisions, clauses 56 to 61 set up a scenario where the Minister of Finance makes an allocation, it is reviewed by the Cabinet, then the Cabinet notifies the Assembly. If the Assembly is dissatisfied it informs the Prime Minister who refers the matter to Cabinet; the Cabinet considers the dispute; the Cabinet informs the Assembly, and if it is still in dispute the Cabinet or the

Tobago House of Assembly Bill
[SEN. MANNETTE]

Thursday, November 28, 1996

Assembly may refer it to the Chairman of the Commission. The Commission then calls the parties to select the members, and the Commission discusses the dispute, and hopefully reaches consensus, and then makes the recommendation; the recommendation is laid in the Parliament, and in the Assembly.

It is a very long, drawn-out process, and at the end I have to ask myself what is the point, because notwithstanding all the recommendations and the consultations, at the end the Chairman's report is just laid in Parliament. What is the real effect, or real impact of that? Nothing really. I think this whole Dispute Resolution Commission is perhaps a waste of time and a waste of resources. Unless the hon. Attorney General could shed some light as to the real purpose of this commission, I tend to find that it is perhaps a bit useless.

The third point I would like to make concerning the Dispute Resolution Commission, deals with clauses 43 and 44 of the Bill. I note that Sen. St. Cyr has proposed an amendment which I think indicates he recognizes the same point I also recognize; and that is clause 43 of the Bill provides that Cabinet has to make certain allocations and has to consider the Tobago House of Assembly's estimates in making these allocations. Clause 44 states that where the Assembly is dissatisfied with those allocations the Assembly may refer the matter to the Commission within one month of the date of the receipt of notification of the Cabinet's decision.

5.40 p.m.

Clauses 56 to 61 seem to outline a separate set of procedures that I just told you about, where the Assembly first has to notify the Prime Minister and the Cabinet and then goes to the Commission. So, I think you either need to have some sort of reference in clause 44 to the procedures in Part V or, as Sen. St. Cyr recommends, perhaps remove Part V altogether.

Mr. President, those are my only concerns with respect to this Bill at this time. Thank you.

Sen. Prof. Julian Kenny: Mr. President, I have just a few, very brief comments and some queries. I have no problem with the idea of people having control over services and so on, but I have a bit of a problem with clause 4(b), which as far as I understand, would give to Tobago a territorial sea. Now internationally, both countries accept a territorial sea of 12 miles, and an exclusive economic zone of 200 miles or so. If there is more than one island, certain island

states use the concept of archipelago, and Trinidad and Tobago has a territorial sea which is defined in accordance with the law of the sea and it also has archipelagic waters using the baseline of territorial states, and then it has its exclusive economic zone. I am puzzled with this, and if one is going to have a territorial sea for Tobago, why six miles? It bothers me that we should be setting up a territorial sea for part of the state within or outside the normal conventions. So, I have a bit of a problem with that. Perhaps the hon. Attorney General will help me through my confusion, in that particular area. In fact, I question whether there is any need for clause 4(b) at all.

The other problem I have, is in clause 54, which vests the land of Tobago in the House of Assembly. Now it would be to me, irrational and lacking in logic to vest land in the House of Assembly, but not vest the sea bed. Tobago is going to develop, tourism is going to develop, and what has been happening is that people are now building marinas and in other parts of the Caribbean, people are now growing oysters. In Jamaica, oysters are grown on the sea bed and there are problems with leasing sea bed to people who may wish to enclose parts of the sea for safety, in the marina or parts of the sea for culturing marine organisms. So it seems to be irrational to be vesting land in the House of Assembly and at the same time have a six-mile territorial sea, in which nothing is vested except the superficial waters. So there is a bit of a problem here that I cannot quite follow. I claim to have a little experience in this subject area, having served on the Interministerial Committee on the Law of the Sea several years ago.

The other problem which I have, Mr. President, relates to the Fifth Schedule, where there are a number of items that worry me a little, for example item 12—Fisheries. I think it is important that Tobago should have some degree of management of the resources in and around the waters of Tobago, but when one talks about fisheries there, fish, especially the pelagic fish, do not recognize any boundaries and there is a critical problem in Tobago's waters. A critical problem of the stocks of flying fish, the stocks of dolphin fish and the stocks of sword fish, which migrate all over the place and we already know that from time to time, the Coast Guard and the Police have to arrest Barbados fishermen for fishing flying fish in territorial waters of Trinidad and Tobago. So I wonder whether when one gives responsibility to the House of Assembly to administer fisheries, whether a practical proposition can be done. What sort of infrastructure needs to be set up? Right now one could always call in the Coast Guard but what does one do, how does one protect stocks? Are research units going to be set up in the House of

Tobago House of Assembly Bill
[SEN. PROF. KENNY]

Thursday, November 28, 1996

Assembly to determine stocks? This is better done in the Fisheries Division which has a whole group of people doing this sort of thing.

So I have a problem with the fish, especially the migratory fish. I can see one wanting to control the ground fishes to which Sen. Mahabir-Wyatt made reference—the red snappers—but the fish that wander all over the place, I cannot see how the House of Assembly should be taking on something like that.

One of the other things that bothers me as well, and perhaps the hon. Attorney General will clarify it for me, is the responsibility for telecommunications. Although it is not widely reported in the national press, it is certainly now well reported in the international press, in the British papers, the *Times*, the *Observer*, the *Independent*, the *Washington Post*, that Guyana has in fact, embraced international telecommunications through its owners. Guyana Telephone and Telegraph, in fact, has a major business earning about US \$100 million a year—it is all reported internationally, not in the Trinidad newspapers—and the bulk of this, on their own admission, comes from telephone pornography, because the services being offered by the telephone pornography providers would be in breach of telecommunications regulations in the United Kingdom, Germany, France, North America, and Guyana is now the center of this. It is a multi-million dollar international telephone pornography business.

I am not suggesting for a minute that the Tobago House of Assembly would get involved in this, but theoretically as they develop, they would look at sources of revenue. Guyana Telephone and Telegraph makes US \$100 million a year in telephone pornography. What is this? Some disordered person in England or Germany wants to do dirty talk, and what do they do? They dial a number in Guyana that provides the audio/tech services and it costs £1 a minute. It is to me bizarre that someone would spend money on this. Part of Caricom is now known as the center of the international telephone pornography business.

5.50 p.m.

The other concern that I have is with No. 20: the Environment. These words are used loosely. I do not think that people appreciate the implications of taking responsibility in the House of Assembly for managing the environment. Trinidad and Tobago actually sits in an oceanic stream that is fed also by the rivers of South America. This stream is about 150—200 kilometres and it sweeps up the coast. I

Tobago House of Assembly Bill
[SEN. PROF. KENNY]

Thursday, November 28, 1996

cannot imagine someone thinking in terms of the broader environmental issues such as what happens in an accident upstream from Tobago.

I am not, for a second, suggesting that the House of Assembly should not be addressing the matter of the immediate environment, but the overall management of the environment, surely, should be a national concern. This is sea we are talking about. It is not as if we are talking about solid waste and things like that. So I have some questions about the Fifth Schedule, in particular.

Finally, I think that the Tobago House of Assembly is probably being asked to take on far too many things and it is going to cost a fortune. I wonder whether—I am not suggesting for a minute pruning the bill; obviously I am going to support it—a clearer focus might not be given to, sort of, priority areas. This, after all, is a state—I will not use the word, unitary—and we have government of the state—and what we are dealing with in Tobago, as Sen. Mahabir-Wyatt has emphasized, is essentially local government. That is essentially what it is. I think that you should be concentrating and ensuring that the services offered to the people of Tobago are the best so that some of us could go over and live there.

I have these few questions but I really feel strongly that there are probably far too many of these responsibilities. I think there should be a category "A": major things, and then there should be some subsidiary things which might be dealt with down the line after the priority ones are dealt with.

Thank you, Mr. President.

Sen. Dr. Dhanayshar Mahabir: Mr. President, it is always very risky to begin to hit the ball the first time one approaches the crease. One should normally play oneself into the wicket, obtain the feel of the batting pitch before one starts to hook. That rule, unfortunately, applies to test cricket and you would understand my position, as a "limited overs" cricketer in the Senate at this time. Therefore, I would have to launch into certain matters that I think are important.

Because of my relative inexperience in these matters, I will focus on areas in which I have some degree of comfort. In particular, I would wish to focus on certain proposals in the Bill which are causing me some concern.

I refer you to clause 51, on this power to borrow. Naturally, I think it is important to grant autonomy to the House of Assembly and to provide to it as

much flexibility as possible in order to conduct its affairs; but what concerns me is that this power to borrow may undermine the efficiency of the authority that we are trying to improve. Why do I say that? It says here under clause 51(a):

"The Secretary may—

- (a) with the approval of the Assembly, borrow by way of overdraft, such sums as the Assembly considers fit for the discharge of its functions..."

This, to my mind, gives the Assembly a blank cheque to conduct its affairs, and the limit of the overdraft would be determined, as the hon. Attorney General stated, by banks' willingness to lend. If a large number of banks are willing to lend to the Tobago House of Assembly, one could very well find that the overdraft of the Tobago House of Assembly can amount to a pretty tidy sum and the interest on the overdraft—overdraft borrowing tends to be the highest form of borrowing that enterprises can engage in—may then appropriate a large portion of funds allocated to the Assembly for other purposes.

So that if, for instance, the Assembly runs a very large overdraft, either they will use funds that have been earmarked for other purposes to service this overdraft, or they will appeal to the Minister of Finance in Trinidad and Tobago for additional subventions, or it would become the responsibility of the Minister of Finance to honour this obligation.

I recommend that while there is a need to allow the Tobago House of Assembly to borrow to finance its day-to-day expenses, I would really like to place a limit on the amount of borrowing that could be undertaken without approval through the Minister. I have tabled a recommendation under clause 51(a). I am recommending that the Tobago House of Assembly can borrow by way of overdraft no more than one-twelfth of its annual budgeted expenses. That would provide the Tobago House of Assembly with the ability to borrow only the equivalent, on average, of one month of its expenses. Any additional borrowing, I think, should be referred for approval to the Minister of Finance in Trinidad and Tobago.

Clauses 51 and 48, I think, are related in some way. Clause 48 speaks about the uses to which any surplus can be put. It is recommended in clause 48 that the surplus should be used only for purposes of capital investment. The concern I have is that while we intend to improve the Tobago House of Assembly, some of these clauses can unnecessarily restrict the flexibility and the manoeuvrability of that Assembly. If we restrict in clause 48, the use of these funds only for capital

investments, and the Tobago House of Assembly at the same time has a large overdraft which is growing at the rate of 20 per cent per annum, this would seem to be a reasonable interest rate for an overdraft. But they do have funds and if they are constrained to invest those funds only in capital projects, then they would be holding these surplus funds while the capital project is being prepared for financing, and capital projects can normally have a pretty long gestation period from the time of conception to the time of actual initiation. There has to be prequalification of contracts and so forth. So should we not allow the Tobago House of Assembly the flexibility of applying the surplus, not only to capital investment, but also to the reduction of any overdraft which they may currently have? This would then enable them to more efficiently use whatever funds they have.

Under clause 49, I share the same concerns with my colleague, Sen. Mahabir-Wyatt. In particular, clause 49(2) seems to be very confusing. Take, for example, a commercial bank which would fall under the caption of financial institution, mentioned under clause 49(2), which is established in Trinidad but which has a branch in Tobago, that branch in Tobago would be obtaining, not financial assistance, but technical, legal, accounting and computing from its head office. Are we saying that the Tobago branch of this financial institution will be required to hold separate accounts in separate books? Are we saying that if this particular branch is not supposed to so do, that there is then going to be some way by which we will apportion the profits of the entire organization, the profits that accrue in Tobago? If that is the case, then we are opening the accounting to a great deal of speculation and value judgment and would be violating accounting convention. Then we will be engaging in a lot of arbitrariness in the allocation of costs.

6.00 p.m.

With respect to the corporate income tax, I think we would experience difficulties in actually apportioning the profits which accrue in Tobago that should be paid to the THA and that portion of corporate profits which will accrue to Trinidad. Therefore, I think that clause 49(2) needs some serious revisiting before it is finally passed.

Mr. President, finally, nowhere in the Bill do I see any attempt to include the Ministry of Planning and Development in Trinidad to assist the THA in compiling its capital budget. While there is an intention to allow greater autonomy for the

Tobago House of Assembly Bill
[SEN. DR. MAHABIR]

Thursday, November 28, 1996

THA, are we in Trinidad and Tobago—and in Tobago specifically—not selling ourselves short by excluding the Ministry of Planning and Development from co-operating with the THA in forming the Public Sector Investment Programme of the Tobago House of Assembly?

Why do I think that is important? There are projects which we know will qualify for grant financing, concessionary loans and those that may even qualify for aid funds. That information may exist within the Ministry of Planning and Development and may not exist within the THA. I would have thought that in forming its capital estimates, the Tobago House of Assembly would have been in continuous contact with the Ministry of Planning and Development so that the final list of projects submitted by the THA would be one which Trinidad and Tobago can afford and would be the most economically efficient list. It may not be a list which the people of Tobago may want at this time, but it may be one which honours the fact that there are certain types of projects that qualify for cheap financing. For example, environmental projects and certain recreational projects may qualify for concessionary loans. If, for instance, the THA composes the list on its own, I think we would be losing golden opportunities for making maximum use of cheap financing for our development purposes that are available on the international market.

Thank you, Mr. President.

Sen. Dr. Eric. St. Cyr: Mr. President, first of all let me offer my sincere congratulations to Sen. Dr. Dhanayshar Mahabir on his maiden contribution. [*Desk thumping*] He spoke with both the technical expertise and clarity for which I take no credit whatsoever. [*Laughter*] So, if there is any blame to come, I would not share in that either. [*Laughter*]

Mr. President, I would be very brief. I do not think that today is the day to philosophize, nor to visit who did or did not do what, when or why. I think today is the day when we should take a step in the practical direction and give to Tobago what is their due.

I would restrict my comments to the part of the Bill which deals with finance and make a couple comments before I address the amendment which I am proposing. First of all, I refer to clause 48 which was just addressed by Sen. Dr. Mahabir. My comment there would be that if there are unexpended balances at the end of the financial year which are not returned to the pool, but kept for capital

investment, then the responsibility of Parliament in financial control would have been violated. So, I too, have a difficulty with clause 48.

Referring also to clause 51, my question there would be whether, if as provided in clause 47, the appropriation of Parliament to the Tobago House of Assembly ought to be credited to the Tobago House of Assembly Fund in quarterly releases in advance en bloc, there should be no need for overdraft financing because we would have given the moneys in quarterly advances ahead? So, I do not see the need for overdraft borrowing privileges.

Mr. President, my main comment today, however, is related to the Dispute Resolution Commission. I ask the Government to kindly consider what I am going to say, and if it could find it in the interest of the country—looking into the future and not looking retrospectively on things of the past—not to set up the structure for an adversarial treatment of likely disagreements. As I see it, the sovereignty of the people of Trinidad and Tobago, vested in its Parliament and exercised by the Executive, the Cabinet, is where sovereignty should lie.

So, if there are budgetary proposals by the Tobago House of Assembly and the Ministry of Finance, in its wisdom, with an overview of all the needs, plans and programmes in the country, says that we cannot agree with your proposals, in my view the way to handle such a disagreement—and I would prefer disagreement rather than dissatisfaction because if the Ministry does not accept the estimates as presented by the Tobago House of Assembly, by definition, the Ministry is dissatisfied with those proposals. In other words, the thing cuts both ways. The main thing I would ask is whether we could please go in the direction of what Sen. Mahabir-Wyatt so elegantly puts as the "alternative dispute resolution" method which is to resolve this by consultation, political exchange and preferably not in the open where we then tend to take positions which we cannot compromise.

6.10 p.m.

Mr. President, with these few remarks, I respectfully move that the Government consider the amendments which I have proposed. That is, that, in clause 44, we delete the words, "refer the matter to the Commission within one month of the date of its receipt of notification of the Cabinet decision", and we substitute the words, "within one month make representation to the Cabinet for a review of its decision setting forth reasons therefor." Also, delete Part V, clauses 56—61, and renumber the other clauses appropriately.

I put these amendments for the Government's kind consideration.

Mr. President, with those remarks, I thank you.

Sen. Martin Daly: Mr. President, when one listens to the contributions that have been made on the Tobago House of Assembly Bill, one at any rate, may easily understand what I fight for, week after week. There is a parliamentary process that is distinguished by the orderly, mature, deep, sensible and individual contributions of all of the Senators who have spoken since the tea-break. That is the purpose of the Senate: to provide this level of debate, contribution and commitment to the nation's affairs, and it can only be done if the Senators who have made contributions since the tea-break, know when they have to come to the Parliament, and know what the subject is and that they have sufficient time to consider what positions they are going to take on these very important matters.

