SENATE

Tuesday, June 09, 1998

The Senate met at 1.30 p.m.

PRAYERS

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

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Post Office Savings Bank for the year ended December 31, 1986. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]

2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Post Office Savings Bank for the year ended December 31, 1987. [*Hon. W. Mark*]

CONSUMER PROTECTION AND SAFETY (AMDT.) BILL

[Third Day]

Order read for resuming adjourned debate on question [December 16, 1997]:

That the Bill be now read a second time.

Question again proposed.

Sen. Joan Yuille-Williams: Mr. Vice-President, I say thanks to hon. Senators for their kind comments which I received last Tuesday and today.

I know that this debate ended on February 17, 1998 and a lot had been said on the pros and cons of this Bill. I would like to make a few brief remarks this afternoon. I hope my remarks are not as brief as some of the statements that have emanated from the United Nations and that I could be as effective as possible in those remarks.

The Bill is entitled an act to amend the Consumer Protection and Safety Act, 1985. When one sees this, clearly one says yes to such an amendment because we are interested in protecting the consumer and any act that goes in favour of the consumer should have the support of all in the Senate.

Mr. Vice-President, I took a few minutes to go through the Consumer Protection and Safety (Amdt.) Bill and I looked clearly for the areas of protection

in it. I also looked at the original Act, No. 30 of 1985. One of the things I noticed in both, is that this Bill makes provision for a Consumer Guidance Council. I was very pleased with what I had seen in the 1985 Act as to the composition of that Consumer Guidance Council. It seems to me, from what I have been seeing coming out of the Parliament that meanings of words change very quickly. When I looked at the word "protection", I tried to see to what extent this Bill protected the consumers and when I looked at the word "guidance", I also tried to see to what extent this council was giving guidance.

I want to look at the council as is stated in Act No. 30 of 1985 at section 4:

"...the Council will include—

(a) one or more persons appearing to him to be qualified to advise on practices relating to goods supplied to consumers in Trinidad and Tobago or produced with a view to their being so supplied, or relating to services supplied for consumers in Trinidad and Tobago, by virtue of their knowledge of or experience in the supply of such services;"

If I have people like that on a council, I can see protection for the consumers. Here is someone with expertise. I also see:

"(b) one or more persons appearing to him to be qualified to advise on such practices as are mentioned in paragraph (a) by virtue of their knowledge of or experience in the enforcement of the law concerning Weights and Measures and Standards;"

Again, expertise.

"(c) one or more persons appearing to him to be qualified to advise on such practices by virtue of their knowledge of or experience in organisations established or activities carried on, for the protection of consumers."

There are a number of NGOs where people voluntarily took up the mantle on behalf of the consumers. This 1985 Act said let us look at those groupings and select a guidance council to advise the Minister.

When I looked at the composition of this present council, I was appalled, because we have moved not only from expertise—and I dare say some people will question that there are some people on the council now who have some expertise, they feel, for which they are assigned portfolios. So, it is not only expertise, but what I looked at in 1985, I considered to be an independent council. That is

important, when we talk about protection. This is an independent council, people who work on behalf of the consumers, who do not have their own interests, let us say, of any particular government.

There is the big difference in what I am seeing now for a council to be appointed to replace this. In fact, I wonder why the name "guidance council" was retained. To me, there was no need to retain it, because it is not a guidance council. Who is it guiding? That is my question. It says: "to advise the Cabinet on matters relating to the implementation of policy."

This new council is made up of members of the Cabinet advising the Cabinet on implementation of policy. This is a Government that talked about public participation; this is a Government that talked about transparency; this is a Government that talks about consultation; and this is a Government that is now bringing a piece of legislation here and asking us to support it when none of those things is relevant to the legislation which is before us. There is no public participation because they have removed all those people. I would say there is no expertise, except for those who are with portfolios at the present that relate somewhat to what they are supposed to do here, but this is a Bill for all times and, certainly, there is no transparency.

Let me just go a little further. When I say there is no transparency, I understand that in the Ministry there was some difficulty with getting people to accept certain responsibilities and that there was a block when complaints or whatever came to the Ministry; the public servants were getting a bit frustrated. Therefore, they were trying to find a way in which they could make Ministers more relevant, probably, to this whole Consumer Protection and Safety Act. But I am afraid this is not the way. To remove the council and put in a council made up of Ministers, needs serious rethinking.

For example, there are nine persons on it; five is a quorum. Tell me the truth. Who knows when they will meet? Will they ever meet? Will there be a telephone conversation? Who knows? We could scarcely tell. Let me tell you, Mr. Vice-President, I also heard very informally that some aspects of this have already been happening, where Ministers have been meeting and taking decisions. One wonders whether this is another exercise in futility, but we will press on and say what we have to say on this point.

I am saying that this is more than a case of himself to himself. This is a case where people decided they wanted things to happen in a particular way and,

therefore, they will control how this happens. That is a clear picture of that. “We are going to control it. We are going to be there to say what happens and we are doing it our way. Whether you like it or you do not like it, that is your business.”

Mr. Vice-President, this is not the only instance I have seen of this. I have seen outside the Parliament and, unfortunately, I have seen a number of pieces of legislation coming to this Parliament that bear resemblance to this same type of attitude. I hope that something will be done to stop this kind of thing.

Of course, the Government can use its majority to pass the bills, as probably it may very well do, without listening to anyone else, but I am hoping that somewhere along the line, some semblance of understanding will come. Let me say that for the time being, you are in good graces, but there could be a time when you would fall out of grace, and then you would also feel the brunt of this type of legislation which you continue to bring to the Parliament. Some say it is draconian; some people say that rights are being eroded and they will say, “Why are they talking about rights now?” But I am saying, yes, because in this case, the consumer has no rights. There is no opportunity at all for the consumer to get his point heard.

It will go to the Ministry and then it goes to the Ministers and let me tell you, each with an interest to protect his own ministry. None of them is going to come out and say, yes or no, that they have not done the right thing. Let me not say that people are not laudable and they are not people of integrity, but what I am saying is this could very well happen and I have no doubt that it would happen.

At a time like this, we need some kind of transparency and I am saying that there is no way that we could support a Bill that says the council must comprise of Ministers. I tell you that in the last Parliament, anytime we had a bill and Ministers were mentioned anywhere, there was a big loud cry from the Opposition side, “Take out Minister”, regardless of what was the position. Now, they are not saying, “Take out Minister”, they are saying, “Take all, the entire Cabinet, and put it there.”

This is something that frightens me. I am really very disturbed about it because I feel that we are not being honest with the people whom we represent. I do not see why the Government has anything to fear. Why does it have anything to fear? This is the point in time when it said on the platform it will do things in a certain way. Why does it not do it? Why is it pulling back and not allowing the process to

continue? There is no way that we can have this without independent persons on this council.

1.45 p.m.

As I said before, if there was a problem with getting ministries involved, the solution to the problem is not what this article brought forward. There was a quorum of five that probably never met. Who could tell?

There is something that was very fundamental that was deleted from the Act of 1985, which is the portion on conflict of interest. On a day like this, how dare the Minister come before the Parliament and tell the people that an area like this is going to be removed? I think it is 7(3) on the conflict of interest in the last Bill. I can read it for you. It says:

> "(3) A member of the Council whose interest is likely to be affected whether directly or indirectly by a decision of the Council on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Council at which he is present after the relevant facts have come to his knowledge.
>
> (4) A disclosure under subsection (3) shall be recorded in the minutes of the Council and after the disclosure the member making it shall not vote on the matter and, unless the Council otherwise directs, shall not be present or take part in the deliberations of any meeting, when the matter is being decided by the Council."

That is what I am talking about on the protection of the consumer. [*Desk thumping*] The conflict of interest has been removed.

Are you telling me that none of these Ministers at any time will have any conflict of interest? I am not seeing the Minister of Agriculture but I know him; I have seen him before. He has an interest in agriculture and it is not on the schedule. I hope that he has been doing something with agriculture, whatever he was before coming here, be it a farmer or whatever. Are you going to tell me that regardless of what comes with agriculture, that the Minister is going to be present and preside over it as judge and jury? This is unfair to the citizens.

I am saying that you cannot have a bit of legislation and remove such a fundamental provision. In fact, I am wondering whether the Pharmacy Bill on over-the-counter drugs, which was debated some time when I was not in this Parliament, had not come informally through this council in its informal

sitting. I noted that it was passed very quickly or quite easily, and in many cases I am quite sure there will be some conflict of interest. Who knows? As far as this Bill is concerned we will never know when there is conflict. When you tell me about transparency, I cannot tell when there is conflict, if one must withdraw or anything. The Bill does not say if one must do that, and I am very worried about this piece of legislation. As I have said before, this is not the only bit of legislation that I have seen over time that has worried me.

When we look at the Council, we are looking at protection. Mr. Vice-President, again I want to know, what does the Government think when people come here on a Tuesday? I know that people have been making worthwhile contributions in this Senate. This Bill says something about the protection of consumers; you found a place to put it in. You just removed a title, references to the council, imposed protection of consumers and deleted a few of the clauses. That could not be protection of the consumers. We are not foolish and I think it is absurd to come with this piece of legislation.

Mr. Vice-President, do you know what I thought happened? Somebody deleted those areas and said, "Look, this is a Bill about protection of consumers. There is no place in this Bill that says that; let us find a place for it. We have a majority in here. Do not bother anyway. It will soon be passed and we will get on with the more important business." Part II, "Reference of Council" was removed and "Protection of the Council" put in. The Minister comes here and the Members in this Parliament are supposed to digest that, feel happy and support it. That worries me a lot because there is nothing there. I cannot see why the Minister just removed "References to the Council" and then just superimposed protection of the consumer in that part. Then you will tell yourself, "You know something, this Bill deals with consumer protection and safety; Part II deals with the protection of the consumer." We ought to be crazy or something like that. We need to be serious; we need to be honest with ourselves; we need to be honest with the people we represent. I am quite sure that those who brought this Bill probably would have taken a second look at it and asked themselves whether or not this is the way we should go. What are we thinking about the people in the Parliament?

