

Paper Laid

Friday, November 07, 1997

SENATE

Friday, November 07, 1997

The Senate met at 8.02 a.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

PAPER LAID

Annual report of the National Insurance Board for the year ended June 30, 1997. [*The Minister of Public Administration and Information (Sen. The Hon. Wade Mark)*]

JOINT SELECT COMMITTEE REPORTS

Presentation

Ombudsman's Report (Seventeenth)

Sen. Prof. Julian Kenny: Mr. President, I wish to lay on the table the report of the Joint Select Committee of Parliament appointed to consider and report on the 17th Annual Report of the Ombudsman of the Republic of Trinidad and Tobago and the functions and duties of the Ombudsman and to make recommendations for a more effective machinery for the office of the Ombudsman so that Part II of Chap. 6 of the Constitution of the Republic of Trinidad and Tobago can be given effect.

**Equal Opportunity Legislation
(Working Paper)**

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, I have the honour to present the report of the Joint Select Committee of Parliament appointed to consider the Working Paper on Equal Opportunity Legislation and to submit recommendations to Parliament thereon.

**Integrity Legislation
(Green Paper)**

The Minister of Energy and Energy Industries (Sen. The Hon. Finbar Gangar): Mr. President, I wish to lay on the table a report of the Joint Select Committee of Parliament appointed to consider the Green Paper on Integrity Legislation and to submit recommendations to Parliament thereon.

Occupational Safety and Health Bill

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. President, I wish to lay on the table the report of the Joint Select Committee of Parliament appointed to consider and report on the Occupational Safety and Health Bill.

Public Accounts Committee Report

Sen. Philip Hamel-Smith: Mr. President, I have the honour to present the report of the Public Accounts Committee on the question of payment to Maritime Life (Caribbean) Limited for assuming the obligations of the West Indian National Insurance Company Limited and WINSURE and the payment to the National Carnival Commission to liquidate debts to Northern Construction Limited.

ORAL ANSWER TO QUESTION

National Strategic Development Framework

29. Sen. Diana Mahabir-Wyatt asked the Minister of Planning and Development:

- (i) Could the hon. Minister state how long the current team working on the preparation of the National Strategic Development Framework has been working on this project exercise?
- (ii) What target date has the Minister set for its completion?

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, I have been asked by Minister Sudama to inform the hon. Senator that this question will not necessarily be deferred, if the Senator would facilitate him by allowing him to respond to her fully in the next session of Parliament because the Minister could not complete his response for today.

Question, by leave, deferred.

MUTUAL ASSISTANCE IN CRIMINAL MATTERS BILL

House of Representatives Amendments

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

That the House of Representatives amendments to the Mutual Assistance in Criminal Matters Bill 1997 listed in the appendix be now considered.

Question proposed.

Question put and agreed to.

Preamble.

House of Representatives amendment read as follows:

Delete.

Mr. Maharaj: Mr. President, the Preamble to this Bill was inserted because when the Bill came to the Senate it was required to be passed in accordance with section 13 of the Constitution of Trinidad and Tobago which reads:

- “(1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.
- (2) An Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House.”

Mr. President, the Opposition did not support the Bill in this Chamber and, therefore, the Government had to decide whether the Bill should be amended if the Government wishes the Bill to be passed. In the Bill there was one particular clause—clause 13—which we will be coming to later, and it deals with “consent once given shall not be capable of being withdrawn”. That is an important clause in the model legislation. That point was raised when the matter came up in this House but the Government had to decide whether that clause had to be deleted in order to get the Bill through.

Mr. President, I think I should give an explanation to the Senate. In the Bill, clause 25 deals with search and seizure; clause 28(2) deals with serving of documents; 29(2) deals with powers and procedures to be made for giving effect to the provisions of the Bill and; sections 30(2) and 31(2) deal with applications made to the Supreme Court.

