

*Leave of Absence**Tuesday, February 23, 1999***SENATE***Tuesday, February 23, 1999*

The Senate met at 10.03 a.m.

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

Mr. President: Hon. Senators, leave of absence has been granted to the following Senators: Sen. Wade Mark from February 21, 1999 to March 5, 1999. [*Cellular telephone rings*]

Where is that? Please cut it out.

Mr. D. Singh: Yes, Sir.

Mr. President: And to Sen. Vimala Tota-Maharaj from today's sitting and continuing.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,
S.C., President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

To: MR. KELVIN RAMNATH

WHEREAS Senator Wade Mark is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KELVIN RAMNATH, to be temporarily a member of the Senate, with effect from 23rd February, 1999 and

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continuing during the absence from Trinidad and Tobago of the said Senator Wade Mark.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 19th day of February, 1999."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C.,
O.C.C., S.C., President and Commander-in-
Chief of the Republic of Trinidad and
Tobago.

\s\ Arthur N. R. Robinson
President.

To: MR. DAVE COWIE

WHEREAS Senator Vimala Tota-Maharaj is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVE COWIE, to be temporarily a member of the Senate, with effect from 23rd February, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Vimala Tota-Maharaj.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 19th day of February, 1999."

CONDOLENCES

Mr. President: Hon. Senators, I wish to record the passing of a former Senator who passed away earlier this month and was interred on the 13th of this month. Former Sen. Margaret Lucky-Samaroo served as an Opposition Senator from 1962 to 1970.

She leaves to mourn her loss, two sons, several grandchildren and great grandchildren, and several brothers and sisters.

The Clerk of the Senate has been instructed to send to the bereaved family, an appropriate letter of condolence.

Senators wishing to pay tribute may do so now.

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I rise to offer our deepest condolences to the family. I have the pleasure of knowing several of her grandchildren whom I regard as very upstanding citizens today. They are people of great reputation and, therefore, I share in the grief of the passing of their grandmother.

I am sure she died happy knowing that she has been able to bring forward such products as her grandchildren and, therefore, on behalf of the Government, I wish to convey our deepest sympathy as we share in their grief on the passing of their beloved grandmother. I know, as I said, she has died justifiably proud of her grandchildren, and I know that they will continue the great tradition that she has started.

Sen. Nafeesa Mohammed: Mr. President, I, too, like my colleague, the acting Leader of Government Business, have had the pleasure of knowing several of the relatives of the great Margaret Lucky-Samaroo.

The name Lucky-Samaroo is well-known, particularly from the Southland in Trinidad. This is a family that has distinguished itself in the field of business and, indeed, in the professional field. The late Margaret Lucky-Samaroo was interred on February 13, 1999 at the age of 88.

It is clear, Mr. President that the late Margaret Lucky-Samaroo was a matriarch, a dynamic woman of substance who, in her youthful days, served as an Opposition Senator with the then Democratic Labour Party between the period 1962—1970. She was known to be a very loyal party supporter and, especially in those days, when there were few women at the forefront of politics in our country, Margaret Lucky-Samaroo played a very significant role.

It is well known that she was an active member of the Presbyterian Church and, as my colleague just indicated, she was, in fact, the grandmother of several prominent members of the legal profession, including my own colleague, Leslie-Ann Lucky-Samaroo.

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We, of the People's National Movement and all my colleagues on this side of the Chamber, would like to offer our deepest condolences to the family of the late Margaret Lucky-Samaroo and, as it is often said, it is from God we came and to God is our eventual return.

Sen. Prof. John Spence: Mr. President, may I associate myself with the remarks of my two colleagues and, on behalf of the Independent Senators, may I express condolences to the family and pray for their well-being.

Mr. President: May I ask all to stand for a minute's silence, please.

The Senate stood.

OATH OF ALLEGIANCE

Senators Kelvin Ramnath and Dave Cowie took and subscribed the Oath of Allegiance as required by law.

10.15 a.m.

CRIMINAL PROCEDURE (PLEA DISCUSSION AND PLEA AGREEMENT) (NO. 2) BILL

Bill to establish a system of plea discussions and plea agreements and matters incidental thereto, brought from the House of Representatives [*The Attorney General*]; read the first time.