There is someone called the director who has got some more powers in this. I want to say at this time, whatever references I make to the director has nothing to do with the present director. I do not know who he is. I am sure he is a man of integrity, but as I said, this Act goes on for all times. I am seeing that the director in this new Bill can make recommendations to the Minister. I do not know who

appointed this director; it did not say. Therefore, I could easily conclude that it is the council or the chairman, or whoever did that.

I am not saying that the present director is a man or woman who does not have integrity, but I am saying that you could almost ask people to compromise their position when you ask the director to make decisions. He is the one who would say whether or not something adversely affects the economic interest of the consumers in Trinidad and Tobago. That is left for him to decide and he makes the recommendation to the Minister. This is a very vicious circle and we have to watch it because clearly, the Minister is in total control of all the consumers in this country. There is nothing about protection in it for us. What is there in it for us is, "you do as I say or else you would get no redress." In fact, this was supposed to be something which will give teeth.

Truly, there was not a council put in; members were not named. Even if the Minister has to do that, he does not have to change legislation in this form. If you had to put people in, do so; if you feel the ministries were not responding, find a method to get them to respond, but not just choose each minister and say, "You are responsible." Responsible to whom? You are responsible to yourself. So something comes to the Secretariat; it could be passed to the Ministers; they can handle it and keep it for how long they want; they could sit on it or not; they could prevent themselves from being embarrassed or whatever they want to do. The teeth you are looking for are not here. In fact, I think this is most ineffective as far as the consumers are concerned, when you remove the independence of that council, when you remove the people who are looking out on behalf of the people of Trinidad and Tobago and put yourselves in their place.

This morning I listened to the radio on my way up and I heard that the booksellers do not know what to publish, especially for Common Entrance. I am happy and I must compliment the Minister for widening the scope. I totally agree with the Minister for bringing some of those areas under the scope of the Act because, really, there was need for that kind of thing. The booksellers were asking, "What do we publish?" We are looking at the kind of product coming out of the education system. We are looking at the fiasco of the textbooks; we have the issue about the evaluation of the textbooks. I know about the evaluation of textbooks because I was an evaluator at some time in the past. When textbooks are evaluated, there are certain criteria and recommendations. I do not see the Minister advising on the textbook issue at all, not because he has not been in that fraternity; he has been in medicine. There are so many people in the field of education,

therefore, who should come now in this council so that they can make some effective representation and give advice.

The whole business of task forces we see happening in the country is because we feel there is need for assistance. What I see happening is that the task force is brought in crisis times—crisis management; you run and get a task force to advise you and what they say, you try to put that out; shift the blame from yourself. I am saying that there are some task forces that have worked quite well, but it is not necessarily for crisis time. That task force takes up an advisory position.

If the advisory council on education—which I hope is still functioning—had given some advice to the Prime Minister when he made those statements concerning the end of Common Entrance, I am quite sure he would have done it differently. He probably would have had more success in appealing to the people of the country but he would have been guided. The Prime Minister made the statement without advice, the crisis started and he then calls a number of respected people in the field and says, "I have a crisis on my hands; do whatever you can do because this Government must come out of this situation I have put them in." This is not what we are looking for. Use the advisory council at all times and that kind of crisis would not arise.

Therefore, when you have an advisory council, why are you removing it? The word "advisory" is important. Why are you taking it away and removing the independence and substituting yourselves and somewhere down the line the crisis management starts when people begin to complain about something in particular. Then we will hear someone saying, "Let us call in a task force to see if they can help", when this matter could have been done differently.

There is one other area I wanted to look at, which is the publishing of the name of the recalcitrant traders. I have no problem with that. In fact, I think that some members of the public service felt that because these traders' names were not published—and I think it probably was to embarrass them—they continued the unfair practices as the case may be. They felt if the names are published, probably people would feel badly when they saw their names as in other areas, and they will stop the practice. But what has happened? Who is going to publish the names of their friends in terms of the conflict? There are traders who are friends. You cannot tell me they are not your friends. They are party supporters and financiers. Who will publish their names? How will I know there is a recalcitrant trader out there? Will you, the members of this council tell the public that is there? Will that director be able to open his mouth and say that is happening?

Sen. Cuffy-Dowlat: [*Inaudible*]

Sen. J. Yuille-Williams: I am trying to be objective. Will he? This is what I am thinking at this time. So you say publish the names, but I am saying that—probably it may work—I have no guarantee because of the structure of this council that it will work. I have no guarantee that council or that director is in a position to publish the names of the recalcitrant trader.

Therefore, Mr. Vice-President, I have a very real problem in supporting this amendment. Any time I see rights being infringed—and I said that very openly—any time I see that the population is not getting what it deserves; any time I see people moving into areas in which they should not move; any time I see these draconian pieces—I have a real problem with that. This is not subtle. Sometimes there is legislation that is subtle but this is quite open with the ministers of this council. I do not think that this is the answer.

I am hoping that the Minister would review this Consumer Protection and Safety Act in such a way that the independent council could be brought back in some form; that the ministries could respond to what comes to them, brought back in such a way that the conflict of interest is still left within this Act; that is necessary. Bring it in such a way that those of us on the outside would feel comfortable and it would be transparent. This is a country with a lot of expertise. There are so many people in this country whose services are bought all over the world and we are not using them. We decide to use ourselves and talk about arrogance of other people. We cannot say that.

I am honestly hoping that the Government will look at this again. We cannot pass this bit of legislation in the form in which it is. Something has to be done. Probably the Government might use its majority and drive it through, and probably is saying, "They can all stand up there and talk Tuesday after Tuesday; we have other important things to see about." For those who felt that the PNM was not interested in consumerism, let me just say that the PNM had a Minister of Consumer Affairs. This was a ministry. [*Desk thumping*] It was not with one, two, three and even extending portfolios as we see recently. We are talking about matters which were tucked away. Nothing was tucked away; it was open.

2.00 p.m.

We had a ministry of consumer affairs with a very capable minister because we considered it a priority. I am hoping, even though the Minister is now burdened with a number of other portfolios, that he will see how important this is to the

population of Trinidad and Tobago and would review this Consumer Protection and Safety (Amdt.) Bill so that all consumers will feel comfortable and that our interests are being heard.

Mr. Vice-President, I have noticed that some of the areas about which the public complain—I will not call any particular authority—have judges who are the same people against whom the complaints are made and nothing happens. Nothing happens. We have several cases of that happening. I think just this week a report showed that nothing happened and nothing will happen because it was a case of himself to himself. Do not let this happen with the Consumer Protection and Safety (Amdt.) Bill. There is a lot we want. They have brought in T&TEC, WASA and many others which is laudable, but give us the opportunity to feel comfortable with the amendments to this piece of legislation.

Thank you, Mr. Vice-President, for giving me the opportunity to speak.

The Minister of Trade and Industry and Consumer Affairs and Minister of Tourism (Hon. Mervyn Assam): Mr. Vice-President, I thank you for the opportunity once more to participate in the proceedings of this very august Chamber and to attempt to respond to the very many contributions that were made several months ago, and this afternoon by both Senators on the Opposition and Independent Benches.

Essentially, I gleaned from all contributions of the past several months that all of the Senators who spoke were in agreement with the Bill, except for a particular clause and a set of subclauses, that is, the composition of the Consumer Guidance Council. This was, perhaps, the only area of difference between the Government's proposal for the amendment of Act No. 30 of 1985 and the proposed amendments before this honourable Senate.

I do not believe it would be necessary to waste the time of all these important people, and the Parliament, to go through in detail all the comments that were made by each Senator, although I must say that I was a bit disappointed by some of the contributions, particularly in terms of the irrelevant comments that were made; not only irrelevant, but in some cases somewhat acrimonious.

Mr. Vice-President, it is my respectful view that all of us, irrespective of our role or political affiliation, come to this honourable Senate to make a contribution towards the solution of problems and the advancement of national development. I feel it is in that context and spirit that we should utter language which is more appropriate to national development and the spirit of national unity and cohesion.

[Desk thumping] But when you hear language that is accusing other Members of all kinds of unsubstantiated behaviour and activity you begin to wonder what is the motive behind some contributions of such distinguished Senators that I now have the honour to address.

How can one accuse the Minister of Trade and Industry and Consumer Affairs, someone—without being immodest—who has dedicated a large part of his life to public service? From the time I was 16 years old—I had not even graduated from St. Mary's College—I was in the community of Arima in the Community Welfare Council, doing adult education in the community organizations, arts festival, literary and debating clubs. I continued my career when I went to the University of Toronto ending up as the President of the Trinidad and Tobago Students' Association. I was one of the persons responsible for the establishment of Caribana in 1967 in Toronto. I returned to this country and did public service as president of the Trinidad and Tobago Manufacturers Association. I have done service as chairman of a county council. I have done service abroad as an ambassador, now I am doing service as a Minister. So, to come and accuse me of all kinds of dubious objectives and all kinds of malicious intent, as suggested by Sen. Montano, is in my opinion, to receive the unkindest cut of all. *[Laughter and desk thumping]*

Mr. Vice-President, I want to thank Sen. Mahabir-Wyatt for her usual elucidating and penetrating comments. *[Laughter and desk thumping]* Again, she made a plea for the input of NGOs and that the conflict of interest should be removed. Obviously, one cannot disagree with Sen. Mahabir-Wyatt, particularly with the gentle and persuasive manner in which she puts over her arguments. *[Desk thumping]*

Sen. Mannette, with her legal thrust of mind, more or less made the same types of comments, but, of course, went off on a tangent from time to time to speak about the small claims tribunal and the status of dishonoured cheques and so forth; matters that have already been given serious attention by this Parliament and which continue to receive the attention of the distinguished Minister of Legal Affairs.