Mr. President, I am mentioning these matters in order to explain that the Constitution of Trinidad and Tobago does not create absolute fundamental rights. For example, the right to the enjoyment of life and the right to the enjoyment of property. Section 4(a) reads:

“the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;”

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Mr. President, under the Constitution of Trinidad and Tobago, an individual could be deprived of property and the enjoyment of that property if it is done in accordance with due process of law. For example, when an acquisition of property is done, it is done on the basis that there is a fair procedure and there is access to the court. Under this Bill, in relation to search, seizures and confiscation of assets, it is done in accordance with due process of law in that applications have to be made to the court which would make the necessary orders. When one looks at the Constitution, one therefore sees that it authorizes deprivation of property but in accordance with due process of law; deprivation of liberty, but in accordance with due process of law. Where, for example, an order has to be enforced, it would have to be enforced in accordance with due process of law and the Bill makes provision for that.

Mr. President, I would like for the purpose of the record, to say that what I have just indicated has been supported not only by cases in the Privy Council, but also cases in America and cases before the European Commission on Human Rights. Persons can be deprived of property by due process of law under the Constitution of Trinidad and Tobago and liberty can be denied in accordance with due process of law. One can look at the cases of *Thornhill vs. the Attorney-General of Trinidad and Tobago*, (1976) 31 *West Indian Reports* at pages 498 and 512; *The Attorney-General vs. McLeod*, (1984) 32 *West Indian Reports* at page 450.

Mr. President, quite recently, in the infamous Privy Council case of *Lennox Phillips vs. Director of Public Prosecutions*, 1992, (1) *Appeal Cases*, 545 and *The Attorney-General of Trinidad and Tobago vs. Phillips*, 1995 (1) *Appeal Cases*, 396, these principles were re-enunciated.

8.15 a.m.

In the United States Supreme Court the case of *Mathews v. Eldridge* 424, *United States*, 319, 1976, also gave that principle. As a matter of fact, before the European Court of Human Rights the case of *Welch v. the United Kingdom* 20, *European Human Rights Report*, page 247 in the year 1995 supports that principle.

Mr. President, it is interesting to note that the English Criminal Justice Act of 1988, in particular, sections 71 and 74, deal with the question of confiscation of property and the same principles are dealt with, in that, there is an application to the court. The English legislation empowers that.

In this Bill, one therefore had to look at the provisions to see whether they offended or were inconsistent with any of the fundamental rights. The only section in which we had to deal with that was in clause 13. There were other amendments but they are mainly typographical and further explanatory. Basically that is the clause which had to be amended. Clause 13(2) says:

"(2) The Central Authority shall refuse to comply with a request for the transfer of a person in custody..."

[*Interruption*] Mr. President, I am aware I should deal with one clause at a time but in order to explain that the Preamble is to be deleted, I have to explain this.

"...if he does not consent in writing to the transfer..."

We are deleting "...but consent once given shall not be capable of being withdrawn", that is the only clause which would have been inconsistent with the Constitution. We would have liked to have that clause because it is required in the model legislation. I think that point came up in this House. The reason the Government has decided to take this course in this matter is because it is an important measure, in that, it has created the domestic legal framework in relation to mutual legal assistance.

Permit me to explain the importance of this Bill in the Caribbean and why the Government had to come back to the Senate in relation to this matter, having got it approved by a specified majority. I am reading from an article in the *Washington Post* Foreign Service, October 7, 1996, page A15:

"Russian organized crime groups, flush with billions of dollars looted from the former Soviet Union and profits from drug trafficking and other criminal activities, are using unregulated and secretive Caribbean banks to launder their illicit gains, according to U.S. and Caribbean law enforcement officials.

These authorities said that members of Russian crime organizations, including individuals who once worked for the KGB, the Soviet secret police, have met in the islands with Colombian and Italian organized crime figures. The meetings were an apparent bid by the Russians to tie into South American drug trafficking networks and establish routes for distribution of Colombian heroin, the official said.

The Russian organizations are 'making inroads all over the world,' said Mr. Jonathan Winer, deputy assistant secretary of state for narcotics and law enforcement. 'The Russians are forming alliances with other ethnic-based

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criminal groups like the Italian Mafia and Colombian cartels for one type of income. They are also involved in prostitution, extortion, theft of state income, money laundering, arms sales and intellectual property theft. It is new in the Caribbean and very dangerous.'