At a moment of greatest despair, when one's independence is challenged, when it is suggested meretriciously that one has something against the people of Tobago, one is heartened to see what it is that one fights for week after week. Mr. President, one sees not only what the purpose of the Senate is, but the purpose of an orderly process that is characterized not by insult, suspicion or, as Sen. Diana Mahabir-Wyatt put it so eloquently, by fighting battles that do not exist. Let me, before I refer to one or two of the clauses in this Bill, point this out.

Everyone agrees in broad principle, and I certainly do, that Tobago should have more direct control over its own affairs. Who can dispute that in broad principle? What I disagree vehemently with, is that the details are not important. I dare say that everyone would agree that equality of opportunities is a desirable objective. But there is considerable room for disagreement about the details of how one achieves one's objective—and these are vital issues that cannot be dealt with in an inelegant and hurried fashion.

In order not to upset my good Friend, I would describe the disorderly process in rather kinder language this time around. This is what I fight for week after week, that we have time to deal with these matters which are very important. Moreover, not only when one is attempting to amend the Constitution, but when one is dealing with vital constitutional and political issues such as the devolution of power which is what we are debating here. That is the crucial issue! This is not a narrow, political question of satisfying some constituency within the country. The underlying issue here is the devolution of power and we have to get this right and we have to give it detailed and mature consideration for many reasons.

What has been described is the possibly troubled relationship between Trinidad and Tobago, but, sooner or later, other areas of the country will want, if not a similar, certainly, some devolution of power and, inevitably, they are going to turn

to this type of legislation and regard it as a precedent—and they are going to look to see how the exercise was conducted and what was gained out of it. That is another reason why we should not deal with this in relation to some December 9, 1996 deadline. It is far too important for that. We cannot embark on an exercise like this, with a three-week or four-week timetable, because we are setting precedence for the entire country. That is the source of my objection, and that is why I fight so hard for us to have an orderly process.

Against that background, let us look at some of the detailed provisions of the Bill—I do not intend to do it for very long—retreading some of the grounds that my colleagues have already dealt with. Before I get to some of the thorny financial issues, and some of what I consider the thorny borderline issues that are raised by the Fifth Schedule, that really require quite detailed consideration, may I state that we are dismantling something that was there before. There is nothing wrong with that but one has to be careful—because if one takes one or two bricks out of a wall—that one is not taking out the main struts. Many times, if one does simple renovations on a property, one column can come down. It is not load-bearing. That is why the details are important and that is why Governments with a capital “G” must not become impatient if we have to corral them into giving these matters careful consideration because we may be bringing down a load-bearing wall.

Let me anticipate what I am going to say about the Fifth Schedule. Suppose in the exercise of its policy function in relation to education, the Tobago House of Assembly decided to get rid of the 14-plus examination, do you know what the ripple effect of that would be throughout the country, Mr. President? There will be other areas in the country where people will say they want to get rid of it, too; they want the power to make a policy for education for getting rid of the Common Entrance Examination.

PROCEDURAL MOTION

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, in accordance with Standing Order 9(8), there is need for a procedural motion at this time.

I beg to move that the matter before this Senate continues until its conclusion.

Question put and agreed to.

TOBAGO HOUSE OF ASSEMBLY BILL

Sen. M. Daly: Mr. President, these are some of the very practical problems that are involved in an important exercise like this. I will come back to that when I look at the Schedule.

I, too, would like to look first at clause 43 which outlines the specific considerations which the Cabinet should consider in relation to Tobago. Of course, all of us will have a considerable divergence of opinion about some of these matters. There is something here that I find quite objectionable. For example, I find clause 43(b) and 43(d) quite objectionable. Subclause (b) requires the Cabinet to consider the isolation from the principal national growth centres. There are very unfortunate and underlying assumptions there. Isolation from the principal national growth centre suggests a condition that is not dynamic. I was not here for the noting of the Joint Select Committee Report but I understand that Sen. Nathaniel Moore made the point that one could have a strange reversal in fortunes where Tobago might be supporting Trinidad. It is a very unfortunate assumption here. Tobago could quite easily, with the skill and ability of the people, become a principal national growth centre. Why are we making this static underlying assumption and, worse than that, writing it into the legislation? There is room for discussion whether that is a fact at all, but isolation, certainly, is a very strong word.

6.20 p.m.

With respect to 43(d), I am tempted to say that is an urban Trinidad view of what is happening in Tobago. If Tobago made a quantum leap forward in the data base industry, there would not be restricted opportunities for employment and career fulfillment. I do not like those assumptions. I have not put up a formal amendment; time has not permitted it. I ask the Government to consider very carefully if it wants to write in those kinds of static assumptions about the situation in relation to life in the twin-island state of Trinidad and Tobago.

I have a lot of difficulty with clause 49(2). I do not think it is clear. I have my own view on the matter. It may be a drafting problem with regard to the words "in respect of its operations in Tobago". Maybe that is where the ambiguity lies. Let us see if we can explore it by practical example. I do not think there would be any confusion or difficulty if someone has a property in Tobago which attracts land and building taxes which are payable in Tobago. It means that the money must be churned in, in Tobago. There is no difficulty with that. The phrase "in respect of its operations in Tobago" is broader than that. Probably that is where the problem lies.

I am sorry to come back to the concept of static and dynamic. The word "operations" has a certain dynamic connotation about it. None of us has the skill of the specialist parliamentary draftsmen. We need to clarify that if we are talking

about taxes which are attributable to physical presence in Tobago, instead of operations which may emanate out of the physical. I can understand land and building taxes, but when one gets to hotel occupation tax the areas become more grey. When we start to talk about VAT, it would become less clear. That clause is quite crucial. That could make this legislation create more difficulty than the problems it is trying to solve, if a quarrel arises about the apportionment of finance under this legislation.

It was suggested by the Attorney General—perhaps in anticipation of the underlying assumptions of what we might say with the question of the power to borrow under clause 23—that it was a matter of trust. It is not a matter of trust, but of allocation of commercial responsibility. Let us leave out Trinidad and Tobago for a moment. A taxpayer in region A that may become ultimately responsible for the debts created by region B would have a very important interest to protect. There would not be anything to do with trust. People make investments or borrowing decisions which seem wise at the time, but then circumstances change and they do not turn out so well. The fact is that ultimately, someone would be responsible as a guarantor or the person paying the debt.

That is a simple commercial problem which has nothing to do with trust. Perhaps it is as a result of the feverish atmosphere in which we do things. The Attorney General, with the best will in the world might anticipate wrongly that we are dealing with a question of trust. It is not that. It is a commercial problem; how the balance between the person who incurs the debt and a third party would be proportioned. Maybe, the Minister of Finance who is accountable to the taxpayer might have to pay the debt. I am in support of the amendments proposed by Sen. Mahabir-Wyatt whom I think has zoned in on that problem. I make a contribution to it because it is inappropriate. I am trying to use the gentlest language I can.

With respect to clause 54, it is not that anyone wants to treat Tobago differently from any of the municipal corporations when it comes to the vesting of the land. At the moment I do not understand. Probably, I am having a very dull day because of the fight and the amount of energy we have to invest in the fight to get a proper consideration of anything by the Senate. I do not know what it means to say that the lands are vested in the Assembly in right of the Republic of Trinidad and Tobago. The Attorney General says that the lands are being held on trust.

Again, I have the distinction and privilege of joining forces with Sen. Hamel-Smith. He is a far more experienced conveyancer than I am, but I do not know what this means in terms of the technical requirements. Sen. Hamel-Smith would

Tobago House of Assembly Bill
[SEN. DALY]

Thursday, November 28, 1996

confer that if one is conveyancing as a trustee, it is different from conveyancing as the owner. These are not nit-picking issues. I am uncertain about whether these clauses would create those problems. I would like them to be elucidated. If we get them wrong, far from doing what the Attorney General has said about speeding things up and making them work better in Tobago, we would be making things worse. We might be introducing new layers which we have not thought about. These technical details are very important.

Instinctively that is why I support Sen. Spence's amendment. If we are talking about dealing with land, that is what the clause should provide for, instead of vesting. There might be a simple explanation for what this clause means. I am unfamiliar with it and I am sure that there are other Members who would like it to be clarified.

From clause 56 and following, I have a grave difficulty with the Dispute Resolution Commission. My reasons are the same as Sen. Mannette's and Sen. St. Cyr's. It would be counter-productive because we would end up having a volatile political row as the ball goes back and forth. I have another philosophical reason. This commission is being asked to determine essentially political questions. For a long time in this country, we have always rushed to put essentially political questions in the hands of some allegedly neutral third party. I do not think political questions can be resolved. It is not consistent and constant with the position taken by the Attorney General that there are political consequences, and history would judge one if one does things wrong and is profligate with one's power to borrow. I could not agree with him more. Consistently, that political principle should be applied to the disputes which may arise under this legislation. Trying to stuff it in a commission, particularly one structured in this way, is a mistake.

6.30 p.m.

Now that we are into elegance, and we are standing up as a Senate and examining things properly, I will join in the elegant plea of Sen. St. Cyr, for the kind consideration of the Government, of the wholesale removal of this clause for the reasons which I have said.

Mr. President, if the Dispute Resolution Commission is staying, I question whether the Ombudsman should be embroiled in this. Whether we call it a disagreement or a dispute, again we are talking essentially about a political dispute. I am concerned, if this stays and we use the Ombudsman as the chairman, insofar as he participates in resolving this question in favour of one side or another, that

there may be some residual feelings. If Senators, who are supposedly mature like us, and who take tea together, can suspect each other of not liking the people of Tobago, and are even reckless enough to say so openly without any evidence to support it, then what do you think people who do not take tea together and perhaps do not understand the best traditions of disagreement will feel about the Ombudsman if he has come down on one side or the other? Bear in mind that we are putting the Ombudsman in the difficult position of an umpire between two persons agreed to by the Government and two agreed by the Assembly.

In commercial terms, in effect, one is making an umpire. It is like a commercial arbitration where both sides choose an arbitrator and there is an umpire. In a political atmosphere like this, I fear that one may be disabling the Ombudsman somewhat by any residual resentment. I do not want to use any strong language now that we are behaving like a Senate should and examining things in a leisurely and mature fashion. The Ombudsman may be tainted with some residual resentment as a result of the way he has umpired this particular dispute.

Do you know why it strikes me so forcibly, Mr. President? We frequently see these little advertisements in the newspapers that the Ombudsman will be visiting Tobago on certain dates and will be available at a certain office. He has direct contact in many of the functions of his office with people who are affected by these questions. I suggest that it is a mistake, even if one is keeping the commission, to use the Ombudsman for those purposes. It looks very good on paper, but I think that if one thinks it through, there are some of the dangers I suggested.

I take it that, in clause 60, the use of the expression “by consensus” means that the commission has to be unanimous. I always thought that consensus was a political word. I have never seen it in legal drafting, but I take it that it means that they have to be unanimous which increases the pressure on the umpire, whoever he is, because he has the casting vote. All of us—and I do not say this with any specific example in mind—know how difficult a casting vote can be and, therefore, we put a certain amount of pressure on the umpire. *[Laughter]*

It is good to hear the Government Members laugh when I speak, Mr. President. It is a refreshing experience, particularly as the hon. Attorney General does not come here very often. If he did, he would know that it is my love for the people of Tobago, and my concern for the development of the island, which cost me, on one of the many occasions that I congratulated the Government, some of my friendships in the private sector. I gave the Minister of Finance “basket” to continue to fight on our behalf to regain the control of BWIA which we had lost. I

Tobago House of Assembly Bill
[SEN. DALY]

Thursday, November 28, 1996

lost some of my friendships in the private sector, particularly as it was being suggested here that one of my power colleagues might be relieved of his responsibilities here and made the chairman of BWIA to protect private sector interest, which, of course, would be at complete variance with the desire of the Minister to override the private sector interest.

So, life in the Senate can be really confusing. I lay off the person whom I would like to describe as my good Friend. She has not researched my background sufficiently. I lay off Sen. Carol Cuffy-Dowlat's aberration quoted by Sen. Prof. Spence, particularly as I am fearful that the domino theory may apply to those Senators who say unapproved things and who sit at that end of the room. On a personal basis, Mr. President, I should say, to be deprived of the ample smile of Sen. Tota-Maharaj would be particularly painful if the domino theory applies. I will save my congratulations to the Government on this particular occasion for last so that they will make a lasting impression on the Attorney General so that, perhaps, the things that he hears from those who mishandle our business here will be treated with a grain of salt.

I come to the Fifth Schedule. I share the concerns of those who have spoken before about these borderline problems whether in environment or air transportation. I suggest education but I think that one of the early acts of the Tobago House of Assembly might be abolition of the Common Entrance Examination, in which case the rush to reside there would be absolutely overwhelming.

I give another example, and it is not meant to make light of criminal activity. When we devolve power in this very broad way, there are areas in Trinidad where people have very firm ideas about their agricultural policy. In fact, they want to grow certain cash crops which do not meet with the approval of foreign ambassadors and do not even meet the approval of the Member of Parliament for the area. The examples of the Common Entrance Examination and the cash crops show in a very vivid way how very broad these categories are. I know the answer, theoretically, is that one could not implement a policy which was contrary to the national law, but if the law enforcement agencies in the particular region were sympathetic to the policy, one could run into all kinds of difficulties and then other people might say that they want cash crops too, or that they want to legalize certain activities.

I have spent some time on this because it is important to understand why these things have to be very carefully thought out. I am really very concerned about the

implications of this Fifth Schedule, being as broad as it is. I do not know whether it is meant to be internal self-government, because Sen. Prof. Spence has pointed out that contradictory things are being said. I am concerned about the breadth of some of these things. I think it would have been far better—and we still have the time; I really do not know what is the imperative to finish this by December 9, 1996—to define these things with a little more clarity or have some more overriding clauses which deal with some of these things, so that there is no misunderstanding. We still have time to refine this Schedule.

One way of doing it, as Sen. Prof. Kenny suggested, is by putting category “A” and category “B”. There are other ways of doing it to make it clear, but I am certainly quite concerned about how far these Fifth Schedule responsibilities could be carried without creating conflict with national policy and aspirations or even conflict between one region of the country and another. I have tried to give a few practical examples, Mr. President. None of these problems is easy to resolve. They require a great deal of brainstorming and detailed work in order to get them right.

Finally, Sen. Prof. Spence has already, thankfully for me, spoken in support of the small amendment which I have put forward. Time does not permit me to formulate amendments in relation to the other things of which I have spoken, for the consideration of the Government, such as the removal of the Disputes Commission or, at any rate, the involvement of the Ombudsman. I really would like that considered even though I have not put forward an amendment on paper.

I have proposed an amendment to item 32 on page 35, in relation to areas of responsibility in the Fifth Schedule. I think it is very important that any additional assignment of matters to the Assembly should be the subject of a resolution of Parliament. I have opted for an affirmative resolution because I think we are very new. We have had the Municipal Corporations Act, but that is on a very different scale to what we are attempting here, and I really think that until we have some more experience in this devolution matter, the proper scrutineer of this very important issue is the Parliament.

6.40 p.m.

Mr. President, those are some of the points I would like to raise on the detail clauses of the Bill and I repeat my appeal, which is small in terms of words and reprint, that there are a number of very important, substantial, objective amendments proposed by various Senators of this Bench. There are also a number

Tobago House of Assembly Bill
[SEN. DALY]

Thursday, November 28, 1996

of other things that have been expressed in idea form that could lead to amendment of this legislation, and I think it is very important that the Government gives them mature consideration. With the greatest of respect, as the evening wears on—I did not bring my toothbrush, but as I assume the Attorney General has quoted, and I certainly do not believe in toothbrush legislation—I really think it is important that some of these things be given mature consideration, particularly in relation to the financial matters raised by my colleagues who are skilled in this area. Indeed, there is some difference in view as to how some of these financial matters are to be resolved. In some cases, there are two conflicting recommendations, but they are objective and substantial and require serious consideration because of the risk of repetition.

The building blocks in this wall are very important and that is why I use the analogy of deciding what strut is being removed, what is load-bearing, and what is going to cause a lot of trouble, and the financial things are particularly important. That has been made plain by those who have the expertise in that field.

Likewise, the demarcation of those responsibilities in the Fifth Schedule are very important, and trying to deal with them in a sensible way has nothing to do with not wanting something for the people of Tobago. I am trying to look at this issue in a much broader perspective, because if we continue on this devolution path, I predict that we will be dealing with this type of legislation in the future in relation to other areas of the country. Existing municipal corporations are going to be saying, “we would like to do this; our community is more closely knitted. “We want to educate according to different policy; or we want to control crime under a different policy” and that kind of thing. So it is very important that we take that broad view and come out of this fevered thing about December 9, 1996. I do not know whose idea it was that this had anything to do with December 9, but we have gotten over that, have vented our spleen about that and are now into doing the work that we are sent here to do. I think that the Government should consider these amendments and review, particularly those relating to the financial areas.