Mr. Vice-President, there were theological insights of Sen. Rev. Daniel Teelucksingh in terms of his concern for expiry date, the quality of pharmaceuticals, the warranties on appliances and all the other matters that are very important to the concerns of consumers in Trinidad and Tobago. I want to assure the distinguished Senator that as Minister of Trade and Industry and Consumer Affairs, I have dedicated my energies to addressing all these concerns

with considerable success. I will publish, before long, an entire dossier of all the complaints that we have received in the Ministry and show to this Parliament and the national community, by extension, how we have been successful in addressing and getting redress for well over 90 per cent of all these complaints. I will come to the temporary Sen. Yuille-Williams, who claims differently.

Mr. Vice-President, Sen. Prof. Spence spoke about planning and development. I know he is a distinguished professor of agriculture and is concerned about all these matters and the information that we need to disseminate in order that consumers can have the ability to make proper choices and exercise proper judgment. That, too, we are trying to do by way of our consumer outreach programme, consumer education programmes and our pamphlets, leaflets, television and radio programmes.

Sen. Marshall was short and he maintained that complaints cannot be effectively handled by Ministers, therefore, he too, was against the composition proposed in the amendement Bill.

Sen. Mohammed, who is not here—I do not know if she is still a member of the Senate—went off on a bit of an excursion *[Laughter]* and reached as far as India with respect to a trip that the distinguished hon. Prime Minister made in January/February 1997. She talked about all things relating to rice—I do not know if she is an expert on rice—and she made certain statements about moulding and so forth, which I am sure that she is not in a position to substantiate. Of course, she is not here and I do not think I will dwell on some of the comments because I do not like necessarily to speak in people's absence.

Sen. Alfred spoke about consumer groups and the need to establish them so that additional burdens can be removed from the Ministry. I accept that. An eminently reasonable suggestion which this Ministry is already pursuing in terms of attempting to develop consumer groups and buyer groups and so forth, so that we can be mobilizing communities in order to ensure that the slogan of the Ministry of Trade and Industry and Consumer Affairs becomes a reality: "The power is yours."

Sen. Daly, also, was against the manner in which we were proposing the composition of the Consumer Guidance Council. Of course, in his inimitable style, he posed the rhetorical questions of who is going to guard the guards and to whom would ministers be responsible. I have no objection to such a suggestion or rhetorical questions as posed by the distinguished Senior Counsel.

Sen. Dr. Mc Kenzie said that the Act could be effectively implemented in its present state. In other words, she did not feel that there was any need to do any amendments. Notwithstanding, the vast majority of Senators did feel that the amendments that were being proposed were in the interest of the consumer and advancing consumerism as a whole in Trinidad and Tobago.

Sen. Beckles, that gentle lady—a lady with a gentle visage and such an eloquent tongue; I miss her presence; I do not know if she is still a member of this distinguished Senate—made some very interesting observations. She, herself belonging to the credit union movement, obviously, had great concern for the consumers of this country. Of course, by her legal training, she was able to suggest means and ways of improving the redress system that resides in the Ministry of Trade and Industry and Consumer Affairs.

Sen. Dr. St. Cyr, himself an eminent economist, was also supportive of the Bill, but he wanted the retention of the old Consumer Guidance Council and maybe, it could report to a subcommittee of Cabinet. That was essentially the essence of his argument and presentation.

Now, I come to Sen. Yuille-Williams who made her contribution today. I was a bit disappointed because she was once a member of the government of the last administration; a cabinet minister with some very serious responsibilities. She made some statements which, very charitably put, sounded quite irresponsible and inaccurate. Because to suggest that there was no protection for consumers is rather stretching the truth. This Minister piloted a bill in 1997 called the Standards Bill which is now called the Standards Act, and there is enormous protection for consumers in that Act and the body. Responsibility for all the quality, safety and protection, with all the penalties and sanctions attaching thereto resides in the Trinidad and Tobago Bureau of Standards.

To suggest who appoints the Director of Consumer Guidance—imagine a former minister asked that question; someone who sat in the Cabinet of this country—is an amazing revelation. The Senator must know that Cabinet can create the post of Director of Consumer Guidance, but it is the Public Service Commission that fills the post and they are the ones who determine conditions of service. Not the Cabinet, not a minister, in particular, not the Minister of Trade and Industry and Consumer Affairs. I am amazed that a former cabinet minister can stand in this Senate and make such a dreadful error not only to the Parliament but, by extension, to the national community; displaying such an enormous and

abundant ignorance in the processes of the public service. That one shocked me. I could not believe it.

She went on to ask who was going to publish the names of "your friends"; these recalcitrant traders. Who is going to do that? It is the public servants who collate, on a monthly basis, the report of the complaints on the recalcitrant traders. I am the one who looks to see what progress is being made with respect to the redress of complaints. It is not the Minister who does that, it is the public servants. Is she suggesting, therefore, that public servants are dishonest? Public servants do not have integrity? Public servants have "friends"? Public servants get bribes? Public servants do things under the table? Is that the insinuation of the Senator when she asks who will publish the names of "your friends", the recalcitrant traders? This, in my view, is an unfortunate statement impugning the integrity of some of the most dedicated human beings in this country. *[Desk thumping]*

Mr. Vice-President, then the distinguished Senator went on to state that the legislation is not subtle, it is open, but I am happy that she has congratulated this Minister and the Government for bringing legislation that does not have a sting in the tail. It is not subtle but open. There are no differences in interpretation when the Independent, Opposition and Government Senators, and the public at large read it because it is not subtle but open, clear and unequivocal. Therefore, she should congratulate us for bringing legislation that is open and not subtle. I thank the Senator for the congratulations and compliments.

The Senator went on to say that the PNM established the Ministry of Consumer Affairs. This is factually correct. Let me put it this way; consumer affairs was a division, unit or department in various ministries from time to time and it is correct that under the administration of which she was a member of the Cabinet, they did establish a ministry of consumer affairs.

2.20 p.m.

The Senator went on to say that it was not an extended portfolio, and so forth. Why is it the PNM have such short memories? The Minister of Consumer Affairs never went to the Ministry of Consumer Affairs. She sat in the Prime Minister's Office in the Twin Towers which, was her substantive portfolio, and peripherally she did work for the Ministry of Consumer Affairs where the public servants, through their messenger/driver, took all the files to her office in the Twin Towers. Is that the Minister of Consumer Affairs who never visited her Ministry and called herself Minister of Consumer Affairs? But more than that, what did that Minister

of Consumer Affairs do? Tell me one achievement of that Minister of Consumer Affairs, and I am prepared to sit, listen and be totally objective, to use the Senator's words.

It was this Minister of Consumer Affairs, when he assumed office in November, 1995, who pulled the thing together. The Ministry of Consumer Affairs was housed in the Riverside Plaza, located on Pembroke Street, and housed in the Salvatori Building, all over, and by May of 1996, within six months of this Minister assuming office, I had the ministry properly accommodated and housed in one building.[*Desk thumping*] But, there was a consumer affairs minister for three years, 11 months and 21 days, who did absolutely nothing and this Minister, in less than six months, put them under one roof.

It was this Minister who, within one year of assuming office, brought to this honourable Parliament a National Consumers Policy. It was this Minister who brought a Standards Bill. It is this Minister who is bringing an amendment to the Consumer Protection and Safety Act. It is this Minister who will be bringing a metrology bill before long. It is this Minister, and I say this, but I mean the Government too, because I do not want to be egotistical—this Minister bringing it through this Government because the Cabinet has to authorize it, so it is the Cabinet through this Minister. It is this Government through this Minister who has established all the sector committees. There are about 10 sector committees in some of the most important areas impacting on the consumers of Trinidad and Tobago, working feverishly to solve the problems. We do not boast. We do our work quietly. You may see us on the television, radio or in a pamphlet.

In 1996—1998 the Ministry of Consumer Affairs held national symposia on sustainable consumption, sustainable development, poverty alleviation and eradication. These are the kind of things we have done in the Ministry of Consumer Affairs.

Mr. Vice-President, we have gone out and we have started up buyers' clubs and consumer organizations in this country. We have joined Consumer International within less than a year of assuming the portfolio. Three years, 11 months and 21 days, what did that former minister do? For the first time there will be a regional symposium on consumer affairs; Trinidad and Tobago taking the lead in Caricom to hold a regional symposium of all ministers responsible for consumer affairs in the very near future.

I can go on and on. When it is said there was a Minister of Consumer Affairs, tell me what this former minister has done. I am prepared to listen and I will give 'Jack his jacket' any time because I believe I am an honest, fair and objective human being. But do not come to this Senate and make scurrilous remarks and accusations.

Mr. Vice-President, the Senator plaintively spoke about the concern for the consumers and so forth. It is unfortunate that she is here today, and I am here today, in a very real sense. Do you know why? Because, she was a minister in the last government responsible for community development, culture and women's affairs.

Sen. Mannette: They moved that away from her.

Hon. M. Assam: If the reports had come out before she might have been fired, not demoted. She was responsible for the National Carnival Commission. What is the report of the Auditor General? These are the consumers and taxpayers of this country. If one wants to protect consumers—the Senator said there is no way for protection in the Bill, although, I am not too sure that she read the Bill. She said there is no guidance in the Bill. The consumers and the taxpayers of this country suffered under that Minister when she was in charge of the National Carnival Commission.

This is the *Report of the Auditor General of the Republic of Trinidad and Tobago on the Receipts and Payments Accounts of the National Carnival Commission for the year ended 1993 July 31*.

Sen. Montano: Mr. Vice-President, on a point of order. Is that report relevant to this debate?