Barry McCaffrey, a retired general who is the Clinton administration's anti-drug czar, said he had seen estimates that up to \$50 billion from the sale of narcotics, out of an annual world total of \$500 billion, is laundered through the Caribbean, making it a 'ferociously corrupting influence' in the region."

It goes on to show that there is indication that this cartel has now become very entrenched in the Caribbean. Certain names of certain countries and banks were quoted. This Bill is important to provide the domestic legal framework whereby one would be able to assist the other in the investigation of that kind of crime, money laundering and drug trafficking.

Thus, Mr. President, the Preamble has to be deleted because the Bill in its amended form would not require a specified majority.

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

Question proposed.

Sen. Nafeesa Mohammed: Mr. President, it is now 8.22 on a Friday morning, and we are assembled in this Chamber to deal with these amendments to the Mutual Assistance in Criminal Matters Bill which came from the House of Representatives which, I am informed, concluded its sitting after 9.30 p.m. last night.

At 7.58 a.m., I am, like most other Members, receiving the actual proposed amendments to the Bill having just listened to the hon. Attorney General deal with the first proposed amendment to the Preamble.

Mr. Maharaj: I would have no problem coming back tomorrow or Sunday morning.

Sen. N. Mohammed: Mr. President, the Attorney General spoke about Russian organized crime, this is a Russian organized coup that is being staged in the Parliament.

Mr. President: Are you making a contribution to this Bill or not?

Sen. N. Mohammed: Mr. President, with respect to whether we should come here tomorrow, Sunday or any other time—

Mr. President: That is not before us here. If you have to make a point, please make it.

Sen. N. Mohammed: We certainly would like to make a contribution with respect to the proposed amendment. Our complaint is that we have had insufficient time to peruse these amendments and deal with them properly in the manner in which they ought to be dealt with in this honourable Chamber. In those circumstances, I am expressing my total regret and disgust, at the manner in which this is being dealt with and being brought to the Parliament. I am not sure whether I should proceed or whether we should have some discussion on deferring the sitting or not.

Sen. Gangar: You are too lazy!

Sen. N. Mohammed: Lazy! Subversion of democracy again!

Mr. President: I would suspend the sitting for five minutes so that each of the leaders can meet to determine what is the next course of action.

8.25 a.m.: *Sitting suspended.*

8.35 a.m.: *Sitting resumed.*

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, I would like to inform you that after consultation with both the Independents and Opposition Senators, it was agreed among Members that they require some time to look at the amendments proposed by the Attorney General. We have so agreed, and we seek your indulgence to have the Senate suspend for at least an hour to facilitate the request of the Members of the Opposition and the Independent Senators.

Mr. President: Hon. Senators, in the light of what the hon. Minister has said and, in fact, he said there has been consensus, we will suspend the sitting until 9.30 a.m. The sitting is now suspended until 9.30 a.m.

8.36 a.m.: *Sitting suspended.*

9.30 a.m.: *Sitting resumed.*

Sen. Nafeesa Mohammed: Mr. President, just about an hour ago the sitting was suspended for us to consider the proposed amendments that came from the House of Representatives which adjourned last night at 9.35. Mr. President, the Bill that seeks to set up a scheme relating to Mutual Assistance in Criminal Matters

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within the Commonwealth and to facilitate its operation in Trinidad and Tobago and to make provision concerning mutual assistance in criminal matters between Trinidad and Tobago and countries other than Commonwealth countries is indeed a very important and serious piece of legislation. In looking at this Bill in its initial form when we dealt with it in this Chamber some three weeks ago, our position was that in the first place, the Bill required a constitutional majority and, therefore, we felt that this is a Bill on which there should have been a public consultation, so that the views of the public at large could be had, and people would have been able to study the Bill and make their comments known to the authorities.

After we debated the Bill and it was passed in this Chamber, we know that it went to the other place, and when I look at the amendment—the first of which seeks to delete the preamble—it is clear that the attempt here is to take out those parts of the Bill that require a special majority of the Parliament in order to ensure its passage in both Houses of Parliament. Mr. President, if I could just read the preamble, it says:

“Whereas it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of the members of that House.