Thank you, Mr. President.

Sen. Nathaniel Moore: Mr. President, I stand to support this Bill. Indeed, I did not intend to say much and I am wondering whether I should say anything at all; but for two reasons, I must say something.

This may seem strange, but very often as I walk along the roads in Tobago, someone will say, “I saw you in the Senate” and then describe how I looked at the time. Sometimes one will say, “I heard you and it came across well, or I read what

you said.” The point I am trying to make is that I expect that someone in Tobago might like to know that I have said something on this. The other reason is that I would really like to clear up some points which I heard this afternoon. Perhaps I should not call the Senator’s name, because on the last day when I spoke and I made reference to that side, I said that on the Independent Benches, persons took exception and I will say more about that.

Indeed, as human beings, we always like to see things happen in the way we want them to happen. The goodly Senator said something to the effect that Tobago was not developed as it should be developed, or words to that effect. To me, that is the problem all the time, because the people in Tobago have the experience of living in Tobago for a very long time—some of them all their lives—and sometimes we get the clear message that some people want us to live how they want, but as adults and civilized people in Tobago, we should be permitted to live as we would like to live. Of course, bearing in mind if we live together in a community, now and then someone will have to try moving to avoid knocking down another. By and large, the people in Tobago, like those in Trinidad, must be permitted to live as they would like to, and I would not like to know that I live as some people, as expressed here and elsewhere, would like me to live. I would prefer not to live at all.

At times, I think we would have to leave our individual preferences and allow other persons to feel happier. Not that I believe that everything that happens in Tobago and everything we ask for is absolutely right, but sometimes I think the people of Tobago must have an opportunity to like how they live and to enjoy living there and so forth. I am trying to be very kind in the way I put across the ideas which I have to put across.

Reference was made to integration; that it should be the way the Caribbean should go. I hope I am not fighting a non-existent battle, for I heard it mentioned earlier this week that when we speak about greater autonomy or internal self-government, immediately some people here and elsewhere think about separation. If not, why the statement? This is one of the statements to which I took umbrage. Why, when we speak about greater autonomy or internal self-government, are we thinking about separation? This statement has been going around for more than 20 years.

6.50 p.m.

The PNM, for that matter, would want to “kill” one of our representatives in Tobago, even if symbolically, saying that he wants separation because he is asking

Tobago House of Assembly Bill
[SEN. MOORE]

Thursday, November 28, 1996

for internal self-government. The Member is asking for internal self-government. Not once I could remember him saying that he wanted separation. In fact, a Member from the other House quoted a statement of a resolution in the Tobago House of Assembly a long time ago when the Member for Tobago East was Chairman; something to the effect that: Let us have a just union between both islands or let us go our own way. I do not see anything wrong with that and that is not necessarily advocating separation or secession. The point is that everybody here—I dare anybody to say otherwise—would like to be given that choice. One could either live as comfortably or the best way one could and have a mutual happy relationship with one's friends, or go elsewhere where one could avoid contention and suspicion and so forth. I think so and I do not see anything unreasonable in that. Therefore it was an alternative to the better way which was mentioned at first.

I remember when I appeared before the Joint Select Committee in 1977 or whenever they had the consultation on the same Internal Self-Government Motion by the Member for Tobago East, I was asked if I would advocate separation between Trinidad and Tobago at all and I said, "No, I would not advocate it." However, do not expect that as reasonable people we would sit and take all kinds of humiliating conditions just to say that we are not separating.

If one is going down the road and by chance met a fellow with whom one had nothing but in passing he raised his hands, I am sure one would either duck or try to take some kind of evasive action, or something of the sort. Mr. President, people must respond to the actions around them.

I would like to know—in the situation in which we find ourselves as two islands, Tobago, 116 square miles and Trinidad, maybe, over 1,000—why is it that the Members in this Senate and elsewhere are so fearful and cautious about entrusting some greater autonomy to a certain level for Tobago?

Mr. President, I know Senators opposite would tell me that they have nothing against autonomy and I have heard it said here. I know that some people are not against it and they are genuine, but I have heard that many times before and I have seen the action that contradicts that. However, more than that, there are those who are saying it, perhaps, to get political mileage, but in their hearts and by their very actions they do not mean it.

There were those in this country who had the power to do something about Tobago and are still saying to the people of Tobago—up to last night—"we love

you", but their actions do not show that. There was a song I knew as a little boy and I still know it, which goes like this: "How much I love you, my actions would show." I think when some people think about this idea of autonomy they tremble; they believe the people in Tobago may do something bad if they are given autonomy and it would hurt the whole country, perhaps, like a virus.

The last time when I spoke, the time to which the goodly Senator on the other side mentioned me as having taken objection to certain things—I cannot remember calling any particular name. I remember in my discourse I said, Sen. "Mohammed", but I want to admit that when I read the *Hansard* I saw "Mahabir" and I told the *Hansard* section it was a mistake because I cannot remember using the word, "Mahabir" and if it appeared to anybody's ears that I used the word, "Mahabir", it was a mistake. If one reads the context in which I spoke one would see that I was referring to, "Mohammed" because I spoke about the Senator still being in politics in the next 10 or 20 years and I do not think that refers to "Mahabir". *[Laughter]* Although it could.

Sen. Daly: On a point of order, Mr. President. The Senator is totally misleading the Senate in the estimate implied in what he has just said. *[Laughter]*

Sen. N. Moore: Let me read one or two things from the record of the last day and perhaps make a slight comment at the end to allow Senators to understand some of the thought processes which went into some of the things we said. I quote from the *Hansard* of November 18, 1996, 11.20 to 11.30, which says:

"Instead of coming together and trying to be, as far as possible, independent, we fragment. So Dominica is giving citizenship to people from Hong Kong for a few hundred thousand dollars. The same thing will happen. All the land will be vested in the Tobago House of Assembly and the first foreigner who comes along and wants a sizeable part of land there who offers some favour in return, with the difference between the national budget of \$250 million and the actual resources of \$25 million, of course, it will have to give in. And it will."

What does that mean? That when the people of Tobago get hard-up they will sell out all the land. Is this not a picture of totally irresponsible people? That is why I said some people are looking at Tobagonians as irresponsible people who have no sense of direction and so forth.

Sen. Prof. Spence: Mr. President, perhaps it is because I am influenced by living in Trinidad where the Governments in the past have been selling out our patrimony.

Sen. N. Moore: I continue to quote:

“But perhaps if they were part of a strong central government in Trinidad and Tobago, it might be resisted, indeed as it is now. Parliament is about to pass a Bill; we were given an amendment—perhaps I should not anticipate—which suggests that the laws will be amended to stop the sale of land in Tobago.”

I continue to quote from the same date between 12.10 and 12.20:

“Are we ready for this? I wonder if the people of Trinidad and Tobago know how serious this is, or are we simply using the words “internal self-government” and they think that it is something nice? It is something serious.

As I was saying, after this, all that is missing is the flag and the national anthem for Tobago.”

and when I reached home that was the first thing people greeted me with.

“However, Tobagonians are not seeing this and are not being told this, although some have interpreted it that way. Our people in Trinidad are not seeing that and have not been told that. Have we been sufficiently prepared for this? That is the importance and weight of this report and the direction in which it is taking us. Are we prepared for that? The answer is, possibly, ‘No!’”

7.00 p.m.

The point I am making is, that these are the statements I heard which prompted me to quote some of the statements that appeared in *Hansard* which were attributed to me that day. I got the picture. This is not the only picture or the two little pictures that I carved out, but it is part of a whole picture which we have been seeing, parts of an interview in different ways for years, because people in the larger island are always looking at people in the smaller island with a kind of—I do not want to say inferiority, although sometimes it seems to suggest that.

I want to admonish our friends here and elsewhere that the people in Tobago are very responsible. They are really serious about autonomy. Most of Tobago never made any demand for a separation and when we speak about autonomy we are not speaking about separation at all, neither are we seeking to leech upon Trinidad. I remember there was a talk which came up about federal and everybody seeing about themselves. The point is, we have been together for a comparatively long time—short by some standards—and if we had greater responsibility for affairs in Tobago, it is possible we would have developed the area in a different

way. Be fair. Most of the time, the controlling of nearly everything in Tobago has been from Trinidad, even the kind of development.

Mr. President, I remember after the Second World War period areas of Britain were called special areas because some of them were being depopulated and some of the industries were decaying and so forth. The Government looked at that and saw it as a negative thing for the country and so they had special development programmes and incentives for special areas to carry the population and the industry there, so that the population remained in the place and it was developed. But if one leaves a place like an island and does not prepare adequately for it, then what will happen? The result is—in terms of what the Senator read this morning—that the people would leave Tobago and come to Trinidad or go elsewhere. If the Government that was responsible was jealous about its authority, had put some kind of development in Tobago which would keep the people there, employ them and take away that attraction to leave, or the need to leave, then more people might have stayed around and these people would have helped to continue to develop the area so that Tobago might have been able to earn enough to help Trinidad.

When one pursues a policy which denudes Tobago and one comes and says: "you are not earning; you are a liability," the impression I am getting is that we are being put in a certain situation where we have to stay and we cannot murmur. If there is murmur, it could be said: "but you live by me and you have to be quiet. I gave that to you so be quiet about it and keep it." Then we would not be helped to grow up to stand on our own feet.

Mr. President, this has been some of the thinking in Tobago. People may say that we did not say this or we did not say that, but remember, we have been hearing things like that a long time. Perhaps it may be a straw but it may well be the one to break the back of the camel because straw cannot be put indefinitely without overloading the animal. I want that to be taken into consideration.

When I made the point about using the "unitary state" as a shibboleth to keep Tobago, I was referring particularly to the PNM as a party. I have said it before, they have made ample promises about what they were going to do in Tobago and we have seen that they have not done it. We are not foolish; we have seen it; there were plans to do it and it was not done. Then when we say, "All right, since you are not doing it, give us the power to do more for ourselves so that we could suggest how things might be done to meet our needs", you say, "No, you cannot get that". So we are not permitted to have a say in what we want to do. It is not

Tobago House of Assembly Bill
[SEN. MOORE]

Thursday, November 28, 1996

being done for us, so what are we to do, not say we want to go? But when we say we want to go, we would be asked: “why are we going; where are we to live and what are we to do?” What kind of human beings do they want us to be when things like these confront our people?

This is the point I am trying to make. I want you to understand us because we are living in Tobago and we are seeing these things and much of what we say springs from experience. Asking a few shopkeepers a few questions would be just part of the story, but remember, the people have been wearing the shoes all the time and when we speak it is not always a wise move to dismiss us as being unreasonable and so forth. That is the point we are trying to make.

If one compares us with other parts of Trinidad—I heard this, too, when I entered here. In fact, I think that was the burden of the appendage to the resolution moved by the Member for Tobago East in 1976/1977 and the words inserted were—I am paraphrasing—considering the effect it would have on other parts of the country and so forth. So that if Tobago asked for this, Caroni or Mayaro is going to ask for something similar or ask for corresponding favours and so forth. I do not think that I need to go over the fact that we are really on an island; it is not like running across from one place to another or riding on a bus.

Another point I want to make is, even if we are asking for things that other people in Trinidad would not ask for, that is Trinidad’s business. If people want to sit in any part of Trinidad and see that their representatives do not develop their area and swallow that, why must we in Tobago sit and swallow that? That is not my reasoning at all. My reasoning is that if we feel certain things are good for us and we want to strive to certain ideals, we have a right to want them. If people want to be complacent in any area and be satisfied with the condition of their roads; the level of employment; their facilities and so forth, that is their business. We are not made of that kind of mettle. If one knows the people of Tobago, with the little they have, they try to stretch it very far and that is why we are existing.

So do not tell us that if we ask for that, the other people elsewhere are also going to ask for that. If the people ask for that and it is something good, then it is even better, because it means that the country would become more developed. Why are we afraid to have Tobago ask for something that would develop the island and somebody else in Trinidad ask for that same thing? It means added development for the country. Why should we have a problem with this?

Mr. President, with respect to the sea and so forth—I do not want to talk much about that because I am not an expert on maritime affairs, but I think it is commonsense. In fact, when I leave the land in Tobago, apart from flying, I use the sea and I do that very often. How smart it would be for us to be given some autonomy in relation to Tobago on the dry land and there is nothing about the sea. That does not make sense. I do not have to study any law of the sea; I do not have to be a "somebody" to know that. That does not make sense. There is the Buccoo Reef; the Charlotteville/Speyside Reef; the Bird Sanctuary in St. Giles. More than that, our fishermen go out every day and catch dolphin and flying fish outside there, as the Professor said, and we do a lot.

Again, I look at it as being a little selfish. The people of Trinidad—physical human beings with brains, bodies and ambitions—can say and do everything they want all around Trinidad and Tobago, and then one wants to hem the Tobagonians in by just a few feet, not thinking that we are people also needing the same level of discretion, so that we can go out there too and explore and what not.

I am saying that I do not see anything wrong with the six miles. I did not see the need to mention the sea-bed; I thought that was understood—I may be wrong—that when the six miles was mentioned that meant what was there too. That is how I saw it.

7.10 p.m.

Now, the idea of change, we know that whatever we do in this Bill can never be perfect. If it is perfect now, by the time I reach home, it starts to get imperfect, and in a few weeks it will be thoroughly imperfect, perhaps. The whole thing is dynamic and as human beings, we know that, because there was once a time I could not come to Trinidad three times a week. Three days in the week! This is the third day I am coming here for this week. I could not do that, but now I can do it. The point I am making is that conditions have changed. Therefore, as conditions have changed, we have to change to suit.

Again, I quote the Bible. I do not know if it is here that I quoted it: "The Sabbath was made for man, and not man for the Sabbath." When I use that sometimes, people misunderstand it, religious people in this sense. The point I am making is that all these laws and so on they are making, all these regulations and amendments to the Constitution, the whole process, is it a farce? It is to develop not only Tobago, but Trinidad and Tobago, and it is for a good. Therefore, when it

Tobago House of Assembly Bill
[SEN. MOORE]

Thursday, November 28, 1996

ceases to be for a good, we must change it. That is the problem we face in Tobago.

Whatever ceased to be of benefit there, down here, since they hold the reins tightly, then we could not change and we became frustrated and if a few people called for independence, and for separation you had to sympathize with them. I sympathize with them because I live there and I see the conditions, but I would not do it, because you could look down the road and see, you know, it does not make sense. So I think things must change when they need to be changed.

So, if there are certain measures in the Bill that would become inapplicable in the next few weeks, why not as people sit and change it? Do not just change it down here for us there, you know. Let us tell you that the thing is not working and if you see it, and understand us that it does not work, let us get together and change it, because eventually, what we want is a better country. I hope that you could understand the spirit in which we are saying this. We are not saying competition, and as the Senator was saying, with the idea of liking; it is not that we think people in Trinidad do not like us. I have three children living right here, as the Senator has some children living in Tobago. I have many relatives down here.

I would be glad to see if we could get together. It is not a matter that we do not like people, or we think people do not like us. I did not hear anybody here saying that the people here did not like the people of Tobago. I know there are close bonds and that is why some people from Tobago marry some people from Trinidad, and *vice versa*. When my father, as a Tobagonian came to Trinidad, he met a lady in Trinidad and married her. We lived down here a while, then we moved to Tobago. So, we belong to both ways. We have relatives both ways. So it is not a matter of disliking anybody, or we want to run away from anybody. We are one.

One of the last wishes I want to bring, if I fail to say anything else to impress anybody, I want to say again, and I want to warn people, especially the PNM on that side, that depriving the people by constitutional and legislative measures is not going to bring harmony. I am advising you, that by restricting the amount of autonomy you give us, or by restricting us will not make us stay united. It would not do it, and if we stay united, do you like us to stay and not be happy? If we are not happy, what do you think we will do? Suppose all Tobago people have a grouse now, and we start to be unhappy, and we start to talk with those in Tobago

and we set up a plan, what do you think we could do if we are unhappy, and *vice versa*.

Do not try to keep us together by these means because it is fruitless. If we tolerate it as grown-ups now, and as people, with much more discernment than some others, those who do not have that and even the future ones who do not see any reason for being tied down by these measures, are going to take steps that we are not going to like for the country in the future. So, please, the whole Caribbean could become as one, but there is nothing which prevents Tobago, Grenada, Barbados, Trinidad, everybody, from getting a high level of autonomy. High, I say, because if you make people feel happy and important where they live, they are going to like to live there. Let us have that kind of integration in the Caribbean, with mutual respectability for one another. I think, then, we will be going places.