Mr. Vice-President: The Minister may continue.

Hon. M. Assam: It is a good thing this report was not written by the accounting firm of Danny Montano, but it was written by the distinguished Jocelyn Thompson, Auditor General and, therefore, properly verified and authenticated.

Sen. Montano: Mr. Vice-President, on a point of order. With reference to the comment the Minister has just made, I take it as a slur on my reputation and according to the Standings Orders, there is a sly subterfuge inference and I take objection.

Mr. Vice-President: What comment are you referring to? Can you repeat the actual comment?

Sen. Montano: The Minister said it is a good thing the report was not done by my firm.

Mr. Vice-President: I do not interpret that statement as having any derogatory connotations to your firm. I do not know if the Minister is going to pursue the line of argument regarding the competency of your firm which you are suggesting, he is impugning the integrity of your firm.

Mr. Minister, I prefer if you do not pursue the line of discussion regarding attacking if, in fact, you are going to go in the direction of attacking the Senator's integrity.

Hon. M. Assam: Mr. Vice-President, not at all. Let me hasten to advise you, Mr. Vice-President, Sen. Montano and this entire Senate, that I shall never ever impugn the integrity of any Senator in this Senate, including Sen. Montano.

Mr. Vice-President, perhaps, to use the distinguished Senator's words, he did not understand the subtlety of my statement. I was not open this time. I was subtle. I was trying to suggest to him that it would have been an embarrassment to him if his firm had produced the report against his colleagues. But, of course, the subtlety and the nuances escaped him. I will never attack his integrity because I have known Danny Montano Accounting Firm for a long time and there is nobody in this country who can say anything that is other than what it is, a firm of integrity. How can I say otherwise?

Let me continue, you having ruled, Mr. Vice-President. The Senator is concerned about consumers' interest and so forth, and taxpayers are consumers and consumers are taxpayers and I agree with her. I am saying that when she was the Minister responsible for the National Carnival Commission—and this is their R*eport of the Auditor General for the year ended July 31, 1993*. At that time she was the Minister responsible for consumer affairs. Here are some of the comments of the Auditor General and I quote:

> "The accompanying Receipts and Payments Accounts of the National Carnival Commission for the year ended 1993 July 31 have been examined in accordance with the provisions of section 116(2) of the Constitution of the Republic of Trinidad and Tobago. The examination was conducted in accordance with accepted Auditing Standards.

2. Documentary evidence was not seen to enable verification of Gate Receipts of $2,186,270.00. Cash Books were not totalled monthly or balanced to the year end. Bank reconciliation statements were not produced.

2.30 p.m.

3. The Vote Book was not properly maintained in that entries were not certified by an authorised officer, commitments were not recorded, releases of funds were not entered neither were balances of provisions shown.

4. Supporting documents were not seen for payments totalling $1,093,423.00.

5. A written agreement was not seen for the rental of premises by the Commission.

6. In light of the comments at paragraphs 2 to 5 above, it was not possible to verify satisfactorily whether the attached statements exhibit a true and correct view of the receipts and payments of the National Carnival Commission for the year ended 1993 July 31."

Sen. Alfred: Is this a report of the National Carnival Commission? If it is, what part did he say the Minister played in the report? What portfolio did she hold as far as this commission was concerned?

Hon. M. Assam: I thought that I had been quite clear and unambiguous. I said this is a *Report of the Auditor General of the Republic of Trinidad and Tobago on the Receipts and Payments Accounts of the National Carnival Commission for the year ended 1993 July 31*.

What role did the Minister play? As part of her portfolio, the Minister was directly responsible for the National Carnival Commission and accountable to Parliament.

Sen. Alfred: Thank you for giving way. To use more or less the same words which the Minister used earlier, the Minister mentioned that being the Minister, it is the public servants who prepare reports. Is the Minister now saying that this former minister was directly responsible? Having just said it was the pubic servants who prepare it, is he imputing that the former minister was casting aspersions on the integrity of public servants. Is the Minister now saying that the rules have been waived and this particular minister was responsible for this report?

Hon. M. Assam: Mr. Vice-President, it is most unfortunate that the Senator is asking these questions. I am looking at the faces of the Independent Senators and they seem to be literally aghast at such questions being posed. I cannot believe that she could be pursuing that line of argumentation. It is very clear that ministers are responsible and accountable to Parliament for all matters falling under their portfolio.

Another unfortunate statement which the Senator made is that "Ministers were blocking complaints and now Ministers are being used in this Guidance Council to become relevant. Ministers were already meeting to make things happen." How unfortunate and erroneous. Which minister was blocking complaints? There has been only one minister since the last minister in the PNM administration. Am I now the royal or ministerial "we"? I do not know. If it is attributed to me, it can be easily verified that I had never blocked a complaint.

In fact, if anything, I have put machinery in place to improve and redress the complaints system at the Ministry of Trade and Industry, Ministry of Consumer Affairs and Ministry of Tourism. As I said earlier, the records can be checked. We have been able to satisfy the concerns and complaints of over 90 per cent of the persons in Trinidad and Tobago who have made complaints to us. I do not understand how the Senator could say that Ministers were blocking complaints. She went on to say that Ministers were already meeting. Which Ministers were meeting to make things happen?

I mentioned earlier that this Minister set up a number of sector committees whose activities impact fundamentally and directly on the lives of consumers and meet on a quarterly basis to advance the cause, address the concerns and let things happen.

I can give a number of examples of what these committees do. There is the Public Utilities Committee. We have not blown our trumpet. Have you noticed the new TSTT bill? That is a direct result of the work of that committee. I am sure you know what the bill was some time last year and what it is today. Last year one could not read, understand or interpret one's bill, but today, one can. If one still needs information, one can always call TSTT and one would be given a further print out and elaboration.

That Public Utilities Committee was responsible for urging the Minister of Public Utilities, although he was doing his job, to establish a dedicated bus service for school children in this country. That was all part of meeting with the Public Transport Service Corporation and the Ministry of Public Utilities.

To name another one, the committee was responsible together with the Ministry of Public Utilities and the Water and Sewerage Authority for easing the burden imposed particularly on people with fixed incomes and pensions. WASA was billing them retroactively for arrears to the tune of thousands of dollars. Poor pensioners were coming to us and asking how they can pay $5,000 and more in arrears. We rectified all this. WASA was going to the warden's office and getting information with the new rate valuation system and upgrading the taxes of these people, making it retroactive and placing intolerable burdens on taxpayers. The Ministry of Trade and Industry, Ministry of Consumer Affairs and the Ministry of Tourism sat down with WASA and ironed it out. They were given credits and the right rates to pay. Today, they are happy. I can go on and say how many things we have been doing in these sector committees.

I sat here today and heard how these Ministers are going about seeing about their friends and meeting to make things happen. What is the meaning of "to make things happen"? Is that negative or positive? Is it to advance or obstruct the cause of consumers? I give the unqualified assurance to the Senate and the national community, that this Minister in his little humble way has done everything with the little energy God has given him and the time at his disposal to advance the cause, and causes of the consumers of Trinidad and Tobago. [*Interruption*] If you want to know about the rice I can tell you. File a motion. That is the procedure. If you do not know procedure I will tell you. I will come here to debate it with you. Do it properly. You are a lawyer. You must be procedurally correct as a lawyer. You must not slip things underneath.

I think I have comprehensively dealt with some of the observations, comments, concerns, fears and allegations from all the contributions made by Opposition and Independent Senators opposite. I do not think that I should waste the time of the Senate. I have often heard that this Government does not listen. It is authoritarian and dictatorial; because we have a majority we use it to ride roughshod over the Members of Parliament. We do not take advice. It is so sad that all these accusations and allegations are so totally incorrect. I remember being a Member of a Joint Select Committee of Parliament. I believe that if the Members of that committee would speak the truth, and as I know they are truthful people, I conducted those meetings with the full participation of every Member. We tried to arrive at consensus and compromise as best as we could to achieve the work of Parliament.

2.40 p.m.

I am reasonably sure that all Senators on this side do the same thing in discharging their duties and responsibilities because we have taken an oath of office. I do not know if the PNM Senators take their oath of office seriously, but we do.

Sen. Prof. Spence: I wonder if the hon. Minister is referring to Trinidad and Tobago's attempt to persuade the Privy Council to withdraw its control over matters to do with hanging and its withdrawal from two commissions on human rights. Is he referring to these items on which the Government consulted the population?

Hon. M. Assam: I would not take over the role of the Chair by suggesting that is an irrelevant question simply because neither is the professor, nor am I an attorney-at-law. I am sure if he were an attorney-at-law and if he were to get proper advice, he would see that this Government acted properly and will continue to act properly, in the interest of the people of Trinidad and Tobago.

As I was saying, Mr. Vice-President, we always listen and take on board what is said. I sit in another place and many times legislation has come to the Senate and has been returned to the other place with amendments. Where do these amendments emanate? Do they always emanate from the Government Bench? Do they emanate from the Opposition or from the Independent Benches? Is the Senator suggesting that these amendments came out of the blue sky? Were they pulled out of a hat?

These amendments came about because the Government listened, listens and will continue to listen to the very valuable contributions from Senators on the other side, particularly the distinguished Independent Bench. I am really amazed that anyone would say that this Government does not listen.

To give a shining example of how much and how carefully we listen, I have circulated some amendments that I hope will reflect some of the concerns and address some of the matters raised by Senators during the course of this debate. I hope that during the committee stage of this Bill, we will find general acceptance of these amendments that will enable the passage of this Bill.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

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

Sen. Prof. Spence: Mr. Chairman, I withdraw my amendment.