And whereas it is necessary and expedient that this Act have effect even though inconsistent with sections 4 and 5 of the Constitution.”

Mr. President, with the proposed amendment, it is being suggested that this part of the Bill be deleted. Our concern is that in dealing with mutual legal assistance—we have said it before, and I wish to reiterate—we are in support of the principle behind the legislation. We would like to see effective mutual legal assistance legislation put in place for there to be co-operation among states to deal with legal assistance in circumstances that have already been outlined. Our concern with this Bill has been with the setting up of a central authority to deal with this kind of assistance, and the manner in which this debate is unfolding is a bit unfortunate, because perhaps with a little give and take and further discussions, there could have been consensus in respect of our concerns with this Bill.

To this date, we have not heard the Attorney General attempt to address our concerns with respect to the setting up of the central authority, and our objection is that we feel it should not be in the hands of the Attorney General or the office of the Attorney General. This does not have to do with personality; it has to do with the nature of the matters that are to be dealt with under a mutual legal assistance scheme. We know for a fact that there is already established an agency where it was specifically stated and embodied in the legislation that the Strategic Services Agency is a body that by Act of Parliament in 1995 has been established. Under section 6(2)(c) of that Act it is specifically stated that that agency shall be the body responsible for dealing with mutual legal assistance matters.

We have asked the question, and we would like to get some information about the operation of the Strategic Services Agency. I am sure they have requests for legal assistance in certain matters. What we are saying is that for matters like these, we need an agency, a body that will be independent.

Mr. President: We are dealing here with the preamble, and I ask you not to go back into the main subclauses of the Bill. Deal with the preamble please.

Sen. N. Mohammed: Certainly, Mr. President. With respect to the preamble which the Attorney General is seeking to delete, I was making this point simply to emphasize what our concern was, and that those parts of this Bill that offend the Constitution, with a little give and take, we would have been able to work around the situation, because at the end of the day, we want a piece of legislation that will be effective; not a watered down piece of legislation.

When one seeks to remove the preamble, it suggests that one is taking out, or attempting to take out, those parts of the Bill that will go against or contravene the provisions in the Constitution. We could have had some further discussions and consultations on this matter. The attempt to remove the preamble is not really the source of our concern with this Bill. It may not have been necessary in the circumstances, because, as I mentioned, we want effective legislation. You see, we are speaking here on behalf of the population at large. These are matters that ought not to be taken lightly, and the whole procedure in which these amendments have been brought leaves a lot to be desired. Indeed, we view it as yet another attempt at subverting our parliamentary democracy and democracy at large in our country. So, Mr. President, with respect to that particular amendment, we do not view it as necessary. Our concern is with the central authority, and we would like to get some further clarification on that.

9.40 a.m.

Mr. Maharaj: Mr. President, if I may respond to what has been stated, the amendment is necessary because if a Bill is to be passed by an ordinary majority that preamble is not required. The Constitution provides that it is only required if it is to be passed by a specified majority. Having regard to the amendments which have taken place and which are proposed, it is therefore, absolutely necessary that the amendment occurs. So, for the learned Senator to say that the amendment is not necessary is obviously a misconception which is very unfortunate.

Mr. President, it is also not correct for her to say that it is a watered down Bill because many of the provisions have to be amended. Most of the provisions which are being amended are typographical. The major amendment was with respect to clause 13 and the Government has decided, as a matter of policy, that it has to live with that because the Opposition has refused to give its support in order to have this matter effected.

In respect of consultation, the idea of mutual legal assistance arose during the last administration and the Law Commission had effected consultation in respect of the old concept of having this concept introduced. As a matter of fact, under the last administration, the PNM administration, the concept was advocated. This provision of the Bill was also advocated and it is very unfortunate that in a serious matter like this personalities seem to have coloured our decisions.

Mr. President, I would not go into the question of the central authority because that is not an issue here in this debate.

Question put and agreed to.

Clause 2

House of Representatives amendment read as follows:

"In subclause (1), delete the definition of 'Scheme' and insert the following definition:

'Scheme' means the Scheme for Mutual Assistance in Criminal Matters within the Commonwealth as agreed by Law Ministers at their 1986 Meeting in Harare and endorsed by the Commonwealth Heads of Government at their 1987 Meeting in Vancouver and any amendment thereof."