Thank You, Mr. President. [*Desk Thumping.*]

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, I have just a few comments to make. I would like us to go to clause 9. Really, some of them are not comments as much as they are questions that I would like the hon. Attorney General to clarify for my puerile mind. Clause 9, Sir, I would like to ask the question, what will be the procedure if there is a tie? We know that this is not a strange question. What about clause 9, if there is a tie?

I go next to the Fifth Schedule. The Fifth Schedule, item 23, Health Services. Could this include quarantine services for animals? We have had people who have come from abroad with their pets and they must leave their pets in Trinidad in the quarantine services for six months. By that time your dog forgets you, or by the time you get here, if it is a nice dog, it misses you so much that you are told that it died. So, I would like to specifically ask you, Mr. Minister, if you would kindly consider putting that in.

I go next to the Seventh Schedule, and I look at item 12. Considering the Ministry responsible for industry and commerce, in respect of the granting of licences, I ask, as I have done in this Chamber before, whether we could include over-the-counter drugs—the licence to sell over-the-counter drugs outside the radius that is prescribed.

I would like to just bring to the attention of the hon. Minister, some of the recommendations and comments which came in from the written comments submitted by people upon the invitation of the Government, and which I am not sure were considered in the Schedules. Some of them were concerns; some of

Tobago House of Assembly Bill
[SEN. DR. MC KENZIE]

Thursday, November 28, 1996

them were recommendations or additions. I have seen some, but probably some of them are incorporated in other heads and in my own layman way, I cannot discern them, so I would just refer to them and the Minister can tell me where they are, and if they are not really to be considered, then I would know.

Well, I know somebody mentioned public transport, and these are recommendations for the Fifth Schedule. I do not know whether that comes under No. 16, or where, but probably it is somewhere embedded, that I am not able to discern very easily. Somebody, that same group of people, Mines and Quarries—URP—well, I imagine drains would go under infrastructure. Watercourses and Coastal Protection; I do not know whether they will call that the environment. I do not know. Probably the Minister will tell me.

Harbour Master; Youth and Women's Affairs, which is something different from Community Development in the context in which we talk about community development as they go under the Ministries; Factory, Labour, and Electrical Inspectorate. I do not know. Well, I have seen Housing taken care of. Of course, one of the comments was for Housing and Settlement. Another person writing in the same schedule included Inland Revenue and Statistics. They also had Electrical Inspectorate, Information, Housing and Settlement, and Labour matters.

I go now to the Seventh Schedule, and I note there was the concern expressed for three items by Mr. Guya Persaud and Ian McIntyre on the Supreme Court, Director of Public Prosecutions, Chief Parliamentary Counsel, and I know that the Clerk of the Tobago House of Assembly wrote in asking that we add the Industrial Court. So probably somewhere, these matters were considered and taken care of, or they were rejected for specific reasons. I would be extremely happy if I can be given some comments on those matters.

7.20 p.m.

Sir, I would like to make a few comments on this Bill giving to the Tobago House of Assembly more autonomy. I would like us to look at it from a different perspective. Let us consider the recommendations that have been made, but let us look at them in the light of where we are challenging the Tobago people to be more responsible. We are challenging our people by saying that we are giving you more power and more responsibility, let us see what you will do with it.

Let us say to the people of Tobago: "stop blaming everybody else. I am giving you more power, I am going to help you to achieve, and let me hear you less and

less, blame Trinidad, blame the UNC, blame the NAR, blame the PNM, and let us hear you say to the people, I believe in you, I have confidence that you can manage. Here you are, we are going to help you, but let me see what you can do for yourself. Challenge us, rather than give us the excuse not to perform; the excuse not to be responsible; the excuse not to be reliable.”

I go back to my question last week to Sen. Mark, and I go back to our human resource. We do not have the number of people, the type, the quality resource, efficiency, and everything, to serve unhindered in the areas that we want for policy, and for implementation of policy. So, I appeal for a revision of our Public Service Regulations, our Teaching Service Regulations, our Police and Prison Regulations, and our Commissions. Give to the people who are in positions of leadership—even if it is for a time, even if it is for a transition period, secondment or whatever it is—some sort of arrangement so that the talent that we have in Tobago, and possibly in Trinidad, will be encouraged to come back to Tobago, and help to build in this new area of responsibility that we have, without the loss that they might incur. Because as you will know Sir, Tobago is a Public Service driven, employment agency. We do not have people in private enterprise as you have, with the type of expertise.

I could say without contradiction, that within the last 10 years, the top cream, the cream of our secondary education, they are not in Tobago. They have come to areas of opportunity, or they have gone abroad. Therefore, we need a type of encouragement, even if it is for a short period, to take our people out of areas to where they can probably be of more use in the Assembly, that is if you want it to work; that is, if having given us autonomy, and power, and responsibility, you want it to work. But if you do not want it to work, you will leave us to flounder, because we do not have the human resource available and ready to help us.

So I am appealing to you, we have the talent, we have the ability, we have the resources, it is just that they are scattered all over the world. At one time in the sixties, nearly every division, every department of Government in Trinidad, was headed by a Tobagonian. Nearly every one. The resources were here, and this responsibility for implementation needs energetic people, not retired people. Retired people have the experience, they can guide, but the people to get into the hurly-burly of things, are the young, energetic, enthusiastic people. We do not want them like me; we half-dead. We want young sprightly people, willing to work. Free the people up. Amend the Acts, otherwise, we are being given power,

Tobago House of Assembly Bill
[SEN. DR. MC KENZIE]

Thursday, November 28, 1996

and authority, and responsibility, that we cannot carry out, because we do not have the human resource.

As I said last week, the Bill is not perfect, and I am sure, from the type of sensible, practical recommendations for amendments that I have heard this evening, I know that some of them will take root. I say, as I said last week, we are putting out a vehicle on the assembly line. If when we put it out and it starts to function, and we find defects, let us recall it and rectify the parts and put it out again. Let us not abandon the car. Let us not stop making the cars because the brakes of one model are not functioning well.

And so Sir, I say, trust us, help us, but by God, give us the courage. Challenge us to take things into our hands and move on. Leave us, we will make mistakes, we might flounder, but I am sure you are not going to allow us to kill ourselves. If you love us, you will help us. I thank you very much, Mr. President. [*Desk Thumping*]

Sen. Prof. Kenneth. Ramchand: Mr. President. My comments will fall under two main heads. Although I agree that this is not a time to be too philosophical, my first part will be a semi-philosophical statement about my understanding of the reasons for the present Bill. And then I have some specific comments, particularly on the relations between the Tobago House of Assembly and the central government.

Mr. President, I want to believe that the argument for internal self-government for Tobago, or autonomy for Tobago, or whatever one wants to call it, is one for decentralization; that it is really an argument for local government. If it is so, Mr. President, if that is what we are doing, such a provision would surely have to overcome some of the distrust we have been hearing about, and it will bring about greater participation by all the people of Trinidad and Tobago: in the economy, in the Government, and in the social life of our country.

I have to note that what I am thinking about applies to other regions in Trinidad and Tobago as well. But until science, or engineering, or whatever, can find a way to build a bridge between Tobago and Trinidad, or until we put up the money to have an effective and regular ferry service between Trinidad and Tobago, so that the interaction between the two islands can be more frequent and more intimate than this, until then, I agree that we have to treat Tobago somewhat differently.

7.30 p.m.

We do have to make provisions for it, that we are not yet making for the other neglected, remote and undeveloped regions in Trinidad and Tobago. What I am trying to say is that internal self-government, or whatever one wants to call it, for Tobago, is not an end in itself. It is not a preparation for anything else like independence, or secession. It is not a prelude to break up the unitary state. It is a means towards a richer, stronger, and more mutually enriching relationship between people in Tobago and people in Trinidad. In this connection, I agree with Sen. Spence that the Seventh Schedule is a very important item.

There is an unspoken issue that tends to affect our thinking, and talking about self-government, or autonomy, and that is the sense that we all have, that Tobago has character and historic identity, and certain cultural traditions that need to be respected, and encouraged; and that there is always a fear that this island could be swallowed up by a unitary state which does not have enough respect for the identity of Tobago.

What we are looking for is a form of integration that would permit the expression of, and the celebration of difference and variety within the unitary state. Nothing that we do must railroad, or straightjacket Tobago into being what we want Tobago to be. We have to leave room for Tobago to maintain and foster its traditions and its identity. I feel that unless we bring this out into the open and say that this is something that we are trying to defend, the argument may not use all the terms that it ought to use.

I have to point out that I am afraid that if Tobago were to achieve full internal self-government—in the only way in which that term means, that is to say—it is responsible for its own budget, running its own budget, being responsible for its own revenue and expenditure—it becomes a separate country. If it is totally on its own, like parents tell their children “you are living in this house, you are not paying rent, you are not bringing in money; if you do not want to go by my rules leave, get an apartment; you cannot, within the household, have full internal self-government.” The Attorney General has made it clear that is not what we are talking about; we are not saying that we are preparing Tobago, and then we push it off and “mind yourself.” In fact, the schedules indicate that it is not full internal self-government; but what the schedules do not always clearly remind us of, is that these provisions, these proposals are a means to an end. Mr. President, you should

Tobago House of Assembly Bill
[SEN. PROF. RAMCHAND]

Thursday, November 28, 1996

never lose sight of the fact that these are means to an end of creating a better, stronger, richer, happier, Trinidad and Tobago.

Although, Sen. Nathaniel Moore casts doubt on whether Tobago would, as it were, prostitute itself in order to survive economically, there may be many people in Tobago who would resist if Tobago had to mind itself. There are many people who would resist Tobago selling itself. But can Tobago resist the currents that are sweeping all the other West Indian islands? Many of us: Trinidad, Saint Lucia, Dominica, Antigua, in order to make the budget balance, in order to win revenue, have been forced to change our character, and our orientations, to try to modify our values. We have been forced in a way, to sell out. Why do you think that Tobago may not be under the same kind of pressure, with all the goodwill in the world, and with all the powerful people in the island insisting that it retains its identity? The hard and harsh economic facts of internal self-government may well be a greater threat to the character and identity of Tobago, than a properly worked-out, and measured plan for responsibility being taken by Tobago for running its own internal affairs.

I agree with Sen. Daly and all the other Senators that this is not a matter that we have to decide, or can decide before December 9, we do have to take time, and we do have to think clearly, and we do have to know what it is we are trying to achieve. We need care, we need precision, we need flexibility, in setting out our measures.

I want to turn to relations between the Tobago House of Assembly and the Central Government. It is my understanding from the present Bill that an Assembly Law can only become an Assembly Law if it is passed by the parliament of Trinidad and Tobago. In a way we have a safety net; Tobago cannot just decide on a law, there is a safety net. Another safety net is the Cabinet. Nevertheless, the question of what is or ought to be the relationship between the Tobago House of Assembly and the Parliament of Trinidad and Tobago, remains, and I want to go into that by looking at the schedules.

I have problems with the schedules, and I have problems with the Dispute Resolution Commission, because both of these have a bearing on the relationship between the Tobago House of Assembly and the Parliament of Trinidad and Tobago. I have problems with the allocations for the reasons that other Senators have advanced. Sometimes they are too broad, sometimes they seem arbitrary, they are sure to be a source of dispute; should we do this or should you do that; and

these are not matters that go to a Dispute Resolutions Commission, these are matters that are decided by central government. Tobago may come with a proposal, Parliament says no, they sulk; come again, they sulk; so you can have a build-up of discontent that the proposals are being refused. It is possible, because with these allocations there can be so many doubtful areas of who should be doing what. I am not going to spend too much time on the allocations to the schedules. I think there will be all kinds of problems arising about education, about the environment, about the sea, about tourism.

If the Tobago House of Assembly decided it wanted five casinos and the Government says it does not want casinos in Tobago; the Assembly then claims it is being deprived of income. That could be a dispute. The education system: The Assembly decides to change the curriculum, the Government will say, no, and that could be another source of confusion and dispute. I really have problems with the notion of the schedules as proposed all together and by that I mean, if I will like to think, not in terms of areas of responsibility for the Tobago House of Assembly and for the Parliament, but I would like to think of functions. I will like to think of the Tobago House of Assembly as an instrument for allowing people in Tobago to make proposals about what are Tobago's needs. Let them air their views, let them propose draft legislation, let a full debate take place in Tobago about every matter of national importance.

7.40 p.m.

The Tobago House of Assembly is an instrument for the people of Tobago to discover what they think about things. It is a place for them to produce model legislation so when they bring their draft bills to the Parliament, the Parliament will say, "You know, this is a very good thing for St. Patrick, or this is a very good thing for Ortoire/Mayaro, and if the Government of the country is thinking in terms of developing all the regions in Trinidad and Tobago, then the Tobago House of Assembly has a function, not only to voice the needs of Tobago, but to provide a model about how the regions may develop within the unitary state.

Mr. President, concerning the Parliament and the central government, there are two clauses in the Bill, clauses 30 and 31 particularly, which seemed to recognize what ought to be done, but then refused to do what ought to be done. That is the clause which is discussing the relationship of the Chief Secretary to the Cabinet. The Chief Secretary may, if invited by the Minister to do so, attend meetings of Cabinet. I feel that the Chief Secretary of Tobago should by right, be a

Tobago House of Assembly Bill
[SEN. PROF. RAMCHAND]

Thursday, November 28, 1996

Member of the Cabinet of the Government of Trinidad and Tobago. No one is going to ask them if they want to be invited. I feel that something has to be done to give the Chief Secretary a say in the running of the affairs of Trinidad and Tobago. He is not just to come there and say, "Tobago wants this." He is being encouraged to think Tobago. He should be a national parliamentarian as well and his wisdom would be required to assist the Cabinet and the Government of Trinidad and Tobago.

Mr. President, that would have been a problem if a different party were in charge, but I really wish some way would be found to get the Chief Secretary in Tobago to have a voice in national affairs and he must be there talking to people and arguing, putting his case, listening to their case, fighting it out. So I do not like any legislation which is telling the Chief Secretary from Tobago that when he comes here all he has to do is talk about Tobago. That is encouraging the very lack of integration that we all lament. I cannot remember where I read it, but one of the reports talked about finding a way that if a matter that is of great concern to Tobago comes to the House of Representatives, a special kind of vote has to be taken; that the representatives from Tobago will have to vote in favour of this legislation before it can be passed into law. So they will have a delaying power over matters which are harmful to Tobago; they would have some kind of veto over the passing of that legislation.

Now that may be impracticable, but I feel that the area in which we need to legislate to give Tobago a voice in running the affairs of Tobago and in contributing to the running of the affairs of Trinidad and Tobago, is not in the Senate, but the House of Representatives, and that is where I would differ very much from people who argue that we need more from Tobago in the Senate. We need a way in which the regions, including Tobago, have a stronger say in the decisions that are taken about the regions and about the whole island.

I do not know how that can be done, but if we are serious about creating a country called Trinidad and Tobago, with one economy and one people and one society, we really have to get serious about how Tobago and the other regions are represented in the House of Representatives and how they can make their views known to the nation.

Mr. President, if Tobago somehow becomes a part of the decision-making process, if somehow it has a say in the Cabinet, then a Cabinet decision relating to Tobago will not have to go to a dispute resolution commission. We only need a dispute resolution commission because we suspect that we have not

done enough to allow the people of Tobago to get their views known and to get their views effected.

Mr. President, I just want to summarize that I believe the problem that we should be dealing with is the problem of a better integration between Trinidad and Tobago and, that we resolve that problem, not by creating areas of responsibility that Tobago should do this, and Trinidad should do that, but by working on the question of functions. The Tobago House of Assembly would carry out the function of mobilizing the people of Tobago and letting the rest of Trinidad and Tobago know what Tobago needs. We have to go a step further, we cannot do anything cosmetic. We cannot just bring them in the Senate. Their opinions and feelings must become part of the arguments in the House of Representatives and they must be carried into the Cabinet and those voices will speak, not only for Tobago, but for Trinidad and Tobago.

Thank you, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, I am concerned because at the last sitting, and also today, references were made by Senators from Tobago about certain contributions and I certainly recognize all three contributions which were quoted today. I just want to say that this is not a question of defence, but I would really like to clarify my stand and also the position of the other two Members of this Bench. We expressed views that were similar.

First of all, I want to say that those quotations were taken out of context. There is no doubt about that and I know the hon. Senator spoke about Tobago and his community there and I would like him very much, to convey this feeling to the people out there. It is not that Senator, but others have interpreted some of our statements in a particular way, I am told.

Mr. President, you warned us at the last sitting, that we were not to talk about the Bill and the details of the Bill. We were not really talking about what was right for Tobago and what was not good for the people of Tobago. We were not discussing that. What we were saying to the Government, not to Tobago, is that the Government was putting before this honourable Senate, two documents. It was a report in two parts. They were putting before us a document of such enormous importance, that was setting before this Republic, a state within a state. That was our concern.