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

Delete paragraphs (2) and (3) and substitute the following:

(2) The membership of the Consumer Guidance Council to comprise five (5) representatives of Government Ministries and six (6) representatives of Consumer Organisations, Non-Governmental Organisations and the general public;

(3) The five (5) representatives of Government Ministries on the Council to be drawn from:

The Ministry of Agriculture, Land and Marine Resources

The Ministry of Health

The Ministry of Trade and Industry

The Ministry of Consumer Affairs

The Ministry of Information, Communications, Training and Distance Learning

Sen. Dr. Mc Kenzie: Is there a special reason that the Department of Women's Affairs was left out? Do you find that representation would come through the NGOs?

Mr. Assam: And the general public.

Question put and agreed to.

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

Clause 4 ordered to stand part of the Bill.

Clause 5.

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

Sen. Yuille-Williams: Mr. Chairman, clause 5(b) deleting subsections (3) and (4) of the Act states the whole point I was trying to make about conflict of interest. I would like to see those subsections retained in this Bill.

Sen. Montano: Mr. Chairman, in support of that argument, as we have now included members of the public and NGOs, it now becomes directly relevant to leave those subsections in. Situations of conflict of interest could arise.

2.50 p.m.

Sen. Mahabir-Wyatt: Mr. Chairman, I agree with the point made by Sen. Montano. That conflict of interest section should be left in, in light of the Minister's amendments.

Mr. Assam: My legal advisers have indicated that there would be no problem in retaining section 7(3) and 7(4) of the original Act in the new amendment.

I beg to move, That clause 5(b) of the Bill be deleted.

Sen. Dr. Mc Kenzie: There was previously a council consisting of 9 members, now we have one of 11 members, are we going to leave the quorum at 5 or would it increase to 6 members?

Mr. Assam: What we are trying to do Senator, is to ensure that the council meets, and if there is a quorum which is too large, one may find that there is a position where the council cannot meet, but if there are five members, there could always be a chairman and four members. In light of that, we should allow the quorum to be five and not six members.

Sen. Dr. Mc Kenzie: I was looking at the balance of the NGOs versus the ministries. I do not know if I have support on this, but this is how I see it.

Sen. Dr. St. Cyr: Mr. Chairman, with the amendment, it could be that the five ministries' representatives could constitute a quorum, or similarly, there could be a quorum with no ministerial official. We would like to think this matter through and agree.

Mr. Assam: The same argument could apply that we could have all six members from the public sector and none from the ministries, so it means that one would have to up the ante all the time.

Sen. Prof. Spence: There is a way of doing it without upping the ante. One could have a smaller number which specifies that there must be at least two Government ministries' representatives, and at least two from the public sector. That is all, it is very easy to do.

Sen. Daly: I am supporting what Sen. Prof. Spence is saying, and I suggest to the Minister if he checks with his draftspersons, they would tell him it is quite normal to have a split quorum where there are representatives on a body.

Mr. Assam: Mr. Chairman, I beg to move that section 5(a) be amended as follows:

> "A quorum shall consist of five Members, at least two representing the public sector and two representing the ministries, but should not be less than five."

And that section 5(b) be deleted.

Question put and agreed to.

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

Clauses 6 to 17 ordered to stand part of the Bill.

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

Senate resumed.

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

INDICTABLE OFFENCES (PRELIMINARY ENQUIRY) (AMDT.) (No.2) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I do apologize for the slight delay. I beg to move,

> That a Bill to amend the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01 be now read a second time.

Mr. Vice-President, the Bill before this honourable Chamber seeks to amend the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01 to rectify certain defects in the law relating to preliminary enquiry at the Magistrates' Court and to the proceedings of a trial on commitment at the High Court.

When a person is charged for an indictable offence—which is serious—before he can be tried for that offence at the High Court there must be a preliminary enquiry at the Magistrates' Court in accordance with the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01 to enquire into the circumstances which constitute the offence, and at this enquiry, the obligation on the presiding preliminary enquiry magistrate is to determine whether a *prima facie* case has been

made out against the accused, and if such a case has been made out, the magistrate commits the accused person to stand trial at the High Court.

Mr. Vice-President, the Constitution of Trinidad and Tobago guarantees the right to bail when one is charged for a criminal offence and under section 28 of the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, it confers on an accused person who is appearing at a preliminary enquiry the entitlement to be admitted to bail, subject to the exercise of the discretion of the magistrate.

3.05 p.m.

Section 29(3) says:

> "Whenever the preliminary enquiry is for any cause adjourned or interrupted, the Magistrate holding it shall or may, as the case may be, instead of remanding the accused person to prison, admit him to bail on condition of his appearing at the time and place to which the enquiry is adjourned,..."

Mr. Vice-President, under the existing law, when a person is charged for an indictable offence and he is granted bail with a surety—that is for someone to stand his bail—the surety signs a bail bond and enters into a recognizance to produce the person for trial. The consequences of that is if he does not produce the person for trial, his property, goods or moneys, depending on the quantum of the recognizance, could be levied upon and taken in favour of the state.

What has been happening, however, is that when someone is charged at the Magistrates' Court, appears at a preliminary enquiry and bail is granted, the bail is in the form of the recognizance which provides that it would last for a period of 12 months. If for some reason the case continues for a period in excess of the 12 months the recognizance is regarded as being invalid. There have been situations where the surety signs, the person does not appear in court, and the state is impotent to deal with the situation insofar as recovering the moneys that were entered as a guarantee for the surety to pay. It happens, therefore, that most times the state does not have the accused or it cannot forfeit the money for which the surety has signed.

The other situation is that after a preliminary enquiry is completed, if the person is committed to stand trial then the magistrate could, in his discretion, admit the accused person to bail pending his trial. Under section 30 of the Act—Mr. Vice-President, in some of the copies of the laws which hon. Senators may have, when I say section 30 they may see 31. This has been renumbered by the

amended Act No. 8 of 1990, so it is really 30 which was the old 31 which deals with "Bail on committal for trial". Section 31(1) says:

> "(1) If an accused person who is committed for trial is admitted to bail, the recognisance of bail shall be taken in writing either from the accused person and one or more sureties or from the accused person alone, in the discretion of the Magistrate, according to the nature and circumstances of the case, and shall be signed by the accused person and his surety or sureties, if any.
>
> (2) The condition of such recognisance shall be that the accused person shall personally appear before the Court at any time..."

And I ask hon. Senators to note.

> "...within twelve months from the date of the recognisance, to answer to any indictment that may be filed against him in the Court, and that he will not depart the Court without leave of the Court, and that he will accept service of any such indictment at some place to be named in such condition."

What that really says, Mr. Vice-President, is that when a person is committed to stand trial and the magistrate decides to grant him bail, if it is bail with a surety or his own bail, which is unlikely, the recognizance would only be for a period of 12 months. Assuming the committal takes place in May, 1997 that recognizance would be valid until May, 1998. What happens in practice is that the indictment is not called upon in the High Court within a year and the bail bond, that recognizance, becomes void and there is the lack of that administrative machinery to really monitor these bail bonds.

This amendment, therefore, seeks to ensure that the recognizance which is signed by the surety during the preliminary enquiry would continue until the hearing and determination of the preliminary enquiry, bearing in mind that there is always the power of either the state or even the accused to apply to revoke that particular recognizance. It does not mean that if the state wants to apply to change the surety that it cannot apply to the court to have the recognizance changed, and similarly on the recognizance after committal and before trials to ensure that if there is a greater period of 12 months the recognizance would be valid.

Mr. Vice-President, when a case is called before a jury at the High Court, a fresh bail has to be entered into and that is determined under the Criminal

Procedure Act. The judge grants bail which would be until the hearing and determination of the matter or until the bail is earlier revoked and there are new sureties.

The Bill, therefore, is to effect those changes. Though they are simple changes the omission to have prevented the circumvention of this law has caused the state great damage, not only in terms of money but in not providing the correct safeguard so that there could be assurance of persons charged with criminal offences facing trials.

I think I owe a duty to this honourable Senate to mention that the whole question of preliminary enquiries and the Preliminary Enquiry Act, as we have it in Trinidad and Tobago, have in several jurisdictions been the subject of analysis and review. I do not want to give the impression that it is recognized that these are the only changes one must consider in the Preliminary Enquiry Act.

I would therefore state to this honourable Senate that it is recognized by this administration that the Preliminary Enquiry Act should be looked at. I have appointed a committee, headed by Justice Lennox Deyalsingh, to look at the Preliminary Enquiry Act and matters relating to preliminary enquiries. I have received a report which is being considered by the relevant departments.

3.15 p.m.

Mr. Vice-President, it must be recognized that there have been representations made, from both the last administration and this administration, to look again at the Preliminary Enquiry Act. Some of the representations which have been made are for Government to consider whether preliminary enquiries are necessary. What has been quoted to me is that in some countries they have abolished preliminary enquiries. This is a very serious step and it is not a decision one would want to make without proper considerations.

There is also representation made that in respect of the amendment to the Preliminary Enquiry Act, 1994, which amended the law to provide for paper committals, that law has not really worked, in that, there is a decision by lawyers to have a paper committal and then midway through the enquiry the accused or the lawyer changes his mind, and by that time all the documents of the prosecution's case are in the hands of the defence counsel, and then there is cross-examination and recross-examination. So that the aim of that legislation has not really worked.

According to the statistics we got a few months ago, I have been informed that out of the 1,549 preliminary enquiries pending when the amending Act of 1994 came into effect, there were only four proceedings under the Act. So, one sees that the purpose of that Act which was passed in 1994 was to reduce the time for the hearing and determination of preliminary enquiries.

Mr. Vice-President, the history of preliminary enquiries is that it provides a safeguard in that it gives an opportunity for an accused person to challenge the evidence before a trial to determine whether there is really a case made out against him, so that he or she does not face a jury without some form of enquiry. In other countries there are different forms of preliminary enquiries; there are grand juries and there are other mechanisms. I have mentioned this matter to make it clear that these are matters in which there are representations made. We have not taken any decision in the matter; the matters are being looked at. Obviously, these are important decisions, and if decisions are to be made, in order to have a change in one direction, we will have to consult with the population and the legal profession.