Mr. Maharaj: Mr. President, I think I should apologize to the Senate for having to bring these typographical amendments before it. I have been informed that at the printery level there were some errors. A decision was taken, for the avoidance of doubt—although I am told that these matters could have been corrected at the printery stage—as a matter of being cautious that the amendments be brought. This amendment really is a matter of words and it really does not have great consequence, it conveys the same meaning, but it is one of those matters in which the technical people at the ministry indicate that it has to be redrafted.

Mr. President, I beg to move that this Senate doth agree with the House of Representatives in the said amendment

Question proposed.

Question put and agreed to.

Clause 5.

House of Representatives amendment read as follows:

"Delete the words "criminal proceedings" and substitute the words "criminal matters".

Mr. Maharaj: Mr. President, this was an oversight in that it should really be 'criminal matters' because it is a saving section in order to allow for other arrangements to be made for co-operation in criminal matters, and it will include criminal proceedings. But, in any event, it is a matter which, when one looks at it and reads it, one sees that it should be criminal matters instead of criminal proceedings.

Mr. President, I beg to move that this Senate doth agree with the House of Representatives in the said amendment

Question proposed.

Question put and agreed to.

Clause 13.

House of Representatives amendment read as follows:

"In subclause (2), delete the words ',but consent once given shall not be capable of being withdrawn'."

Mr. Maharaj: This is the clause which, I would say, is the substance of all these amendments this morning, in that this is the clause which has to be amended to accommodate an ordinary majority. In order to explain it to hon. Senators I will read it. Clause 13 states:

- "(1) Where there are reasonable grounds to believe that a person who is a prisoner in Trinidad and Tobago could give or provide evidence or assistance relevant to any criminal proceedings in a Commonwealth country, a request may be entertained by the Central Authority to transfer the prisoner to the Commonwealth country to give or provide such evidence or assistance.
- (2) The Central Authority shall refuse to comply with a request for the transfer of a person in custody if he does not consent in writing to the transfer, but consent once given shall not be capable of being withdrawn."

9.50 a.m.

What is being deleted is that consent, once given, shall not be capable of being withdrawn. This will certainly be inconsistent with one's fundamental rights because one has the right to liberty and freedom of movement and one cannot compel a person, not even a prisoner, to go to a foreign country, wherever that country is. It is in this context that this part of the clause will offend the right, and may I say, Mr. President, it is regarded as an important aspect of mutual legal assistance but it is one of the matters which the Government cannot pass without the support of the Opposition and the Opposition has voted against it. Therefore, we must have it amended.

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

Question proposed.

Sen. Martin Daly: Mr. President, the Attorney General has explained why this part of the section has to be removed. I just want to say briefly, that I think it is very unfortunate that we have not been able to arrive at a consensus on this provision, because this section really seeks to get the co-operation of the criminal element, that is to say persons who are prisoners. It is perfectly obvious that the consent of a prisoner to co-operate with the authorities is a very fragile thing and you are quite likely to have a prisoner being very wobbly about his consent; giving

it, withdrawing. He is subjected to certain pressures of prison life, and we will have to support its removal.

I think it is extremely unfortunate that we have not been able to get a consensus on this because we have a very difficult situation in this country with regard to the trafficking in drugs and money laundering. We do a great disservice to the country if we cannot get a consensus on this issue. This is an issue that cuts across all boundaries in the society and I want to suggest something to the Government, if I may. I do not think it is too late, because I understand the other place is meeting this afternoon. It is obvious to me as I stand back from this debate and once more the unfortunate arrangements that were made this morning for us to look at these amendments without sufficient time. But the Government conceded an hour, so I accept that we should not complain about that. It is unfortunate that parliamentary business is arranged in this way.