Tobago House of Assembly Bill
[SEN. REV. TEELUCKSINGH]

Thursday, November 28, 1996

This was not about Tobago; this was a direct criticism of the report that was placed before us that was aimed at creating a kind of federal arrangement, a state within a state, and we were responding to that, not to Tobago. We were responding to the Government that presented a report to say, take note of this.

7.50 p.m.

My concern here—and I am certain it is that of my colleagues, because I looked again at their contributions—was that the people of this twin-island Republic were not consulted properly and we were not ready to move on with that kind of legislation that was federal in nature, to create a state within a state. That was our concern. Tell that to the people of Tobago. We were not talking about Tobago; we were talking about a package presented by the Government. That is important.

I want to just identify with the last concern of Sen. Prof. Ramchand. Actually, I had an amendment all typed out, then the Attorney General said something and I decided to withhold the amendment. The only item in the Bill that I had concerns about was the position of the Chief Secretary who would come, if invited by the Prime Minister, to attend meetings of the Cabinet. That means it is optional. Do you know that it is possible that the Chief Secretary may never be invited for a whole five-year term? That is possible. It depends on the Prime Minister and his Cabinet.

I know the Attorney General made reference to this point very briefly in his presentation, but I agree with Sen. Prof. Ramchand that we need to visit this again; look at it and see if in the future we can make provisions for the Chief Secretary to attend quarterly meetings of Cabinet. That is a good start. In fact, what about oral tradition? I spoke to one of the Members of Government about a Tobago representative. At the moment we have one, who is Minister of Tobago Affairs; but that does not always happen.

I wonder if we could not, in the meantime, set up a sort of tradition, a working arrangement until the Constitution can be amended, whereby the Chief Secretary can be invited once every quarter to the meetings of Cabinet. It is something we could begin on December 10. Why not? This would be a real great sign of goodwill towards the new Tobago House of Assembly. In clause 16 the Chief Secretary has ministerial status, salary and otherwise. It is provided for him in this Bill. Maybe he is the only person in the whole parliamentary system in the Republic who has ministerial status and is not a member of the Cabinet. It is very contradictory and ironical.

You may want to tell me there are two Tobago representatives in the Parliament, but let us be practical. How much would these two Tobago representatives be *au courant* with the workings, of the Tobago House of Assembly? It is possible they may be residing in Trinidad fully, so this does not guarantee that these Tobago representatives in the Lower House will be adequate liaison persons between the Tobago House of Assembly and the Parliament. I think it is something we can look at. I am very disturbed and very disappointed.

I want to close by making a comment on the Tobago legislation which has been before us in various forms since the Cabinet-appointed committee. I am very disappointed that Tobago legislation was not Tobago-motivated. I wish it was Tobago-motivated, but it was not. We should have set up mechanisms to start there.

I was reading about that time—and I made reference to it earlier today—when the British government decided that Tobago was a problem and they wanted to know what they must do with Tobago. Of course, you know the result; Tobago became a ward of Trinidad, and the historian said that was the beginning of Tobago's humiliation. This is a very important point that I am making here, in that the British government at the time, when they were considering what to do with Tobago and the proposal was made that Tobago should be absorbed in the whole Trinidad system, that the British official responsible for finding a solution as to what the British government should do with Tobago—and I remember underlining this in the history book—said, "and the people of Tobago should be consulted."

With all this talk about what to do with Tobago, we should have had a Tobago referendum. The colonial saw that it was necessary for the people of Tobago to be consulted. The British government had a right to do anything it wanted with that little island that had become an embarrassment and a burden to it, yet the colonial master said, "let the people decide and they must be consulted." But we, in our time, somehow or the other, have missed that. We have prepared legislation at this level and had all kinds of consultations and the people of Tobago were not consulted. That does not mean the Tobago House of Assembly; it does not mean 12 people, because I do not believe that is consultation. Maybe the Tobago House of Assembly, fine, but consultation means, in our time, more than that; I would say a referendum.

The hon. Attorney General suggested that this is a continuing debate, as it were, on what to do concerning the future relations within the twin-island state. I

believe that the next round, whenever that may be, should be a referendum and all the discussions should be Tobago-initiated and Tobago-motivated.

I thank you very much, Mr. President.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I think that I should start my contribution by saying that some of the contributions which were made clearly showed that there seemed to be a misunderstanding—and a genuine misunderstanding—of the whole question of internal self-government and the concept of right to self-determination as opposed to devolution of powers as far as regional corporation or county council is concerned.

It would seem to me that we must understand first—because that has to be the philosophy which would underpin the understanding and the motivation and commitment in respect of legislative measures for Tobago—exactly what is internal self-government. Internal self-government, as I said, is not inconsistent with the question of a nation having a sovereign parliament and a sovereign cabinet. What I read from the book was quite clear. I read that international law has recognized that you can have part of a territory, whether it be on land or an island, enjoying internal self-government and the other parts of the territory forming a unitary state of Trinidad and Tobago.

8.00 p.m.

Mr. President, the International Court of Justice in 1975, in a matter known as the *Western Sahara Matter*, decided that self-determination could be exercised in a variety of ways and they named three main ways:

- (i) Emergence as a sovereign independent state;
- (ii) Free association with an independent state; or
- (iii) Integration with a unitary state.

This administration is trying to implement the decision of the Parliament of Trinidad and Tobago which was, in effect, the referendum of the people of Trinidad and Tobago to implement self-government for Tobago. That was to have Tobago integrated with an independent state; that is to say, enjoy self-government, but also be part and parcel of the sovereign state of Trinidad and Tobago.

So, it is not correct to say that if we do this for Tobago, Cedros or Port of Spain would want the same thing. There are different considerations altogether. There can be no question of self-determination in international law for the people of Cedros or Port or Spain.

Hon. Senators: Why not?

Hon. R. L. Maharaj: Mr. President, Tobago is a special case and it is recognized as a special case because it is separated by sea and distance. Those matters make it a separate case and it qualifies in international law for self-determination. It has the criteria. As long as the people and the Government recognize it, Tobago has the criteria.

It is unthinkable that one can consider that any part of a region or country can have the right to self-determination. That does not exist. The right to self-determination in international law exists where there is part of a state so cut off that it is recognized by the principles of international law that it can be integrated with the independent state. The people of this country, through the Parliament, recognized that the people of Tobago are entitled to self-government. That is a decision which was made and it was the duty of the Government to implement it. It was not done, and a great injustice was done to Trinidad and Tobago and to the people of Tobago.

Mr. President, there were many points raised on the other side and I could understand their fears. This administration has taken certain policy decisions and one of those decisions is that the people of Trinidad and Tobago, through the Parliament, must be recognized and effect must be given to such a fundamental issue. It is not only the International Court of Justice that recognizes this principle, but the United Nations, in General Assembly Resolution No. 2625 of 1970—as far back as 1970. It recognized those three principles for self-determination with which the Parliament of Trinidad and Tobago agreed, that is, integration of Tobago as part of the sovereign state of Trinidad and Tobago but having internal self-government.

Mr. President, the records must reflect that the Parliament of Trinidad and Tobago, in 1978, did not only resolve that. It resolved that this decision must be given effect to so that the people of Tobago can manage their affairs and participate in the decision-making process which affects them. Some of the matters that were specifically mentioned included some of those that are now in the Fifth Schedule. I would mention some of them: agriculture, industry, tourism, the

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

environment, infrastructure, physical planning, community service. Because of our distrust, fear and failure to recognize the philosophy and principles which govern these matters, we have denied the people of Tobago what is due to them and the time for redressing that injustice is now. The time for action is now. [*Desk thumping*] We have spoken too long. There have been enough reports. There has been enough consultation and the time for redressing that injustice is now. Perhaps the best way to deal with some of these criticisms of the measure is to try to deal with some of the points as I see them.

Mr. President, Sen. Rev. Teelucksingh made mention of these proposals. In answering that the criticisms were federal in nature, one has to understand that that is so far from the truth. What was being proposed has nothing to do with a federal structure. In the United States of America and in Canada, there is a federal structure. What is there? There are different states having different laws not in conformity with the national laws; there are different court systems with no appeal sometimes even to the supreme court. So that the state is not like a partnership. It can be a partnership but it does not recognize sovereign powers. It has its own attorney general, its own ministers and different policies to the national policy. That is a federal structure.

What is this structure? What is the structure even in the unamended form? It is that the Parliament of Trinidad and Tobago would have been supreme insofar as legislation in Tobago is concerned and the Cabinet would have been supreme in respect of policy.

Mr. President, when this is all over some of the Senators in this Senate—in the Opposition—would be remembered for participating in crosstalk, but not getting up and making sensible contributions. They would be remembered for that. How is it that Senators could not understand that in respect of these measures, as all constitutional measures which give power to institutions and individuals, one has to look at the legislation in order to understand what safeguards are there for the exercise of power by the individuals of the institution?

Mr. President, there are two clauses in this Bill which make it quite clear that the Tobago House of Assembly cannot do anything—there are three clauses really, but two main ones—which is inconsistent with national policy or is repugnant to the Constitution of Trinidad and Tobago.

Mr. President, clause 4 states that:

"No provision of this Act or of an Assembly Law shall be construed or interpreted so as to authorize -

- (a) anything which is inconsistent with, or contrary to or in derogation of the Constitution of the Republic of Trinidad and Tobago..."

These are clear words in the English language; not ambiguous. Even hon. Sen. Nafeesa Mohammed, I am sure, would be able to understand that. *[Laughter]*

8.10 p.m.

Mr. President, clause 25(1), without prejudice to section 75 of the Constitution states:

"The Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect of the matters set out in the Fifth Schedule..."

In respect of all the matters in the Fifth Schedule, the Tobago House of Assembly, yes, can formulate, articulate and debate—which they are entitled to do, and it is a very good thing for them to be able to do—but the Cabinet of Trinidad and Tobago, which is responsible for national policy, overrides and has the power to supervise the Tobago House of Assembly affairs. Why is this so?

Sen. Mohammed: On a point of clarification. I would like the hon. Minister to indicate whether clause 25(1), which he has just quoted, is the same clause 25(1) which was in the original Bill in the context of the point he was making.

Hon. R. L. Maharaj: Mr. President, I would respond to questions that really need a response. I would ask that the Senator pay attention to what I am saying. What was in the Bill and what was not, is quite clear.

In respect of these measures, the philosophy and the policy is internal self-government subject to the principles of sovereignty of the state of Trinidad and Tobago, that the Tobago House of Assembly would have powers to manage its affairs; but overriding and supervising all of that, is the Cabinet of Trinidad and Tobago. What is wrong with that? As a matter of fact, I want to be quite frank. That is much less than what they are entitled to have and I say again, it is not because we did not want to give it to them, but one day will come when we will give it to them—and they are entitled to it.

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

If we understand that, I think that we will be able to understand some of the provisions in the Bill.

In constitutional law and in legislation matters one cannot legislate for everything. As a matter of fact, as my Brother from Tobago, Sen. Nathaniel Moore has said, the legislation may not be perfect, but that is not the end of the matter. How many pieces of legislation have been passed and have turned out not to be perfect, drafted by the best legal brains after the most exhaustive consultations? Is it very important whether it is perfect or not? What is important are our brothers and sisters in Tobago. Have they been denied justice? Is this a measure to redress that injustice? Is the policy of the legislation what we must support? If that is the case, we may fall down sometimes, but we will have to get up. People in Tobago may have to help us in getting up to fight these struggles, but the fact of the matter is we want to try our best to give legislative measures which would work and which would be meaningful.

There was another point raised on several occasions and which is really not identifiable to any particular individual. That is to say, if we give them these powers it would be tantamount to a state within a state and it would exceed the powers; if this happens there would be a whole undermining of the Constitution and the relationship with Trinidad and Tobago.

How does our Constitution work? It works that powers are given and as long as the powers are exercised, subject to the Constitution and to law, there are built-in within the Constitution and within the framework of Government and of Parliament, a machinery to provide scrutiny to make Government an institution which accounts. If for some reason, assuming what the Senators on the other side have said is correct—which I do not agree with—and assuming there is at any time an abuse or misuse of power with respect to either the exercise in respect of allocations for the budget, and too much money collected; assuming it is being said that Tobago is taking advantage of Trinidad, the finances are not in order, there is inequitable distribution, what procedure is there to deal with that?

The procedure to deal with that is that the Opposition in the Parliament, can highlight and can raise those matters by questions and by motions. As a matter of fact, there can be a motion of no confidence in the Government in relation to matters like that, in which they can highlight those problems when there is in effect, any allegation or any feeling that there is misuse or abuse of public office or power. This administration has indicated that it is going to take steps in order to make governmental action more accountable. How is it going to do that? It is

going to have parliamentary committees which have a marriage of the United States and Great Britain systems through which every government ministry and every public institution would be accountable to Parliament and to the people, and of which the Opposition and Senators would be part and parcel.

There comes a time in the history of a country when one must be brave enough to make decisions. One has to decide that if something is right one must have the courage to do it. It is a tribute to the Prime Minister of this country and to the Cabinet of this country that in a matter like this—which has occupied the national attention for so long, a grouse which has been festering for so long, and which can adversely affect national life in Trinidad and Tobago and which more importantly, is an injustice to a section of the community of Trinidad and Tobago—we took the decision in order to effect it. I think it was Martin Luther King Jr. who said “an injustice to one is an injustice to all.”

There are some matters which have been raised specifically, and I will have to deal with them for matters of the record. Firstly, that this dispute resolution mechanism would not work because one must keep those matters quiet. If it is up in the air there could be friction, pulling and tugging, and it could destroy the relationship between Trinidad and Tobago; that one might be undermining an institution by putting the Ombudsman there. It is quite clear what the dispute resolution mechanism is about. It is about disputes relating to budgetary allocations and matters connected therewith.

8.20 p.m.

In the world today, the trend in political and judicial administration is for governments and parliaments to find a method to resolve problems before they become difficult and blow up. People must feel that situations are being adjudicated upon without having a court atmosphere or adversarial system. That is why in this Parliament we spoke about international arbitration and alternative dispute mechanism. Who knows? Only God knows whether this would work or not. There is a mechanism by which disputes in this matter could be aired. If it is not discussed, a report can be filed in the Parliament.

Is this not what democracy is about? Democracy is to highlight problems so that sometimes even the public can be the judge. People know that if something is unjust and is exposed, there would be a greater tendency for it to be corrected, than if it is kept in secret. Is that not the road the world is travelling, to try to remove secrecy in government and make it transparent, so that people would know

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

what is happening? Pressure would be put on the individuals who exercise these powers. I thought that is the road we are going. It is being said now that governments and parliaments must be more open to scrutiny.

A few months ago at the Commonwealth Law Ministers' Conference in Malaysia, a resolution was passed that the time has come for the administrative arm of the judiciary to be transparent and the criteria for judges and how they perform to be subject to public scrutiny. Governments were urged to do that. I am mentioning this to show the trend in the world. In this situation, we are trying to solve a problem and provide a mechanism by which if there is a dispute, it would not be swept under the carpet. Would that not promote misuse and abuse of justice? Would that not give more sunlight and sunshine to administration? I thought that we wanted sunshine and not darkness.

Sen. McKenzie mentioned certain points. I indicate to her that with regard to the question in respect of the tie, it is a matter which the Government considered. The policy of the Bill is that we do not want to have strict divisions in Tobago. As a matter of fact, at one time we were reluctant to have a minority leader. Because of representations made by the Opposition we decided that we would give it a try because we could be wrong and they may be right. We decided that the philosophy and policy of this Bill is to have more consensus and unity. If there is a tie it would probably force the people to work together. For that reason, it was deliberately left out. If Parliament has to deal with it, it would do so. We have recognized this. From what I have heard, I wish to give her the assurance that is not likely to occur.

Sen. Dr. St. Cyr: Thank you for giving way. We have had an experience of a tie recently. As I understand it, the question is: Should there be a tie, who would name the three councillors and who would name the other one?

Hon. R. L. Maharaj: According to the Bill, the members of the Assembly would perform certain roles and functions and, obviously, they would have to get together. If they cannot resolve the problems, then the Parliament would have to do so. Our policy is not to put something which would promote that kind of division into this legislation.

There have been misconceptions in this matter. As an example, it was asked that if Tobago decided to abolish the Common Entrance Examination, what would happen? They also spoke about casinos and other things. If one understood the Bill, one would see that it is not possible because Cabinet determines the national policy. All the matters in the Fifth Schedule would be matters of national policy. If

there should be an agricultural policy in Tobago, it would fit into the national policy for agriculture in Trinidad and Tobago. That situation does not arise.

I assure Sen. McKenzie that I have no problem with including the issue with regard to the position of dogs being under quarantine in the Fifth Schedule. The way in which the measures are drafted, matters under the Fifth Schedule can be included from time to time. I am indebted to Senators. We have decided that the executive arm of the state would determine which sections of the administration of the state would go to Tobago. It is not a legislative function. If for some reason or other the Opposition or Independent Senators believe that the Government has not done anything that is right, there would be machinery to challenge that. We have looked at countries which have done these things and that is a matter for the executive arm of the state.