Sen. Prof. Spence: *[Inaudible]* Is there any mechanism for a person who puts up a surety to subsequently come out of it?

Hon. R. L. Maharaj: Oh yes. I did intend to mention that. The person who puts up a surety, he or she can always apply to relieve himself or herself. He will obviously have to produce the accused person when he is making that application, because his surety is to produce the person for trial. If he wants to be relieved, he will have to produce the person, and if the person does not have a satisfactory surety to the court—a person who the court is satisfied about as to a surety—the accused person will be kept in custody.

Sen. Montano: Thank you for giving way. I wonder if you could just explain that a bit more for me? Because we were talking about this a few days ago, and I do not quite understand what the circumstances are under which a surety can ask to be released from it. I can foresee certain situations. I know I was once involved as a surety, as it were, and I can see situations where someone might hold himself as a surety and his financial circumstances may change. Would the court accept that as a reason to release him from the surety?

Hon. R. L. Maharaj: Mr. Vice-President, I am indebted to this question, but I cannot say what the court would accept. What I would say is that it would seem to me, from the law, that if someone's financial position has changed and the person has produced the accused person, the court would be hard put not to accept that. I

can also see that if, for example, a person stands surety for Mr. 'A' and then the person who stands surety felt that he was misled about Mr. 'A', and he is satisfied that Mr. 'A' may abscond and, therefore, he produces Mr. 'A' or he gets the police to assist him in locating Mr. 'A' and there is an address for Mr. 'A', and he makes the application, the court may then adjourn the application to try to get the person before the court. All these are matters which have been done, but a judge or judicial officer may make an error, but there are ways to correct that. What I can say is that there is ample machinery and principles of law for a surety to be relieved before the period of a year or before the trial takes place.

Mr. Vice-President, I do not want to prolong this matter unless other points are raised, but I thought I owed a duty to mention it, because I do not want to give the impression that these are the only matters that should attract the attention of the Government in the Preliminary Enquiry Act. These matters have become very urgent and, therefore, we have decided to come with this before any decision is made on some of the other matters relating to preliminary enquiries.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Elizabeth Mannette: Mr. Vice-President, I am pleased to stand to make a contribution on this Indictable Offences (Preliminary Enquiry) (Amdt.) Bill.

I received the amendment Bill, and I read the Bill and I read the explanatory note which outlined the reasons for the amendment. I had one understanding after reading those explanatory notes, but after listening to the hon. Attorney General today I now have another understanding. So you would permit me to raise questions based on what I thought this Bill was supposed to do and also to address to the Attorney General what he now appears to be trying to do.

As I understood it, the explanatory note stated that the reason for this Bill was to eliminate a time wasting bureaucratic requirement. It appeared from the explanatory note that at the end of 12 months the procedure for granting bail had to commence all over again. That gave the impression that at the end of 12 months some sort of procedure was in place, and that resulted in some sort of delay in the criminal procedure system. I did not understand that there was such a system. Hearing the Attorney General this afternoon, it seems to me he is saying that the primary purpose of this legislation is to close the gap, as it were, to prevent persons from—I cannot remember his words, but to prevent accused and the bailors escaping the system.

I am not sure how the bureaucratic delay in the explanatory notes really occurs, based on what the Attorney General said this afternoon. Indeed, my question to him based on these explanatory notes is who exactly in the Hall of Justice or the criminal justice system locates the bailors after 12 months to indicate to them that the time has expired and to tell them to bring the accused before the court to have a new bail hearing? It is stated here that a new procedure for granting bail had to commence at the end of 12 months. After speaking to some criminal attorneys—I am not one, and I do not plan to be one—I had not understood that such a procedure actually took place. But it would be interesting and helpful to us if we had heard some statistics with respect to the number of matters or the number of accused who escape the system because of this particular clause. It would have helped us to understand the importance of bringing this piece of legislation into the Senate this afternoon.

I ask that because my understanding is that there are, indeed, problems in the criminal justice system, particularly with respect to the granting of bail, but that the problem addressed in this legislation is not one of the main problems which ought to be addressed with urgency. I am sure the hon. Attorney General is aware that there is a report; he mentioned the Deyalsingh Committee Report on the Indictable Offences Act and I am also aware of the Narine Report on the allegations against the Justices of the Peace. Indeed, speaking to certain members of the criminal bar, one member questioned why the Attorney General did not address the important issues raised in this report. That person did not think that the section we are amending today was really a very important amendment and, indeed, referred to it as a sort of band aid type of measure.

Given the reasons the Attorney General stated this afternoon, that is, to prevent people escaping the system, both the accused and the bailors, because of this 12-month requirement, I think it is important for us to remember some of the statements made in this Justices of the Peace Report because those statements point to the reasons the Attorney General raised this afternoon. The report talked about the collusion and extortion in the bail system and that there was a cancer eating away at the criminal justice system. The report mentioned the need for training of justices of the peace to help them understand the Bail Act, the Indictable Offences Act and, certainly, by extension this amendment we are discussing this afternoon.

I would like to know from the Attorney General what is the position with respect to the recommendations in this report. What process or system is in place

to implement some of the recommendations? It may be that this piece of legislation could fall into those categories of the report; namely legislation that bailors or justices of the peace do not understand and do not appreciate. In order to avoid or to correct the problem that we are seeking to correct, we must ensure that the recommendations for the education of bailors and justices of the peace, with respect to new legislation, are implemented.

I think it is particularly important with this piece of legislation because it extends the time for which the bailors' obligation will be held and, certainly, justices of the peace or professional bailors should be aware that it is no longer a 12-month requirement, if that, in fact, was a concern, and it is now until the end of the hearing. So I hope that the Attorney General would give us some idea as to what sort of training or education is in store for persons who stand or post bail for others.

More particularly, the Attorney General mentioned that when a bailor is no longer held, because the 12-month period has expired, the state is left without any recourse. That situation certainly occurs, but it also occurs where one person pledges property for 50 or so other matters, as is well known in the criminal circles and as is highlighted in this report. I think that is another issue which has to be considered. If one really wants to prevent the state losing recourse, both by losing recourse to surety as well as to the accused, we must have some sort of system—I imagine some register or some other system—for keeping track of persons who stand as surety for accused persons and the property which they pledge.

3.30 p.m.

Mr. Vice-President, I would like some clarification from the Attorney General with respect to the bureaucratic delay mentioned in the Bill, as well as how that relates to the problem he highlighted when he made his opening presentation.

I noted that the amendments to this section, the previous Bills, the Bail Act and the Indictable Offences (Amdt.) of 1996, all required a special majority. We know that the Constitution protects against depriving a person from reasonable bail without just cause. We are not dealing with the amount of bail, but it seems we are dealing with the circumstances surrounding the granting of bail. In discussing this Bill with one practitioner the issue arose that perhaps, arguably, there is some concern that reasonable circumstances or reasonable bail is being affected here. I personally would not put a lot on this argument, but I wondered whether the Attorney General would consider and address this in his winding up.

We are prepared to consider supporting this Bill and await some further clarification from the Attorney General.

Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, first of all, I thank the hon. Attorney General for the fine explanations on the significance of preliminary enquiries.

In March 1998 there was a report of a bailor who was on 45 charges of fraud; that is unbelievable! This indicates that there must be very serious problems in the aspect of our judicial system dealing with bail. It is not the first time we have had such reports that our bail system seems to be too loose. If this piece of legislation would improve the system, then it certainly deserves our support.

I remember when the present Attorney General was on the Opposition side in 1994, the Bail Bill created quite a stir in June, July and August of 1994, when there was another Attorney General. I think that Bill was finally passed in September 1994. It generated so much debate. I now ask the hon. Attorney General, what is the status of that Bill? I am trying to find out if it was assented to or proclaimed, and if it is in effect right now. I remember the hon. Attorney General of 1994 saying that as much as 51 per cent of persons who were granted bail at that time, continued to commit crimes. The question I am asking of the Attorney General is, between that time and now, is there much of a change and if this law is applied in our courts, how effective is it? Can he tell us if that law is in operation, whether there is really a change as far as offenders are concerned, and if our magistrates and judges are guided by that law? It was a very good law incidentally. I remember a very important clause in it which stated that if a person had three previous convictions—or something like that—bail would not be granted. That was a very controversial clause!

While reading the Explanatory Note of the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill, there is a line that caught my attention about the concern of the Government to facilitate "the smooth administration of justice". Mr. Vice-President, I crave your indulgence to say something that has been bothering me for the last few days. I have been aware of the unceasing efforts of this Government to promote and ensure "the smooth administration of justice". I appreciate the concerns, the efforts and the conscientious work of the tireless Attorney General, guided by the efforts of the Government, to ensure that we have in Trinidad and Tobago a smooth and efficient administration of justice. But I am very troubled

about the recent controversial and significant decision of this Government, within the last few days, to pull out of the Inter American Commission on Human Rights and the United Nations Human Rights Committee. Once again, the rationale may be just what there is in this document: to promote "the smooth administration of justice". My question is, how will the new global family of which we are a part assess us in the light of this? Will there be the perception that we prefer to be aligned to the decreasing number of countries which preferred to ignore human rights issues? Why in the first place did we enlist in these international human rights protocols? I asked myself, how useful were they in the past? Are they now obsolete and obstructionist that we must pull out?

We are all aware that human rights committees are not courts of law, but they remain important instruments, nevertheless, comfort zones for the promotion and preservation of our basic rights and freedoms—you are talking about "the smooth administration of justice." I most respectfully suggest that the Government reconsider its decision to withdraw this nation—not the Government as such, but the nation—from such conventions. Instead, begin a lobby. I have not read a lot about this, but perhaps you could start a lobby for change within these conventions, so that such bodies would hasten their handling of referrals to them, if the time factor is our problem.