I suggest to the Government that there is tremendous unease in the country about the arrangement of the security of the state and I believe that the nervousness of the Opposition, in relation to this Bill, has to do with that unease. I think the Government will do well to reflect on whether it ought not to make some statement about the arrangements that are currently in place with regard to the security of the state. People are generally confused about where the various responsibilities lie as between, first of all, the Minister of National Security and the Attorney General, and secondly, between the various agencies that have recently come on the statutes book. There is still time for the Government to ease the anxieties of some of its opponents and the wider public by making, at the appropriate time, some comprehensive statement about what arrangements are in place for the security of the state..

What I regret is that, because we would prorogue the Parliament very soon there is not sufficient time for us to get together once more on a bipartisan basis and see whether sufficient assurances could be offered, at least off the record, prior to some statement being made by the Government about the security arrangements. [*Desk thumping*] I think it is unfortunate. It is a bad arrangement of parliamentary business to present us with a situation where something as urgent and important as this comes up and our back is to the wall with regard to time. If I can steal Sen. Kenny's thunder—I think that if we had a properly arranged programme of parliamentary business, perhaps we would not find ourselves in this situation. I have no doubt, having regard to the positive attitude of the Government today, that if we were not faced with prorogation already in place for

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Monday, various negotiations may have been conducted and we may eventually, possibly with the Independents acting as the lubricant, have been able to get agreement on this. But we have already set things in train from which we cannot come back. Therefore, I would ask the Government to do something to assuage the concerns of the country about what arrangements are in place for the security of the state. I dare say if that is done and if, of course, we are not presented with these really untimely arrangements of our parliamentary business, we may be able to better achieve some bipartisan arrangements.

Mr. President, we really have a difficulty, because while we have to concede to the executive in this time of great trouble with drugs, money laundering, gang rapes and perhaps the greater degree of power to intrude into people's lives in various ways in order to get at this menace in the society, it is equally important that we make sure those powers are properly safeguarded. That is a process that takes time and it is really important. While I support the removal of this I do so with great reluctance because I think it is the key provision that is coming out of the Bill and unnecessarily so because: (a) we have not had sufficient time, and (b) the Government has not sufficiently sensitized the country about what arrangements are in place for the security of the state.

Thank you, Mr. President.

Sen. Danny Montano: I would like, at this juncture, to endorse the comments of Sen. Daly. I think he has put much of the concerns of the Opposition very well. I would like simply to reiterate what my colleague on our Bench said earlier with regard to the preamble in that the deletion of the preamble, as it relates to this clause, may not have been necessary had we in fact reached the agreement that Sen. Daly referred to.

What was offensive with regard to this clause was what we have been saying all along, and that is where the central authority should lie. What we had indicated, Sir, was that the central authority should be vested in the Strategic Services Agency as there is legislation already in place for that. It is unfortunate, as Sen. Daly has clearly said, that the Government has chosen this avenue to come with a piece of legislation that is to no one's satisfaction rather than try to seek the agreement and the consent of the Opposition to simply steamroll it through. It is an important matter and we are fully appreciative that as the conditions of society change then so too the authority of the Government must also adapt itself to deal with those changing circumstances. But I think that in the present circumstances

the Government has completely ignored the rights and duties of the Opposition and has completely disrespected what we could and should have done.

Thank you, Mr. President.

10.00 a.m.

Mr. Maharaj: Mr. President, I am indebted to Sen. Daly for the comments that he has made. It is correct that this is an important provision of the Bill, but it is not the most important one. As a matter of fact, when one reads the Bill, one would see that there are other provisions which would make it very effective to confiscate assets, to get information, and so forth. But it is correct that clause 13 is an important provision, whereby one can get information from prisoners and from criminals. That, today is an important area of investigation, and more and more countries are trying to find ways and means of getting that information, whether it is through the introduction of plea bargaining rules or otherwise.

I do not think it would be right for me to allow the impression to be given—and I am not saying that it has been given by Sen. Daly; I will deal with the comments made by Sen. Montano in a short while. But if the impression is given that the Government has not done all that it could have done to get consensus, I would like to say that this Bill came to this Chamber; the objection to the Bill by the Opposition was on a matter of the central authority, without going into the facts of the matter. Extensive debate took place on that matter. The Opposition maintained that, in spite of all the facts that were mentioned. The Independent Senators supported that decision, that the appropriate authority was, as was agreed. The Bill went to the other place and the Opposition got sufficient time and that was the same position which was adopted. That is the only position which the Opposition adopted.