I think that Sen. Daly made the point with respect to the orderly process. I must confess that when one looks at the facts of this matter, it would seem that the Government has followed an orderly process. I have looked at the report of the Cabinet-appointed committee that contained the proposed Tobago House of Assembly Bill and the Constitution (Amdt.) Bill and this matter has a history. It is not that it came out of the blue. There was consultation on the policy. If there is no agreement with certain measures regarding particular clauses, then, obviously, we would have to look at them. We have studied this Bill and we have gone through the process. I do not want to go through the history of the process, but I think there has been sufficient time in matters like this for Senators on the other side to study them and make their contributions.

8.30 p.m.

Two weeks ago while I was in the United Kingdom, the Upper and Lower Houses were sitting and they sat, sometimes up to 3.00 a.m., depending on the urgency of matters. It is not uncommon for them to do that. When we become parliamentarians that is a risk we have to face. The exigencies of the nation's business sometimes demand that we work slowly and sometimes there would be demands for us to work at a quick pace. That happens in all aspects of life, Mr. President, sometimes even in what we do for a livelihood.

With the greatest respect to Sen. Daly, I think that he should regard this as a matter in which the government has taken a decision—and he is entitled to criticize that decision—and it is a policy decision that these measures should be completed

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

within a certain time-frame, and it can be done. I expect that the Opposition and Independent Senators would co-operate and try to see that it is done. If for some reason it cannot be done, then the Government would have to reconsider its policy. In respect of the process therefore, I would say that we have adhered to accepted principles and there cannot be any serious criticism of not following the orderly process.

Mr. President, what Sen. Daly has mentioned some of the other Senators have also mentioned. Clause 43 has to do with a recognition of what is true. It is a fact that there is physical separation of Tobago. It is a fact that there is isolation of Tobago from the principal national food centres. It is a fact that there is the absence of the multiplier effect of expenditure and investment made in Trinidad and Tobago. Even if it is not a fact, these are matters which one would expect that any Government serious about adhering to the principles of internal self-government and autonomy must look at in determining what is best for Tobago. So, I do not agree that those matters should not be there.

I think that Sen. Daly also mentioned clause 49. This has been mentioned by other Senators as well. What has happened is that in respect of these matters, the Tobago House of Assembly will have powers, but they will be subject to existing law and the policy of the Cabinet and, therefore, the Cabinet would determine the administration of the Act. I do not really see that there can be any abuse or misuse. During the committee stage, I will be prepared to answer any more questions on it.

Clause 52 requires financial rules to be made for the proper management of the finances, so many of the matters which have been raised will be dealt with in the rules.

Clause 56, which has to do with the dispute resolution mechanism, has been dealt with. Dr. St. Cyr also mentioned the dispute resolution mechanism and he said that there was no need for the overdraft facility. We do not agree with him. We believe that Tobago needs to have that power. We believe that it should be regulated. I have already mentioned the checks and balances. We believe that there must be trust in the exercise of all public power, but we are sure that there are mechanisms which exist for the scrutiny of these actions and the exercise of these powers.

Mr. President, may I congratulate the new Sen. Dr. Mahabir. In his contribution, he mentioned clause 51 and he thought that we were giving a blank cheque to the Assembly. We do not agree with that. As it stands now, state

corporations, regional corporations and even municipal corporations can borrow money. It seems to me, sometimes, that state corporations have unlimited power to borrow money and they are all subject to municipal accountability in Parliament. Here is a situation where a part of a country has to get internal self-government, but it is not being given some of the powers that even a corporation or a state body has. We cannot be a part of that. We have decided to go this route and see how it works.

Mr. President, Sen. Mahabir-Wyatt raised the question of the change of staff at the Licensing Department of the Ministry of Works and Transport. That would not happen. As a matter of fact, what is happening is that there are areas of responsibility in which the Tobago House of Assembly, subject to Cabinet direction and control, would assist the central government in administering. The Tobago House of Assembly would obviously have some say in the management of it, but it will be integrated.

Clause 26 says:

- “(1) The Government shall retain responsibility for the matters set out in the Sixth Schedule...
- (2) The Government or any statutory body or state enterprise may, by way of Memorandum of Understanding, authorise the Assembly to act as agent of the Government, statutory authority or state enterprise, as the case may be, in respect of any of its responsibilities in Tobago.”

So apart from any matters mentioned in the Sixth Schedule, apart from any statutory authority, the Assembly can be asked to be the agent. What has happened is that the law did not authorize the Government to do that in the past so when there was a situation in Tobago, it could not do it. That is therefore part and parcel of the administrative reform in order to give the people of Tobago greater say in the management of their affairs.

I think Sen. Prof. Spence asked the question whether the Tobago House of Assembly can sell any piece of land. The answer is, no. The reason is that when one looks at what is provided for under clause 26 and the Fifth Schedule and at clause 54 which deals with the question of land, together with clause 25, the cumulative effect of these matters and the policy of the Bill really, is that these matters will have to go to Cabinet. With regard to the actual wording of the conveyance, it may be different to what it is now, but any sale of land will have to be approved by Cabinet. There would probably be a policy administrative

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

arrangement where Cabinet would be able to delegate, have certain procedures in certain matters and the necessary checks and balances but, at least, the Assembly will have the power to do this subject to Cabinet's approval.

8.40 p.m.

[MR. VICE-PRESIDENT *in the Chair*].

Sen. Prof. Spence: I have no difficulty at all with that procedure, Mr. Vice-President, it just seems to me that I could not pick up, even now as the Minister refers to it, how the authority is controlled, except in a rather complicated way that the Cabinet has overall authority over everything. Is that really the concept?

Hon. R. L. Maharaj: The authority would be controlled in many ways. I have mentioned some and I mentioned that Cabinet is controlled through Parliament. There will be additional mechanisms that could be placed in the financial regulation, but it will be the responsibility of the Government to effect certain administrative measures to ensure and if it does not do that, it will be accountable to the people and the Parliament. For example, if a government mismanaged the economy and sold out many enterprises, National Fisheries for example, at an underprice and did many other things, the people would have the final say and they would remove the government. [*Laughter*]

Sen. Mannette raised the point with respect to the dispute resolution and its inconsistency, and I do agree with her that there is a little inconsistency. What I propose to do at the committee stage, is to amend it in such a way that the dispute resolution would be in accordance with the relevant part of the Bill. Some of the other points have been dealt with and if there is any other matter, I would deal with it at the committee stage.

Sen. Prof. Spence: Mr. Vice-President, there were two other amendments that I added, is the Minister going to deal with them at the committee stage?

Hon. R. L. Maharaj: I could deal with them now.

Mr. Vice-President, I am indebted to Sen. Prof. Spence, and I must say that he has been very helpful. He is one of the persons in this Parliament who has a great deal of knowledge about these matters, and at all levels he has been very helpful. I would like to say on behalf of the Government, that we appreciate very much, not only Sen. Prof. Spence's contribution, but all the Senators' contributions. In relation to Tobago and this issue, Sen. Prof. Spence has served on the committee and has been of great assistance. In his proposed amendment, Sen. Prof. Spence is

asking in relation to clause 4(c)—and I think I should deal with it on the floor of the House—there should be the inclusion of the words—

[MR. PRESIDENT *in the Chair*]

Mr. President: The speaking time of the Attorney General has expired.

Motion made, That the hon. Minister's speaking time be extended by 15 minutes. [*Hon. W. Mark*]

Hon. R. L. Maharaj: Maybe we should amend the rules in the other House to have 15 minutes of extension time too.

Mr. President, we have considered clause 4(c) and we do not think that we could go along with the proposed request to have it amended because what that subclause is in effect doing, is saying that:

“4. No provision of this Act or of an Assembly Law shall be construed or interpreted as to authorize—

- (c) any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between the island of Tobago or the Assembly and any foreign state.”

So we are trying to put a declaration in respect of Tobago, that it could not have negotiated any of these matters.

The other matter with respect to inter-governmental organization, all form part of national policy and, therefore, we believe that this amendment is not necessary because if we deal with it in that way, we would have to deal with many other things. This is covered by the clause which gives the Cabinet the power over national policy.

The other consequential clause 4(c)(2), we do not think that is necessary because we already have a clause in the Constitution which says it cannot derogate from the Constitution of Trinidad and Tobago, and in any event, anything with respect to dealing with these matters will be part of national policy.

With respect to clause 37(B), as I understand it, a Secretary of the Assembly is assigned the responsibility by the Chief Secretary and, therefore, if a Secretary is unable to function, then obviously a fellow Secretary would be able to carry on those duties and, therefore, we do not think there is need to do that. We are going to make it clear in an amendment, that the President shall administer the oaths to

Tobago House of Assembly Bill
[HON. R. L. MAHARAJ]

Thursday, November 28, 1996

the secretaries, and having administered those oaths, the responsibilities are assigned by the Chief Secretary, and if someone is ill and cannot perform his function, then the Chief Secretary can reassign the responsibility.

With respect to Sen. Daly's proposed amendment, I dealt with that in relation to what I said is our policy. I dealt with Sen. Mahabir-Wyatt's proposed amendment, and also with that of Sen. Dr. St. Cyr.

There is one matter that Sen. Prof. Kenny mentioned and I should deal with it because it is a matter which, with the greatest respect to him, if I may say so, is misunderstood. Clause 4(b) reads:

“any operation of any Assembly Law beyond the confines of the island of Tobago and such part of the territorial sea of Trinidad and Tobago comprising those areas of the sea having as their inner limits the baselines of Tobago as determined in accordance with section 5 of the Territorial Sea of Tobago Act...”

This has to deal in instances where an offence is committed. Assuming there is an Assembly Law, and the offence is committed within Tobago at that time, that is the area for definition for those matters, but it has nothing to do with respect to sovereignty and matters like that. May I also mention that this whole question of land and sea and control over natural resources are issues which are recognized in international law, that even for internal self-government, the national government must recognize that land is really the foundation of the part of the territory and it is not inconsistent in giving to the island control and even vesting the land in the particular part of the territory. It has to do, also, with marine resources and natural resources, and it is referred to at page 463 and 465 in the book, *Autonomy, Sovereignty and Self-Determination, The Accommodation of Conflicting Rights*.

8.50 p.m.

It must be understood that if Tobago is going to be dealt with on the basis of self-determination and internal self-government, it must be recognized that the Government would have to deliver these things, unless the people of Trinidad and Tobago disagree with that. This Government would have been prepared to deal with it in that way, but it cannot. However, if the situation arises, this Government is certain that this is the way international law would permit it to deal with it.

Mr. President, I mentioned Scotland earlier, that there is now the movement for Scotland to have greater autonomy. Even when one remembers Northern Ireland, before there was this rift between the two religious sections, there was a Parliament in one part and it was subservient, in effect, to the National Parliament in Britain. There was a Parliament with an upper Chamber and a lower Chamber in Northern Ireland and that was not inconsistent. There was a lot of religious friction and, in effect, one had the intervention of states of emergency and so forth.

It is recognized even in Britain—I say Britain because sometimes it is felt that Britain is one of those countries which have been very reluctant to give self-determination and independence to countries—that Scotland should have greater autonomy. Britain has recognized it, however, the people of Scotland do not want that greater autonomy. If it is that the people of Tobago make demands—assuming for one reason or the other there must be an international arbitration in these matters, there must be an adjudication in accordance with international law—the international law would say that Tobago is entitled to internal self-government. Those are the principles. Therefore if we are a Government committed to law, that law must be upheld.

Sen. Dr. St. Cyr: Mr. President, I did raise a matter with respect to clause 48 where unexpended balances may be retained by the Assembly and used for capital purposes. I wondered whether Parliament had forfeited its right over those moneys.

Hon. R. L. Maharaj: No, Mr. President, I thought I had, in effect, dealt with that on the general principles. The Government has decided in the policy of the Bill, that these are the measures and if the moneys are there and are unexpended, that there is no loss by the Parliament or the Government to control matters. In relation to policy, the Cabinet would retain the policy and in relation to the Parliament, if it is believed there is a misuse of power, it could be raised there. There would be financial rules in order to deal with these matters.

The legislation cannot deal with all these individual problems. A bill has a policy and the policy in the Bill is X, Y, Z and there are safeguards. If we have made a mistake and we have effected legislation which is not in the interest of Trinidad and Tobago, we would have to account to the population.

Sen. Dr. St. Cyr: I thought the overriding policy was that financial control was in Parliament, and could not be delegated.

Hon. R. L. Maharaj: Mr. President, financial scrutiny is in the Parliament but financial control is really in the Executive, given to the Minister of Finance and the Cabinet has control. The Parliament scrutinizes legislation and money bills and so forth and it could scrutinize the behaviour of government in respect of the exercise of its powers with respect to finances. If we are wrong, therefore, Members on the other side would have many avenues to question the administration of this Bill.

Sen. Prof. Ramchand: Mr. President, before the Attorney General concludes—even if it is only for academic interest—could the hon. Attorney General say what is his thinking on the suggestion that, maybe, the Tobago House of Assembly should have some participation, as of right, in Cabinet, and whether some adjustments could be made, also, in the House of Representatives?

Mr. President: Hon. Attorney General, please be reminded that, including some injury time, you have eight more minutes.

Hon. R. L. Maharaj: I am much obliged, Mr. President.

This provision was drafted quite differently and the Opposition attacked it and stated that they could not agree with it. As a matter of fact, the provision was drafted in a way in which there would have been some entitlement, but the Opposition Members in the House of Representatives attacked it and said that this is what they would go with. I want to say quite clearly that this administration has no problem with giving Tobago an entitlement at all levels of the administration: Parliament and the Executive arm, but we have to legislate within certain constraints. Sometimes one has to legislate based not only on one's legal constraints, but also on one's political constraints.

We took all the matters into consideration. I assure Senators that we spent a lot of time looking at these measures—inside out, if I may use that expression—and all the implications. We have taken all the points which have been raised by the Independent Senators in respect of contributions they made on the Motion and all the matters raised by the Opposition. That is how we were able to go to the House of Representatives with draft amendments, in order to ensure that it did not only fit within the legal constraints or the constitutional constraints, but that it fit within political matters for which the Opposition and other people were asking.

We did that in order to show that we are a Government which responds to issues. We believe that in the matter like the one in Tobago—it is not a party matter, it is a national matter in which all parties should participate—it was the duty of the Government to accede to some of those requests, in spite of the fact

that it was not necessary for it to do that in order to get this Bill passed. The only measure that we decided—if I may say so—was that we had a package and we wanted to ensure that there was no impediment in the way. As I said, we weighed and considered the matter and thought that we would go with a simple majority in the amendment to the Constitution.

In closing, I would like to say how privileged I am to have been here to have listened to the contributions from Senators on the other side. I have given those matters consideration. I have discussed them with the technical and other people who are not here. I am looking at these matters and the considerations that you have made. I have had other people also look at the legal consequences, and constitutional implications of the Bill. It has been done at the highest level—if I may say so. We are confident that what we have done in respect of this matter would be a prescription in which it may not be what the people of Tobago would have liked to have at this time, but we believe that it would go a very long way in delivering administrative, political, social and economic justice to the people of Tobago.

Thank you, Mr. President.

I beg to move.

Question put and agreed to.

9.00 p.m.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Before we start, let me say that this Bill contains eight parts, 78 clauses and seven schedules. In order to maintain some orderliness, there are 12 proposed amendments from the non-government side and six proposed amendments from the Government side. Where there are no proposed amendments to any of the parts, perhaps we can do the clauses *en bloc* rather than go through 78 individual clauses and seven schedules.

I am advised that since the Standing Orders say that it has to be done clause by clause, I must have the affirmation of the Senate that it is in order to proceed in the way I am suggesting. Is it agreed?

Assent indicated.

Clauses 1 to 4.

Question proposed, That clauses 1 to 4 stand part of the Bill.

Mr. Chairman: Part I comprises clauses 1 to 4. There is a proposed amendment to clause 4. We have the proposed amendment by Sen. Spence.

Sen. Prof. Spence: In light of the Attorney General's assurance I am suggesting that I am prepared to withdraw.

Amendment withdrawn.

Question put and agreed to.

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

Clauses 5 to 32 ordered to stand part of the Bill.

Clause 33.

Question proposed, That clause 33 stand part of the Bill.

Mr. Chairman: There is a Government proposal just circulated for an amendment to clause 33.

Mr. Maharaj: Mr. Chairman, I move that clause 33 be amended as mentioned in the written notice. It says:

“Insert after subclause (2) the following subclause (3): “The President shall administer to a Secretary the oath set out in the Third Schedule”.

Question put and agreed to.

Clause 33, as amended, ordered to stand part of the Bill.

Clauses 34 to 36 ordered to stand part of the Bill.