As I close, the question here is not merely the smooth administration of justice but the just administration of justice. [*Desk thumping*]

Thank you.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I express my thanks to the Members for their contributions so that I could get an opportunity to respond to some of the matters of which, obviously, with the greatest respect, there has not been a clear understanding.

I start firstly with the question of the Justices of the Peace. It is correct that there was an enquiry into them. Since that enquiry was completed there was a report, and based on that, the police have charged 20 persons so far, with offences relating to bail and connected matters. There are 20 persons with 161 charges, and the investigations are continuing.

There has been a committee working to implement the recommendations of the report. If the hon. Senator was paying attention to some of the matters happening on the national scene, she would have noticed that one of the recommendations

was for Justices of the Peace to be taught their duties. A handbook was prepared and distributed, and there were courses. As a matter of fact, JPs were given training sessions and persons who wished to be JPs even had to write an examination.

I have in my possession a draft of a Bill, which, subject to the consideration of Cabinet in a few weeks' time, would deal with some of the matters relating to the report. However, it was recognized that there must be a record of all Justices of the Peace and the particulars of the bail they take. There are mandatory duties which JPs would have to perform. There is also a code of ethics which is stated in the handbook. We are going to see whether more stringent laws should be enacted to deal with offences by Justices of the Peace, bailors and the people who are professional bailors.

I would pass a copy of this handbook to the hon. Senator for her to understand what has been happening. There has been action on the report and I give the undertaking to this Chamber, that in the not too distant future there would be a statement on the findings of the report and what the Government has done in order to implement the recommendations. There have been 34 recommendations and the Government, so far, has implemented over 20 of them.

The other matter has to deal with the question of what was mentioned in the Explanatory Note about saving time. I did not think I had to mention it. If there was a 12-month period and the state knows of situations where the recognizance was going to expire, there would have to be an application for it to continue. If it did expire, there would have to be an application for a new bail bond. I am told that these things do happen. As a lawyer in private practice I knew that it happened, therefore, I thought it spoke for itself that it would amount to the saving of time, if when a person stands bail and enters a recognizance, he would know it was for the period of time, unless there is an intervention before.

In respect of the Bail (Amdt.) Bill of 1994, Sen. Teelucksingh did raise an important point. It was implemented and is in force. What happened, however,—and that is another matter I have been looking at—is that there has been a recommendation to amend that Bill, so that the non-bailable offences would be increased. Again, one has to think about human and fundamental rights because there is a right to bail. When that Bill came to Parliament it was felt that there should not be offences, no matter how grave they are, for which there would not be bail, apart from murder and treason. The Act was passed on the basis that a

court may not grant bail to a person who has three prior convictions, and there are certain offences for which the court may not grant bail. The discretion remains with the court. Included in the offences for which a court may grant bail were trafficking in dangerous drugs, possession of dangerous drugs for the purpose of trafficking and possession and use of firearms or ammunition with intent to injure. What has happened is that, since the Bail Act of 1994, there has been a dramatic increase in these bailable offences.

One of the issues that the Government would have to consider is whether it is going to amend this Act in order to make it more difficult for people to get bail. One has to be very careful when one has a problem and wants to take away safeguards in dealing with the problem. Our whole concept was, at the time, where the court had a discretion to grant bail, it would be able to examine the facts and determine whether bail should be granted or not. These are not easy matters to decide or easy policies to make, but I think it would be fair to the honourable Chamber to mention that there have been proposals and I have given it consideration, but speaking the way I feel at this time, I find it very difficult to recommend an amendment to that Bill in order to take away the discretion of the court in the granting of bail.

3.45 p.m.

Mr. Vice-President, the other matter is the human rights bodies. I am indebted to the hon. Senator for raising this issue. It must be understood that according to the law of Trinidad and Tobago, as decided by the Privy Council, the state, if it wants to carry out the death sentence, has to complete the appeal processes in the Court of Appeal within one year, the appeal process in the Privy Council within one year and at the two human rights bodies within 18 months. If the state does not do that, the state, according to the decision in Pratt & Morgan, will be violating the rights of the condemned person; it will be contravening the Constitution and would not be upholding the law.

As I understand it, our constitutional framework is based upon every arm of the state obeying the law of the land. There is no excuse why the executive, legislative or judicial arm should disobey the law; that is the law of the land. When this administration got into office it decided to try to get these cases heard within the time-frame. What it did, apart from providing resources to the Judiciary and passing law to provide more judges, is set up a Case Management Unit in the Ministry of the Attorney General to monitor each one of these cases and to see what can be done to get these cases heard within the time-frame.

In the statement I made in the other place I mentioned that we were able, with those measures and the industry of the Judiciary, to get within the time-frames. As it stands now, all murder cases before the Court of Appeal and before the Privy Council are within the time-frame. It is being monitored and it is within the time-frame. We also wanted these human rights bodies to comply with the law of the land.

The Minister of Foreign Affairs and myself appeared before the United Nations Commission on Human Rights and we put the case of Trinidad and Tobago to them. We said we would not like to leave the International Covenant on Civil and Political Rights; we would like to maintain that right but we have a problem and our problem is that you must put systems in place to deal with these applications within the eight-month period. We even passed a policy directive to show that with the responses and the considerations, the matters could be done within eight months and an additional month for administrative measures. We went to the office of the Secretary General of the United Nations and we put our case as far as the United Nations human rights are concerned. They indicated to us that they could not give us any guarantees and that the domestic law must yield to international law. We also went to the Inter-American Commission on Human Rights. We appeared before this Commission and I presented the statistics. We showed them what was happening with respect to the crime situation in Trinidad and Tobago and the law of the land and we asked them to give us some guarantee, let us work together to put some mechanism in place in order to deal with these matters within the time-frame. They told us they could not give us any guarantee and, as a matter of fact, from subsequent events it shows that the matters were not attended to and as the time-frame was about to expire, there is to be a further request to extend this time-frame.

Mr. Vice-President, if the time-frames are extended the State of Trinidad and Tobago would be openly contravening the law. What options did the Government of Trinidad and Tobago have? When Trinidad and Tobago ratified the Inter-American Commission on Human Rights it did not have Pratt & Morgan. It had a case of Riley vs the Attorney General of Jamaica and that case was that delays occasioned in the appeal process by a condemned prisoner could not be used as a bar to prevent the death penalty from being carried out. Therefore, the law of the land at that time when Trinidad and Tobago ratified that convention was that any delays in the appeal processes could not bar the death penalty from being carried out. Pratt & Morgan has overturned Riley vs the Attorney General of Jamaica and the law has changed.

Therefore, Trinidad and Tobago pleaded its case and asked the Inter-American Commission on Human Rights and the OAS to put machinery in place to complete these matters within the time-frame so that they can consider it. Trinidad and Tobago has to decide whether it would allow the law to be flouted or to disobey the law or comply with the law. It decided that many countries in the world which are committed to human rights and which ensure that human rights are adhered to are not party to the Inter-American Commission on Human Rights. There are many countries in the Caribbean which are a party to the Inter-American Commission on Human Rights. The United States of America is not a party and has not ratified the Inter-American Commission on Human Rights. As a matter of fact, two or three weeks ago in *Newsweek* it was stated that the United States of America execute people when they have applications pending before the Inter-American Commission on Human Rights and the United Nations Committee on Human Rights.

As a matter of fact, Mr. Vice-President, I have a file in which there are instances, even quite recently, where, even though the United States of America is not a party to the Inter-American Commission on Human Rights, it is still a party to the declaration of the OAS, as Trinidad and Tobago is a party to the declaration of the OAS. There is the procedure that the Commission can write and ask for you to stay the execution to investigate this human rights situation—whether there was enough towels, toothpaste or shampoo in the prison—too see whether that would prevent the death sentence from being carried out. The United States Government, in cases like that, decided, after reviewing the matters that they are not going to wait and they decide to proceed with the execution. Therefore, to say that if you are not a party or have not ratified the Inter-American Commission on Human Rights that the country would lose its international reputation for human rights or that human rights are in jeopardy in Trinidad and Tobago and people would not enjoy the human and fundamental rights is purely, with the greatest respect, a misconception of what the position is. I think one person in Trinidad and Tobago who would know about all these rights is the Attorney General.

Mr. Vice-President, when a person is charged for murder, that person at the preliminary enquiry stage, if he believes that any of his rights are infringed, under section 14 of the Constitution can raise the constitutional issue before the magistrate and the magistrate can listen to it and decide whether it is not a frivolous application and refer that issue to the High Court and the High Court must, of right, determine that issue. From the High Court this accused person can

appeal, as of right, to the Court of Appeal. From the Court of Appeal the person can appeal, as of right, to the Privy Council. But that is not the end of the matter. When all of that is finished if the preliminary enquiry goes on, he is committed to stand trial; the trial occurs and if he is convicted he has a right of appeal to the Court of Appeal and if he is innocent and if his rights were infringed he can raise it there. After that he is entitled, as of right, to appeal to the Privy Council. He applies for 21 days' special leave to appeal and he can raise any issue there before the Privy Council.

Mr. Vice-President, that is not the end of the matter. After that, under section 14 of the Constitution, he can file a constitutional motion before the High Court alleging that his fundamental rights were infringed and for execution not to take place. If his case is not frivolous or vexatious, he is entitled to have his case heard. The court can rule if it is frivolous or vexatious but he is entitled to appeal to the Court of Appeal, whether it is frivolous or vexatious or not. Then he can appeal, again, to the Judicial Committee of the Privy Council. Therefore, where can a person who is charged and convicted of murder really say that by Trinidad and Tobago withdrawing from these conventions his rights are in jeopardy or the reputation of Trinidad and Tobago in respect of human and fundamental rights is in jeopardy?