So when one looks at it, it is the Opposition that is trying to obstruct the Parliament and the Government from dealing with the question of drugs and money laundering. It is the Opposition which sees that the Government and the Parliament want to put legislative measures in place to deal with the question of money laundering, to be able to get information from other countries in respect of nationals of Trinidad and Tobago and to have this kind of machinery in place. The Opposition knows that prisoners who can give information about politicians can give information about drug traffickers and knows that vital information can be given, but the Opposition—

Sen. Mohammed: On a point of order, Mr. President.

Mr. Maharaj: May I know what is the point of order, please?

Sen. Mohammed: Standing Order 34(b). Mr. President, the hon. Attorney General made a statement about the Opposition wanting to obstruct this legislation because we do not support measures to deal with drug trafficking and what have you. Our point, just by way of elucidation and clarification, is that the *Hansard* records—

Mr. Maharaj: Mr. President, I have not given way.

Mr. President: Just say what is your point of order and do not go into any explanation or debate.

Sen. Mohammed: Mr. President, I merely wish to elucidate on a matter raised by the hon. Attorney General.

Mr. President: What point are you on?

Sen. Mohammed: Standing Order 34(b), the point with respect to the Opposition obstructing legislation to deal with drug trafficking—

Sen. Hamel-Smith: Mr. President, on a point of order. Standing Order 34(b)—

Sen. Jagmohan: Senator, you have to wait for the President's ruling.

Mr. President: That really is not a point of order that you raised. Standing Order 34(b) is not on a point of order.

Please continue, Mr. Attorney General.

Mr. Maharaj: Mr. President, it is the Opposition that is misleading the House and trying to mislead the Senate. Sen. Montano said that the Government was trying to steamroll this legislation through the Parliament and that is not true. But it shows that the Opposition is prepared to allow considerations which are not in the public's interest to colour their actions and decisions. How can the hon. Senator say that the Government is trying to steamroll this legislation? He had this legislation to read months before it was debated in the Senate. He read it; it was debated at length; he made his contribution; it went to the other place. The objection of the Opposition was based on a policy consideration. Despite the fact that the Constitution said what is the role and function of the central authority, he and the Opposition objected to it.

If, today, people in Trinidad and Tobago, or the law enforcement authorities of Trinidad and Tobago, would not be able to get vital information from prisoners in accordance with this law, it is the Opposition that is responsible for denying justice to the people of Trinidad and Tobago. [*Desk thumping*] If children in Trinidad and Tobago are poisoned by this kind of activity, it is the Opposition that is responsible for the poisoning of children in Trinidad and Tobago. [*Desk thumping*] It must be made quite clear that the Opposition has obstructed the Government and the Parliament in trying to take more effective measures to deal with the problem of drug trafficking and money laundering.

Sen. Mohammed: We support the measure. We do not support the central authority. That is wrong!

Mr. Maharaj: Mr. President, I am not surprised by the obstruction by the Opposition, because a notorious man who has been convicted, occupied 110 acres of state lands in Piparo, under the last administration, and the PNM did nothing about it. [*Desk thumping*] So I am not surprised that the Opposition has adopted that posture in this Bill and has used other reasons, which are spurious, to object to it.

Sen. Montano: Mr. President, on a point of order. The statement that the Attorney General just made is not true; it is simply incorrect. The statement that the last administration did nothing is not correct. He was brought to justice; he was arrested and charged.

Mr. President: Let the debate continue.

Mr. Maharaj: Mr. President, nothing was done to take back the state lands, the people's land. The PNM knew about it!

Sen. Montano: Mr. President, on a point of order. That is misleading, because the man was charged.

Mr. President: I just ruled that we should continue the debate.

Mr. Maharaj: The obstruction of the Opposition can be put in its perspective. I see they smile; they laugh, while children are crying.

Question put and agreed to.

Clause 15.

House of Representatives amendment read as follows:

- A. In subclause (1)(a), delete the words 'or record of the criminal proceedings'.