Clause 37.

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

9.10 p.m.

Sen Prof. Spence: Mr. Chairman, I withdraw my circulated amendment to clause 37B as follows:

Add a subclause (3) to read:

“The President may on the advice of the Chief Secretary appoint a member to act in an office of Secretary if the substantive holder of that office is unable to perform his duties due to absence from Trinidad and Tobago or illness.”

Amendment withdrawn.

Mr. Chairman: We go on to the proposed amendment to clause 37B.

Mr. Maharaj: Mr. Chairman, I propose that clause 37B be amended by inserting after (2) the subclause mentioned in the circulated amendment as follows:-

“(3) The President shall administer to an Assistant Secretary the oath set out in the Third Schedule.”.

Question put and agreed to.

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

Clauses 38 to 43 ordered to stand part of the Bill.

Clause 44.

Question proposed, That clause 44 stand part of the Bill.

Mr. Chairman: We have two proposed amendments, one from Sen. Dr. St. Cyr, and one from the Government.

Sen. Dr. St. Cyr: I am proposing that clause 44 be amended by deleting the words: “refer” down to “decision” and substituting the words: “within one month make representation to the Cabinet for a review of its decision setting forth reasons therefore.”

Mr. Chairman: Are you elaborating on it?

Sen. Dr. St. Cyr: It is in the context, Sir, that it is my view that we should not set up an adversarial way of resolving disagreements between a sovereign government and one of its creature institutions.

Mr. Chairman: Any comments?

Mr. Maharaj: The Government does not agree that there should not be a body to try to resolve a dispute in relation to the matters mentioned. It is inconsistent with the doctrine of sovereignty of Trinidad and Tobago. As a matter of fact, the Government believes that it will, in effect, promote democracy and a better understanding, and promote the sovereignty of Trinidad and Tobago. Therefore, we believe that there is no need to amend this clause. Any amendment as requested would promote secret administration and would not be in the interest of Trinidad and Tobago.

Question put and negatived.

Mr. Chairman: I shall now propose the amendment by the Government as follows:

“Delete from the words “within one month” to the end, and substitute the words “in accordance with the provisions of Part V.”

Mr. Maharaj: Mr. President, when one looks at clause 44 and at Part V—the point made by Sen. Mannette, there seems to be some inconsistency and, therefore, we are asking that clause 44 be amended so that we can delete from the words “within one month” to the end and substitute “in accordance with the provisions of Part V.” So the clause should read:

“Where the Assembly is dissatisfied with the allocation or any part thereof referred to in section 43 it may refer the matter to the Commission in accordance with the provisions of Part V.”

Question put and agreed to.

Clause 44, as amended, ordered to stand part of the Bill.

Clauses 45 to 47 ordered to stand part of the Bill.

Clause 48.

Sen. Dr. Mahabir: Mr. Chairman, I beg to move that clause 48 be amended as follows:

“Add after the last word in the clause, the words ‘or a reduction of any overdraft of the Assembly’.”

This is to ensure that the Assembly obtains a greater degree of flexibility in the management of its cash surplus. If the hon. Attorney General does not wish to furnish the Assembly with an extra degree of flexibility, then I am willing to withdraw this amendment. Only if the Attorney General does not wish to give the Assembly that extra flexibility so that it could apply its surplus to reducing any outstanding overdraft that it may have.

9.20 p.m.

Mr. Maharaj: Mr. President, we do not regard this as giving the Assembly more flexibility and we would like the policy of the legislation to be as it is and, therefore, we regret very much that we cannot accede.

Sen. Daly: Mr. Chairman, may I ask a question? If you have a surplus, and you have more than one option of disposing of it, how does that affect the policy? The overall policy of the Bill in the Attorney General's outline gives the Assembly options. How is that a policy matter? It is an operations matter.

Mr. Maharaj: Well under clause 48, the unexpended sum at the end of the financial year shall be retained in the fund and utilized for the purposes of capital investment, and matters relating to the administration of that section can be dealt with in the financial rules.

Sen. Daly: So that would make it *ultra vires*. The financial rules cannot specify a purpose which is not supported by the parent Act. If you tried to add a purpose to the financial rules it would be *ultra vires*.

Mr. Maharaj: What I said, Mr. Chairman, is that the financial rules will deal with the management of the finances in accordance with clause 48, and the policy of this clause, is that the moneys would be retained in the fund and utilized for the purposes of capital investment.

Sen. Prof. Spence: Mr. Chairman, may I just make a comment. I do not think that this provision is diverting the funds from that purpose. But the possibility may arise, as Sen. Dr. Mahabir has pointed out, where a project for which the funds are allocated is not yet on stream. We would have the strange situation of the House of Assembly having funds perhaps with an interest of 5 per cent, and paying an overdraft at 20 per cent. It does not seem to be a good use of financial resources. It does not mean that the funds could be used permanently, to just repay the overdraft. It would mean that they could be used for the time being, for that purpose.

Sen. Montano: Mr. Chairman, if I might just make a comment. It does not seem to me that we really have a problem with this, in the sense that holding the surplus funds temporarily in the overdraft is not a permanent application, or a permanent reduction of the overdraft. It does not seem to me that the Assembly would be debarred from temporarily applying the surplus to the overdraft and still using it for capital investment when it is needed. So I do not think that we really have a problem with the issue at this point. I do not think that the amendment is necessary.

Sen. Prof. Spence: The only person who is going to benefit from this is the bank. They would pay less interest and get higher interest.

Sen. Dr. St. Cyr: Mr. Chairman, while we are on this, I take it that the original appropriation by Parliament would have included recurrent and capital votes, and this proposed use for capital investment would more than likely not have received prior approval by Parliament. I wonder how this would come about and I am still on the point that Parliament does not seem to be involved in this major financial decision.

Mr. Maharaj: Mr. Chairman, as I understand this, I think that Senators are putting more into this than there is. Parliament would appropriate certain moneys to this fund, and at the end of the financial year, the moneys which are not spent, instead of going back, will be retained in the fund, and utilized for the purpose of capital investment. We do not want that money to be used to reduce any overdraft, we want it to be used for capital investment. *[Interruption]* No. Well the Cabinet would have control over the matter and this is something which the executive arm can see about. It is not a matter which has to be legislated.

Sen. Dr. Mahabir: — to have an overdraft which is incurring you 20 per cent interest, and to have funds in escrow at 5 per cent, waiting for a capital project to be initiated, but I am willing to withdraw the amendment at this time.

Sen. Prof. Spence: Mr. Chairman, the Cabinet cannot authorize it for any other use, if the legislation says that it can only be used for capital investment.

Mr. Maharaj: Maybe it would discourage them from using the overdraft, if they have moneys which they can use to put into an overdraft. So there are many ways one can look at it. I am not an expert on economic matters.

Mr. Chairman: Sen. Dr. Mahabir will you withdraw?

Sen. Dr. Mahabir: I withdraw.

Amendment withdrawn.

Clause 48 ordered to stand part of the Bill.

Clause 49.

Question proposed, That clause 49 stand part of the Bill.

Sen. Daly: Mr. Chairman, I am wondering whether subclause (2) is clear, particularly the phrase "in respect of its operations," or if there is not room for confusion there about what taxes are really payable in Tobago. I do not want to have the impression that we must pass absolutely everything that is here, even if it

does not make complete sense or it is not clear. I would like to know what the phrase "in respect of its operations" means.

Mr. Chairman: Is the hon. Senator worried that taxes would have different meanings?

Sen. Daly: You may be located in Tobago but operate both in Tobago and Trinidad, and the concern is, how you split where you pay the taxes. I am suggesting that the phrase "in respect of its operations" is a problem, because you may be operating in more than one parts of Trinidad and Tobago.

9.30 p.m.

Mr. Maharaj: I do not think that the rules and the administration would be dealt with, but if a company depends upon its operation in Trinidad and Tobago, and pays its taxes in Tobago, it may be that if it operates both in Trinidad and Tobago, it should be able to pay taxes in Tobago.

Sen Dr. St. Cyr: Mr. Chairman may I give an example? There may be a big company in Trinidad with an operation in Tobago, major parts being in Trinidad: its payroll might be handled and computerized in Trinidad, and its PAYE would go into Port of Spain for the entire company, and that would be in violation of this clause.

Mr. Maharaj: Mr Chairman, the position as the Government sees it, is that this is really an administrative matter, and that is to say, the taxes are paid, moneys are credited, and obviously there would have to be some sort of arrangements whereby it can be known, to some extent, which company is paying where it operates, *et cetera*, but those are all matters for the management of the section. I think the management of the section has to do with the financial rules; and there could be something put in the financial rules, but I do not think the fact that a company operates in Trinidad and Tobago should obviously be a reason why the company should not be able to pay certain dues and taxes in Tobago.

Sen. Daly: So administratively you pay at the place of payment. What I am concerned about is if, as a result of your operations something is taxable, are you forced to split the payment between those operations that take place in Trinidad, and those operations that take place in Tobago? I do not have a problem with one being physically able to go to a window, or cashier or place of payment in Tobago. What I am concerned about is if one operates in Trinidad and in Tobago, that this is imposing an obligation to divide, or split the books, the taxes that are

Tobago House of Assembly Bill
[SEN. DALY]

Thursday, November 28, 1996

attributable to one operation, as opposed to another, with the objective of them having to pay the part that is attributable to Tobago, in Tobago. I think there is a real danger there if it means that.

Sen. Prof. Spence: I always assume that is what it means.

Sen. Daly: If something is not clear, taking refuge in the financial regulations is not really going to help, because the question is: What is the liability that is being imposed on the person operating a business in Tobago? It appears to most of us that it means one has to split one's liability. One has to make a split in one's books.

Mr. Maharaj: There is no penal liability for this. This is a six-six situation, where the businesses which operate in Trinidad and Tobago, and pay in Tobago, will be able to pay in Tobago. It does not affect the existing law which gives certain businesses the right to pay in Trinidad. The fact of the matter is that it is a declaration of companies that operate in both Trinidad and Tobago, being able to pay in Tobago and the rules would be able to see about that in an administrative arrangement. If it does not and cannot work, then we still have the option to come back to Parliament and have it changed. We have been advised that it can work.

Sen. Dr. Mahabir: I wish to disagree with the learned Attorney General on the point that it will work. The legislation here leaves room for considerable ambiguity. In dealing with corporate income tax, one wishes to allocate profits between subsidiaries and principal firms. That necessarily is an arbitrary process, because the kinds of assistance which the subsidiaries receive normally do not enter into the market mechanism. As a consequence, no prices are placed on services, and on the input which the subsidiaries receive. The consequence is that any profits, or income earned by a subsidiary would of necessity be an arbitrary matter, and that is open then to a lot of confusion and debate and there might be some conflict arising as a consequence.

I suggest that if the objective of clause 2 is to facilitate easier tax collecting in Tobago, and to ensure that the taxes that are paid in Tobago remain in Tobago then, maybe, the Attorney General might consider a reading such as:

“Upon the coming into force of this Act, any company, financial institution, or a person operating a business in Tobago, shall pay in Tobago all taxes, fees, duties, levies, and other imposts, which were collected in Tobago, or which were paid in Tobago.”

That would solve the problem of the corporate income tax, which is not really paid in Tobago.

Sen. Daly: Can I ask a direct question of the Attorney General? Is it the policy that corporate income tax, for example, for a company that operates in both places, is split between Trinidad and Tobago? That is the real issue, because I am not quite clear as to what is the policy, or the intention.

Sen. Kuei Tung: Mr. Chairman, let me join the discussion, because I have been quiet far too long. The obvious intent of this clause is to facilitate Tobago by improving its flows. That is basically where it is coming from. What the Attorney General has been trying to argue is that the relevant authorities would work out some administrative arrangements to ensure that we improve the cash flows in Tobago, without necessarily putting anybody through any bureaucratic process. If it is a question of tax flow, the Board of Inland Revenue and the Value Added Tax administration would come up with some financial rules that would say with respect to this matter, one could pay this in Tobago, or pay that in Trinidad. It was merely meant as a legislative arrangement to facilitate cash flows in Tobago. But it is not intended that they would split the taxes down to the last cent, because we are not going to subject companies or businesses to come up with comprehensive accounting procedures merely to facilitate. I am really trying to defend the fact that in terms of duties, if one operates a Kentucky Fried Chicken outlet, and brings in spare parts, is it going to be that duties on spare parts going to Tobago must now be paid in Tobago? It is not going to be subject to that. It merely means that it would be a facility, so that if there is a possibility of collecting duties, taxes and so forth in Tobago, we want to do so only to facilitate the cash flows. That is merely the intent.

Sen. Spence: With due respect, Mr. Chairman, I do not think that is the intent of the original Bill. If you read all the papers to do with the Guya Persaud report, particularly the minority report of Sen. Moore-Miggins, I am sure she did not understand it in that way. She was suggesting that businesses operating in Trinidad that get their profits through activities in Tobago would pay taxes in Tobago. For example, Air Caribbean would be paying taxes to Tobago. I do not think that is the understanding. But the understanding you are giving is quite clear to me. That is the way I will accept it; but that was not the original policy.

Sen. Kuei Tung: Sen. Spence, you seem to have added information I did not have. I merely looked at it from my perspective in terms as a minister in Cabinet,

Tobago House of Assembly Bill
[SEN. B. KUEI TUNG]

Thursday, November 28, 1996

and that was the interpretation I got. If you think there were other intentions, then I am sorry, I have to bow to your superior knowledge.

Sen. Prof. Spence: If you are sure that how you interpreted this is perfectly clear, and nobody has any other interpretations, I am very happy with that. It does not give us an idea of the income earned by Tobago which I think was part of the intention of the original Bill. But that is another matter

Sen. Dr. St. Cyr: Mr. Chairman, the phrasing then is probably too strong; it says “shall pay.”

Sen. Daly: Accepting as I do and hesitating in the assurance of the Minister of Finance, then really if you change the words around to achieve the situation where “a person operating a business in Tobago”, or say, “all taxes *et cetera*, in respect of operations in Tobago may be payable in Tobago”, that might solve the problem. There is a little danger here, where we have the assurance of the Minister of Finance, but according to this statute, his assurance cannot override it. I just think it is a pity we cannot consider rewording the clause, so that it makes it plain that it is a facility where the taxes may be payable in Tobago, as opposed to “shall pay” which connotes obligation. I would not pursue it any more. I will rely on the judgement of history.

Sen. Rev. Teelucksingh: Mr. Chairman, I do not think that we can rely on interpretation here tonight. Five years from now somebody else will be interpreting it in another way so if there are signs of ambiguity, this should be cleared up now. This is the best time to do it.

Sen. Kuei Tung: Are you suggesting that we leave the financial rules out?

Sen. Rev. Teelucksingh: I think it should be amended to eliminate the ambiguity that has been detected.

9.40 p.m.

Sen. Kuei Tung: I am suggesting that there is no ambiguity. I am saying that it is fairly clear. What we have been debating here is the question of the administrative arrangements, which have to come from the analysis that would be done by the Board of Inland Revenue, Customs and so forth. They will each have to do their own analysis of what happens in Tobago versus Trinidad and come up with some financial rules, so I do not see any ambiguity.

I tried to explain that it is merely an intent to facilitate the cash flows in Tobago. I think that you would be required to pay it in Tobago if it is determined that it is rightfully for Tobago. If you say, “may pay”, or “may be payable”, then

Tobago House of Assembly Bill
[SEN. B. KUEI TUNG]

Thursday, November 28, 1996

everyone who makes it payable to Trinidad has not facilitated the cash flow requirements. I do not understand where the ambiguity lies.

Mr. Chairman: Is there a proposal, or any amendment?

Clause 49 ordered to stand part of the Bill.

Clause 50 ordered to stand part of the Bill.

Clause 51.

Question proposed, That clause 51 stand part of the Bill.

Mr. Chairman: Proposed amendment to clause 51(a) by Sen. Mahabir.

Sen. Dr. Mahabir: Mr. Chairman, I wish the Attorney General would reconsider his position. I heard the other explanation he gave that other agencies such as state corporations do borrow without approval from the Minister of Finance and that other corporations in the country engage in the practice. The fact that they do, does not mean that it is right or prudent, and I think that one should take the opportunity at this time to start with something that is more and more correct, in the sense that one does not wish to place on the record legislation which will allow the Assembly to borrow more than it can afford to borrow without any kind of scrutiny by the Minister of Finance.

It is my recommendation, therefore, that if overdrafts are meant merely to facilitate the operations of an entity, then one should have an estimate of how much an entity would reasonably require to conduct its operations. I suggest that it may need at most, one month of its projected expenses—and this is the balance that it can access from commercial banks without approval from the Minister—but if the overdraft were to exceed this, then I think the Assembly would find itself in the undesirable position where the servicing of the internal self-government of Tobago may become a problem, and revenues that it could use to effect social change, may in fact have to be used to service a debt.