Trinidad and Tobago was prepared to withdraw from the Inter-American Commission on Human Rights and re-accede with a reservation as to capital punishment but because of the way that it is structured one cannot do that; one has to withdraw completely. The Minister of Foreign Affairs had indicated at the OAS meeting last week that if the rules are changed Trinidad and Tobago is prepared to consider re-acceding if there can be a reservation with respect to capital punishment matters and applications for capital punishment. We have withdrawn from the International Covenant on Civil and Political Rights but we have filed a notice of re-accession that we are going to be part of the protocol but with a reservation in respect of capital punishment. In other words, the United Nations Committee on Human Rights will be able to hear all other applications with the exception of capital punishment matters.

Mr. Vice-President, the United Kingdom is not part of the optional protocol of the International Covenant on Civil and Political Rights. Because of that—I can call the names of countries—is the United Kingdom not interested in upholding human and fundamental rights? Do they have a bad reputation or have they sullied the name of the country? Let us face facts, capital punishment is not a human

rights issue. What has happened is that it is being made a human rights issue. In the Universal Declaration of Human Rights capital punishment is permitted to be carried out. In the International Covenant on Civil and Political Rights it is permitted for capital punishment to be carried out. In the Inter-American Commission on Human Rights it permits capital punishment to be carried out. What it says is that it must be carried out in accordance with law and it says you must not extend it for trivial offences.

The death penalty has been recognized from the time the Universal Declaration on Human Rights was signed as well as from the time the Inter-American Commission on Human Rights, the Optional Protocol and the International Covenant on Civil and Political Rights were established. I will invite the Members of the Opposition to get it and read it. It says so in black and white. Therefore, to give the impression that the death penalty is a human rights issue is wrong. The Constitution of Trinidad and Tobago authorizes capital punishment to be carried out. It says that you are entitled to the right to life and you cannot take life except by due process of law. It is not whether one has changed, the fact of the matter is that has always been the law. No one ever advocated that the Constitution never said so. The fact of the matter is that the Constitution, the supreme law of the land, authorizes capital punishment in accordance with due process of the law. One cannot deal with this issue by becoming emotional. One has to deal with facts.

Mr. Vice-President, the Offences Against the Person Act, which is the law of the land, passed before the Constitution came into force, says that a person who committed murder and is convicted of murder has a mandatory sentence of death. After all these procedures are taken—constitutional motions, human rights bodies, all these matters—the Mercy Committee can still consider whatever application for clemency.

Mr. Vice-President, I want to tell the hon. Senator I am indebted to him for raising it and for getting the opportunity of explaining it to him and to this honourable Chamber.

4.00 p.m.

Mr. Vice-President, I want to reassure this honourable Senate and, by extension, the national community of Trinidad and Tobago, that the Government of Trinidad and Tobago is committed to the upholding of human and fundamental rights; it is committed to upholding the law; it is interested in the rights of accused persons, but is also interested in the rights of victims; it wants to ensure that victims of criminal violence also have their place in the seat of justice.

It is in that context that we have taken the decision that we are going to implement the law. We know that we are going to encounter much difficulty; we know that we are going to be criticized; we know that in the international arena, we will be criticized, but we can deal with that.

Sen. Prof. Ramchand: Thank you. I just want to know since the hon. Attorney General is telling us all the things that the Trinidad and Tobago Government believes in, does it believe that law is eternal, absolute and unchangeable?

Hon. R. L. Maharaj: No. As a matter of fact, the Trinidad and Tobago Government believes that law is moving. It must move with the times, but in order to do that—that is why there is the Law Commission—there are avenues for law reform. But law must have moral and spiritual values with it, and it is in that context that we believe that the law of Trinidad and Tobago as it is, and the people of Trinidad and Tobago, insofar as capital punishment is concerned, decided on the issue of capital punishment. So, the issue here is not whether we should have capital punishment or not, the issue is the implementation or non-implementation of the death penalty.

Sen. Shabazz: Mr. Vice-President, I want to ask the Attorney General whether this Government's position—people are not questioning whether the Government's position has been changed. It is really his position that seems to have changed from being a human rights advocate to a human right—well I do not know what kind of "cate" he is now, but it is changed. I would like an answer to that please.

Hon. R. L. Maharaj: Mr. Vice-President, I thought I was still a human rights advocate. As a matter of fact, it is only now because of the position I hold, it is more obvious that not only the rights of individuals charged for crime, but the victims are becoming more conspicuous. I still stand up for the human rights and fundamental freedom of a person charged for crime to be given all the safeguards; to be given the necessary appeal processes; to be given due process of law. As a human rights advocate, I also believe in the rule of law and the rule of law means that the laws of a country must be obeyed and if people have disagreement with them, the courts determine that. It is in that context that I do not see any difference in my position.

I think it was Mahatma Gandhi, in any event, who said that if a man cannot change his mind, he is a fool.

Sen. Shabazz: Just one question. The reason I asked that of the Attorney General, is that he answered a question here saying he changed and what he is saying is that a man is a fool if he cannot change his mind. I think it is in his wisdom that he has changed his mind. Has he not changed his mind really? Tell us the truth.

Hon. R. L. Maharaj: Mr. Vice-President, I have not changed my mind. When I became the Attorney General of Trinidad and Tobago, I took an oath to uphold the Constitution and the law and I take my oath very seriously. I do not know how other people take their oaths. I take my oath very seriously, and if as an Attorney General, I have taken an oath to uphold the Constitution and the law, my clients are the people and the national interest of Trinidad and Tobago. When I am a lawyer in private practice, my client is an individual.

Sen. Shabazz: Just one more please. This is what I want to ask. Having taken the oath, are you now a different person from before you took the oath?

Hon. Senator: What is the point? What is the relevance?

Hon. R. L. Maharaj: Mr. Vice-President, I do not know why we would not learn in Trinidad and Tobago to get away from the personalities and let us deal with the issues. This is not an issue of the Attorney General. This is an issue of the law and the Constitution of Trinidad and Tobago. This is an issue of the public interest of Trinidad and Tobago. This is not an issue of the Opposition; this is not an issue of an individual Member of the Opposition; this is an issue as to whether we are serious about the oath we take when we occupy public office. Do we take it because we mean what we say, or do we take it out of glamour? I do not take it because of glamour.

Sen. Rev. Teelucksingh: Thank you, hon. Attorney General for giving way. I know in the course of debates over the years we have had to give approval here for membership in certain conventions. Within the last two years, we did it. I want to ask a question about our membership in those two conventions that we are discussing. Was our membership subject to the approval of the Parliament? That is the first question. And, if that is so, then our withdrawal from those conventions should also have been with the approval of the Parliament. Questions about membership.

Hon. R. L. Maharaj: Mr. Vice-President, I am grateful for the interventions.

Under the Constitution of Trinidad and Tobago, the executive authority of Trinidad and Tobago is in the Cabinet. Under the international law, the executive takes decision with respect to convention. It is open to an executive that it can bring it to Parliament to get the feeling of the Parliament. But as to whether a country should accede to a convention or not, it is the purview of the executive, whichever the executive.

As a matter of fact, if you look back, you would see that other governments in Trinidad and Tobago, when they had to accede to conventions, did not bring them to the Parliament.

Sen. Rev. Teelucksingh: Could you tell us about these two in particular?

Hon. R. L. Maharaj: They did not come to Parliament for approval for Trinidad and Tobago to accede to them, as far as I know.

Sen. Rev. Teelucksingh: Or a Cabinet decision?

Hon. R. L. Maharaj: As far as I know, the Inter-American Convention was a Cabinet decision. As far as I can remember, His Excellency the President at the time when he was an Opposition Member, filed a Motion in the Parliament for the Government to consider whether it should not accede to the International Covenant On Civil and Political Rights. It was an Opposition Member, but it is a decision of the Executive.

Mr. Vice-President, one has to understand, too, that there are forms of accountability. For example, if any Member of the Parliament—and I do not necessarily mean the Independent Senators, because I know they are asking these questions because they want to be enlightened. If, for example, the Opposition felt very committed that the Government should not have embarked upon this process, since the month of January, or February, a statement was made in the House, published in the newspaper that the Government was in the process of making these decisions. It could have filed a motion. Even up to now, at this stage, a motion could be filed to have it debated. If the Opposition believes that it can put forward a good argument to convince the national community that we made a wrong decision, I invite them. If the Opposition believes that the Government of Trinidad and Tobago made a wrong decision and it wants this matter fully aired in the Parliament of Trinidad and Tobago, the Opposition can file a motion.

It is not fair to the people of Trinidad and Tobago for the Opposition to say bad decision, wrong decision, election time; but when it comes to using the procedure of Parliament to argue facts, it is not prepared to argue facts.

Mr. Vice-President, I am indebted for this opportunity. I must thank hon. Senators—

Sen. Prof. Ramchand: Thank you, Attorney General. I have a curiosity about these things and I hope the Attorney General will indulge me. I want to pose a question to him that if he, personally, was against the death penalty and he was then offered the post of Attorney General in a country where the law said it had the death penalty, what would be his response to the offer?

Hon. R. L. Maharaj: Mr. Vice-President, I think that this is not a matter in which my personal views are important. I am here occupying a public office, I think it was one of the statesmen of World War II who said that people who occupy public office very seldom have personal views.

I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 5 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.

ADJOURNMENT

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, I beg to move that the Senate do now adjourn to Tuesday, June 16, 1998 at 1.30 p.m.

At that sitting we will deal with the Bill to amend the Motor Vehicles and Road Traffic Act, the Bill to amend the Sugar Industry Labour Welfare Committee (Inc'n.) Act and, time permitting, the Bill to amend the Sugar Industry Special Funds Act, Chap. 64:04.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.15 p.m.