- B. In subclause (1)(b), delete the words ‘or record of the criminal proceedings’, and ‘or criminal proceedings’.”

Mr. Maharaj: Mr. President, in clause 15, those words “or record of the criminal proceedings” are not relevant to that clause, because when one looks at clause 15, one sees that it is related to clause 14, which states:

“Where, for the purpose of, or in connection with, any criminal proceedings, it is necessary or desirable to serve any document on a person or an authority in a Commonwealth country a request may be transmitted seeking the assistance of that country in effecting such service.

15(1) Where a request has been made under section 14 the Central Authority—
(a) may...”

It goes on to talk about the certified copies of the document, but it is not related to record of criminal proceedings.

10.10 a.m.

Mr. President, may I mention that record of criminal proceedings can be obtained when one looks at the meaning of judicial records in clause 7 of the Bill.

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

Question proposed.

Question put and agreed to.

Clause 18.

House of Representatives amendment read as follows:

Delete and substitute the following clause:

- “Assistance 18. Where-
in tracing
property, etc.
- (a) a person has been charged with or convicted of a serious offence or is suspected on reasonable grounds of having committed such an offence in Trinidad and Tobago; and
 - (b) property derived or obtained, directly indirectly, by that person from the commission of such an offence is suspect on reasonable grounds to be located in a Commonwealth country,

a request may be transmitted requesting that assistance be given by that country in identifying, locating or assessing the value or amount of such property.”

Mr. Maharaj: Mr. President, the words are the same. The way it was set out could have given a different meaning to what is now stated. It is a rearranging of the words so that one can be clear as to what it means.

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

Question proposed.

Question put and agreed to.

Clause 30.

House of Representatives amendment read as follows:

In subclause (5)(b), delete the words “34(2)(a)” and substitute the words “35(2)(a)”

Mr. Maharaj: Mr. President, this was purely an error in cross referencing.

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

Question proposed.

Question put and agreed to.

Clause 31.

House of Representatives amendment read as follows:

In subclause (3), delete the word “29” and insert the word “30”.

Mr. Maharaj: Mr. President, it is a cross reference error.

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

Question proposed.

Question put and agreed to.

Clause 35.

House of Representatives amendment read as follows:

- A. In subclause 4(b), delete the words “30(1)(a)”
- B. In subclause 4(c), delete the word “30” and substitute the word “34”.

Mr. Maharaj: Mr. President, there are errors in cross referencing.

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

Question proposed.

Question put and agreed to.

Clause 37.

House of Representatives amendment read as follows:

Delete the word “11” and substitute the word “10”.

Mr. Maharaj: Mr. President, again, there was an error in cross referencing and the amendment is to correct that error.

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

Question proposed.

Question put and agreed to.

Clause 38.

House of Representatives amendment read as follows:

In subclause (1)(a), delete the word “11” and substitute the word “10”.

Mr. Maharaj: Mr. President, again, there was an error in cross referencing and an attempt is made to correct the error in the amendment.

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

Question proposed.

Question put and agreed to.

Clause 39.

House of Representatives amendment read as follows:

In subclause (2)(b), delete the word “29” and substitute the word “30”.

Mr. Maharaj: Mr. President, again, this is an error in cross referencing and the amendment is proposed to correct that error.

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

Question proposed.

Question put and agreed to.

10.20 a.m.

First Schedule.

House of Representatives amendment read as follows:

(a) In paragraph 8(d), delete the words “30(1)(a)(ii)(A) or (B)” and substitute the words, “31(1)(a)(ii)(A) or (B)”.

(b) In paragraph 9, delete “30” and substitute “31”.

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

Question proposed.

Question put and agreed to.

Mr. Maharaj: Mr. President, in the new session of Parliament we shall bring a bill to give the Opposition a second chance to agree with the inclusion of what was left out today, to save the children of Trinidad and Tobago.

ADJOURNMENT

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, before I move the adjournment of the Senate *sine die*, which means without fixing a day for future action or meeting, this session of Parliament prorogues on Monday and we start a new session on November 24, 1997. I hope all hon. Senators will get some rest during that period and we would come back in a degree of health and strength, so that we can pursue the business of the nation.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.25 a.m.