I wish that the Minister would reconsider the fact that there is going to be a blank cheque with respect to this overdraft and whether, in fact, in the interest of the people of Tobago, we wish to subject them to that kind of danger.

Mr. Chairman: The amendment is that clause 51(a) be amended as follows: “Add after the words ‘its functions’, the words ‘but no more than one-twelfth of annual budgeted expenses’.”

Tobago House of Assembly Bill
[MR. PRESIDENT]

Thursday, November 28, 1996

Mr. Maharaj: I think in the interest of the people of Tobago, if this amendment is accepted, it would be a recognition by this Parliament that Tobago is being treated with inferiority, worse than a state corporation. The position at the present time is that a state corporation can borrow unlimited, and here we have a body which is to be given autonomous powers—a legislative assembly—an assembly to be given administrative powers and to have autonomy in which the Parliament has decided to give internal self-government, subject to the doctrine of sovereignty. The question is to restrict it in this way. I think it would be an insult to the people of Tobago and this Government is not prepared to be part of that.

As a matter of fact, this issue if I may mention, has been debated in another place and in spite of the fact that the Opposition wanted some sort of restriction, we took the firm decision on the policy that the people of Tobago should be trusted and trusted even more than the state corporations, or on the same basis. I know that the hon. Senator is aware of some of the powers that these state corporations have and, therefore, I think that it would be undermining the autonomy that we want to give to Tobago in order to amend it in this form.

Sen. Dr. Mahabir: I just want to rebut a little bit of what the Attorney General has said. If a state corporation is allowed to borrow without any kind of limit and it is unable to service its debt, then I imagine that it is the employees of the state corporation who will suffer and ultimately the taxpayers of this country will suffer indirectly. If, of course, this particular situation were to apply to Tobago and it is given that kind of freedom to engage in borrowing—not that it will—the freedom is given in this Bill to engage in so doing. I think it will be left to the people of Tobago to observe a situation where more and more of their revenues are allocated to servicing the interest of an overdraft, and less and less revenues being available to finance the social needs of the country. Therefore, I think that the limit to the amount of funds that the Assembly can borrow will have to be determined by the commercial banks and any lenders; it seems then that we cannot determine what that limit will be. We can predict what that limit will be and leave the borrowing of state corporations to judgment. I think that we have seen what has happened.

Mr. Maharaj: Mr. President, I would like the hon. Senator to appreciate that if the people of Tobago feel that their interests are being adversely affected, they would be able, through their representatives in the Assembly, to have the machinery whereby these things could be questioned. If the hon. Senator believes that this power is being misused, he can also raise it in this House in several forms.

Therefore, there is the machinery to scrutinize these actions just as there are ways in which one can scrutinize Government's actions and those of state corporations. A principle must be a principle, therefore, we cannot say that we want to give autonomy to people of Tobago; we are interested in their affairs and want to protect their interest; but we want to treat them less than a state corporation. That is totally unacceptable.

Sen. Daly: Then what is the difference if you want to replace 51(a) and 51(b)? Why would you place a restriction in 51(b). For the purpose of capital investment they have to get the approval of the Minister? That would be just as much an insult. What is the logical difference between the two? Why should it be done in one case without restriction and in another case, with the approval of the Minister? That is just as much an insult, logically. This is very important. What are the different considerations?

Sen. Kuei Tung: One could say that there is a very fundamental difference between 51(a) and 51(b). In 51(a), one could argue that it is talking about the recurrent expenditure in terms of meeting or discharging its functions and the other one is capital. One will also see that generally speaking, capital expenditure is of greater magnitude than revenue or recurrent expenditure. In that light, we felt that rather than getting involved in huge capital expenditures that will require long-term borrowing, it should require the approval of the Minister. In terms of meeting their normal recurrent expenditure, in the event of a temporary shortfall of cash flows, they would be allowed to borrow on an overdraft basis.

Mr. Chairman: We appreciate, Minister, when we start talking about insults, we start dealing with emotions and these are commercial matters.

9.50 p.m.

Sen. Kuei Tung: Generally speaking, it is the same thing. In this case, the Tobago House of Assembly does not really have revenue in the true sense, even though it collects some taxes, duties and so on. I doubt that any lender would lend to it on the basis of a cheque in the mail coming from a central government, basically, so it is felt that there is some moral check in terms of how the lender is going to lend. I would hardly think that a lender would lend an assembly on that basis.

Generally speaking, if it began to reach proportions that the Independent Senators are concerned about, they would ask for a guarantee from the central government, in which case, there is again another moral check being imposed,

Tobago House of Assembly Bill
[SEN. KUEI TUNG]

Thursday, November 28, 1996

because we could decide whether we will or will not allow that guarantee if we feel that their actions have been irresponsible.

Sen. Dr. St. Cyr: I just wanted to point out that there is a limit on the central government's use of overdraft facilities, so I do not see that the argument holds that we cannot put a limit on this one.

Sen. Kuei Tung: We come back to the same thing. The central government is accountable to Parliament and that is where the limit is imposed. I am concerned here, because one-twelfth may sound like a lot of money, but generally speaking, if you get a kink in the system you could really have a serious problem where they are unable to pay certain expenses that they have to meet on a recurring basis—

Sen. Dr. Mahabir: Then you could call the Minister—

Sen. Kuei Tung: Even now where they have to call the Minister, it takes a long time to release funds.

Dr. Mahabir: They could fax the Minister or send it by E-mail.

Mr. Maharaj: Mr. Chairman, the philosophy on the other side—with the greatest respect to them, and one has to recognize this—is that this Tobago House of Assembly is less than even a municipal corporation. We have to get away from that. We have a situation where it is quite clear that the Cabinet has overall supervision of these matters and the Government is answerable. This is not a laughing matter; it is a serious matter, where consistently the philosophy seems to be, from some of the hon. Senators on that side, that this is less than a municipal corporation and therefore it ought to be treated in the way in which autonomy should be given.

Sen. St. Cyr: No, Sir. You see, we are providing quarterly advances in advance *en bloc*; the overdraft is a back-up; at worst it should be three months—at worst. But I really think that we cannot leave this open-ended without being irresponsible as a Parliament.

Sen. Daly: Let us make a last plea. Would it be so unpalatable to, at least, have the approval of the Minister? Do we want to account for something and *ex post facto*, let us just assume something has gone wrong—it is all very high-sounding to talk about these things now, but we are dealing with revenues of the country here and the liability of the national taxpayer eventually. What about if we have, “with the approval of the Minister”, then?

Mr. Maharaj: Mr. Chairman, we have to take a policy decision on this matter. We believe that we should not undermine it or water it down; we believe that it is no question of being irresponsible; we believe that there are safeguards and we believe that the Government would be able to manage this through the Cabinet of Trinidad and Tobago.

Sen. St. Cyr: But there is a contrary view.

Mr. Maharaj: Well we respect your views.

Question put and negatived.

Clause 51 ordered to stand part of the Bill.

Clauses 52 to 53 ordered to stand part of the Bill.

Clause 54.

Question proposed, That clause 54 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by Sen. Prof. Spence.

Sen. Prof. Spence: Mr. Chairman, my amendment to clause 54 reads as follows:

"Delete subclause (a) and renumber subclauses (b) and (c) as (a) and (b)."

Mr. Chairman, could I just again make this point? I understand that the main argument in support of the vesting of the lands in the Tobago House of Assembly rests with the difficulties that the Tobago House of Assembly has had, for example, in giving leases for agricultural purposes. That was one of the arguments I heard. Now I believe that this could be addressed in a different way, namely that the Cabinet could delegate to the Tobago House of Assembly the authority to give leases. I think in an earlier debate the hon. Attorney General has pointed out that Cabinet has now delegated the responsibility to individual ministers, or at least the responsibility for renewing leases, if not for giving new ones. It seems to me that there would be no difficulty in solving the problem about leasing land by delegation of that authority from Cabinet.

This is one that I do feel strongly about, as I have said in the past. I have a very great conviction that the main advantage that we have over control of our environmental resources in Trinidad and Tobago, and indeed in some of the other Caribbean islands, as compared to Latin America, is that the state owns the land. I do not think it is quite the same if a corporation owns it or if the city council owns

Tobago House of Assembly Bill
[SEN. PROF. SPENCE]

Thursday, November 28, 1996

it. If one were taking that argument, perhaps we should vest the whole of Port of Spain in the city council and not just Woodbrook. Woodbrook happens to be a historical accident, if you like. So I certainly would not like to see this clause withdrawn.

Mr. Maharaj: Mr. Chairman, this is another clause which has engaged our attention and about which much representation has been made about it. The explanation we have given is that we had to put in the Bill, measures which show that we are committed, really, to having meaningful autonomy in Tobago. If we are to reduce it merely by having Cabinet delegation, and not having it in the legislation, I think it would not serve the purpose which we want to serve. I think obviously there is a problem with the philosophy and the policy and I would like to read into the records in relation to this, from the book *Autonomy, Sovereignty and Self-Determination*, at page 463:

" Land is the....foundation...of every community that aspires to political autonomy."

And there is a foundation of the state that also aspires to political autonomy. I continue to quote:

"While the exercise of certain forms of personal jurisdiction or autonomy in the areas of religion and civil status does not require a territorial base, the wide range of autonomous powers discussed in the present book presumes a minority population which is sufficiently numerous...and/or isolated from the dominant society so that an autonomous territory would be feasible.

Less clear is the rationale for equating territorial integrity... "

Mr. Chairman, it continues on page 464:

"...it cannot seriously...be doubted that...substantial powers have been devolved to local governments..."

and to other parts of the—

"...unitary states..."

in respect of land. It mentions in the next paragraph that land and the question of territory seem to be a guarantor of two fundamental human needs, identity and security.

10.00 p.m.

So, our philosophy in respect of this legislation is in effect to vest the land in the people of Tobago and for the state to be the trustee of the lands. We believe the Cabinet will be able to exercise the necessary control in the administration of these matters. That is our philosophy and policy.

I understand the fears of the hon. Senator, and I understand that he wants to ensure that the power is not misused or abused, but we believe that we would be able to administer this in a situation in which it would not undermine the sovereignty of Trinidad and Tobago.

Sen. Prof. Spence: Mr. Chairman, if that is the position of the hon. Attorney General I would like my proposed amendment to go on record so I would be grateful if the question is still put.

Question put and negatived.

Clause 54 ordered to stand part of the Bill.

Clause 55 ordered to stand part of the Bill.

Clauses 56 to 61.

Question proposed, That clauses 56 to 61 stand part of the Bill.

Sen. Dr. St. Cyr: Mr. Chairman, I beg to move that clauses 56 to 61 be amended as follows:

"Delete clauses 56 to 61 and renumber the remaining clauses appropriately."

I propose that we do not go in that direction. I believe that this is a tradition of resolving differences which has come to us through our crown colony experience.

Mr. Maharaj: Mr. Chairman, the Government regrets that it cannot accede to this request. As a matter of fact, we believe it is essential in order to promote better relations between Trinidad and Tobago and to promote the sovereignty of Trinidad and Tobago and to have open administration.

Sen. Daly: Mr. Chairman, is the Government prepared—I should not ask if it is prepared because its preparedness to accept amendments is rather obvious—to consider removing the Ombudsman from the fray and confining it to a person who has judicial or quasi judicial experience?

Mr. Maharaj: Mr. Chairman, I have given consideration to that and the Government believes that the office-holder of Ombudsman would, in effect, be a better person in this situation.

Sen. Dr. St. Cyr: Mr. Chairman, would this not possibly compromise the position of the Ombudsman in his other duties?

Mr. Maharaj: Mr. President, I do not see how it can even appear to do so because the Ombudsman is supposed to be responsible for investigating maladministration and be independent. We considered whether it should be the Chairman of the Integrity Commission but we believe that it should not. We believe that the person, in relation to administration, should be the Ombudsman. It may be that there may be need to have a special Ombudsman for this matter, but we believe that it is not necessary and that the Ombudsman should be able to perform this function.

Sen. Dr. St. Cyr: Mr. Chairman, this is not an administrative matter. This would be a matter of political differences and the Assembly may make a certain request and the Cabinet—

Sen. Kuei Tung: Mr. Chairman, is Sen. Dr. St. Cyr aware that the Ombudsman also investigates many political matters where maladministration has been the cause of political vindictiveness?

Mr. Maharaj: Mr. Chairman, as a matter of fact, I think matters like this occupy most of the administrative matters that he probably investigates. Perhaps, when there has been venom, vindictiveness, carelessness or recklessness in the performance of duties he would be the person most experienced.

Sen. Prof. Spence: Mr. Chairman, I think I should just make the comment that he may decline. He does not have to do it. That is why the provision for other alternatives is put in. Since it is not part of his normal duties he does not have to do it.

Mr. Maharaj: Yes, but if he does not do it the legislation is impotent to deal with the situation.

Sen. Prof. Spence: That is what I am saying.

Question put and negatived..

Clauses 56 to 61 ordered to stand part of the Bill.

Clauses 62 to 69 ordered to stand part of the Bill.

Clause 70:

Question proposed, That clause 70 to stand part of the Bill.

Mr. Chairman: There is a proposed amendment to clause 70(3) which reads as follows:

"Delete the word 'applied' and substitute the word 'apply'."

Mr. Maharaj: Mr. Chairman, this is really a typographical error but we decided that we should really have it amended.

Question put and agreed to.

Clause 70, as amended, ordered to stand part of the Bill.

Clauses 71 to 78 ordered to stand part of the Bill.

10.10 p.m.

Mr. Speaker: There are seven schedules and there are proposed amendments to the Third, Fourth and Fifth Schedules. We will take the First and Second Schedules.

First and Second Schedules ordered to stand part of the Bill.

Third Schedule:

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

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

- "A. Delete the words 'section 8' and substitute the words 'sections 8, 33 and 37B.'
- B. In the heading, delete the words 'and the Deputy Chief Secretary' and substitute the words, 'the Deputy Chief Secretary, Secretaries and Assistant Secretaries.'
- C. Insert after the words 'Deputy Chief Secretary' the words '/Secretary/Assistant Secretary.'

Question put and agreed to.

Third Schedule, as amended, ordered to stand part of the bill.

Fourth Schedule:

Question proposed, that the Fourth Schedule stand part of the Bill.

Mr. Maharaj: There is a proposed amendment to the Fourth Schedule as follows:

“Delete the word “elected” and substitute the word “appointed.”

We are asking that the word, “elected” be deleted and to substitute the word, “appointed” Obviously, the Councillor is not elected. He is appointed, so it is to bring that in conformity.

Question put and agreed to.

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

Fifth Schedule.

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

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

“Delete item 32 and substitute with the following:

‘Such other matters as Parliament may, by affirmative resolution, assign to the Assembly.’”

Mr. Chairman, in respect of the Fifth Schedule, in order to comply with the undertaking I gave to Sen. Dr. Mc Kenzie, may I request that at item No. 23, we insert after the words, “health services” the words, “and quarantine”

In relation to the advice I got from Sen. Prof. Spence and the advice I got from the Minister of Finance, may I state that we can quarantine human beings and plants. In respect of the Fifth Schedule, at item 23, leave it as it is and instead put a new item 32 as “animal quarantine” and renumber item 32 as item 33.

Sen. Beckles: Mr. Chairman, what about the situation with respect to plants?

Sen. Prof. Spence: If we are going to put in a separate item, then I suppose we could add plants as well. If it is put under “Health”, it is really the law pertaining to animals, but under a separate item, there is no problem in having plants and animals as well.

Mr. Maharaj: Mr. Chairman, I believe the objective of the amendment is to give Parliament an opportunity at any time, if there is a change, to scrutinize that decision. The position of the Government is that these are matters for the

executive arm of the state. If it is done, the executive arm of the state should be able to do it and there should be no taking up of Parliament's time in order to deal with this matter unless the Opposition or the Members of either House determine that they want to raise a matter in the Parliament.

I understand the purpose of the amendment. It is obviously to have a continuing scrutiny in relation to the list, but the position of the Government is that it is really a matter for the executive arm of the state and it does not really prevent Parliament from scrutinizing it if there is any addition to the law.

Sen. Daly: Mr. Chairman, I am still pursuing it so, perhaps, we can have it put formally.

10.20 p.m.

Question put and negatived.

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

Sixth and Seventh Schedules 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. President, before I move the adjournment of the Senate, may I take this opportunity in anticipation of this marathon and historic session this evening to express our appreciation to all sides for their participation. Although we could not have accepted all the amendments which were proposed, we still thank both the Opposition and Independent Senators for taking part in this very important debate. I am certain that history would record them very favourably at the end of the process.

We were aware that we were going to be long and we ordered dinner. It is 10.25 p.m. and we invite persons to have dinner before they leave.

I move that this Senate do now adjourn to a date to be fixed.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.25 p.m.