Motion made, That the next stage be taken at the next sitting. [*Hon. B. Kuei Tung*]

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Cocoa and Coffee Industry Board for the year ended December 31, 1992. [*The Minister of Finance (Sen. The Hon. Brian Kuei Tung)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Cocoa and Coffee Industry Board for the year ended December 31, 1993. [*Hon. B. Kuei Tung*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Cocoa and Coffee Industry Board for the year ended December 31, 1994. [*Hon. B. Kuei Tung*]

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4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Siparia Regional Corporation for the year ended December 31, 1992. [*Hon. B. Kuei Tung*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Siparia Regional Corporation for the year ended December 31, 1993. [*Hon. B. Kuei Tung*]
6. The Financial Statements of the Small Business Development Company Limited for the year ended December 31, 1997. [*Hon. B. Kuei Tung*]
7. Annual audited financial statements of Taurus Services Limited for the year ended September 30, 1997. [*Hon. B. Kuei Tung*]
8. Annual audited accounts of the Trinidad and Tobago National Petroleum Marketing Company Limited for the year ended March 31, 1998. [*Hon. B. Kuei Tung*]

VENTURE CAPITAL (AMDT.) BILL

Bill to amend the Venture Capital Act, 1994, [*The Minister of Finance*]; read the first time.

CARIBBEAN INVESTMENT FUND BILL

Bill to give effect to the Agreement concerning the Caribbean Investment Fund and to provide for matters connected with or related to the foregoing, [*The Minister of Foreign Affairs*]; read the first time.

INVESTMENT PROMOTION BILL

Bill to provide for the promotion of investment in Trinidad and Tobago and for the repeal of the Foreign Investment Act, 1990, [*The Minister of Trade and Industry & Consumer Affairs and Minister of Tourism*]; read the first time.

CRIMINAL INJURIES COMPENSATION BILL

Bill to establish the Criminal Injuries Compensation Board, to make provision for the payment of compensation to victims of criminal injuries and for matters relating thereto, [*The Minister of Finance*]; read the first time.

Motion made, That the next stage be taken at the next sitting. [*Hon. B. Kuei Tung*]

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, today should have been Private Members Day, however, I seek leave of the Senate to deal with Government business instead of Private Business.

Agreed to.

DENTAL PROFESSION (AMDT.) BILL

Order for second reading read.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. President, I beg to move,

That a Bill to amend the Dental Profession Act, Chap. 29:54, be now read a second time.

I thank you and Members of this honourable Senate for giving me this opportunity to address an issue of national importance.

Mr. President, the Bill before us today seeks to give the Minister of Health the authority to appoint an *ad hoc* dental council for a period of one year with an option of appointing another council for a second year if the Dental Board fails to do so. The debate is not about the Dental School or the University of the West Indies, or the Faculty of Medical Sciences, the issue today is the appointment of a Dental Council so that the profession can be properly regulated and the interest of the public protected.

You would recall that a few months ago, the Dental Profession Act was amended to give effect to a number of measures, the chief among them being, firstly, to place the Dental School Faculty of Medical Sciences, University of the West Indies on the list of institutions whose diploma is recognized for the purpose of registration to practise. Secondly, to alter the composition of the Dental Council to include two representatives from the Dental School and a lay person.

The amendment mandated the incumbent dental council to conduct an election for a new council within one month of the coming into being of the Act. The Act was assented to by His Excellency, the President, on October 26, 1998. However, in the meantime, the members of the existing council, before calling election for a new council, submitted their resignations. The amendment also gives the authority to the Minister of Health that in the event the council was not appointed within one month of coming into being of the Act, to appoint an interim council for the purpose of conducting such elections for a new council.

In accordance with the relevant section, the Minister, on January 4, 1999 appointed an interim council comprising the following persons: Dr. Surendra Rampersad, dentist, as the chairman; Dr. Darrel Doolan, dentist, as the vice-chairman; Dr. Nanlal Maharaj, senior dental surgeon at the Ministry of Health; Dr. Frederick Lera, dentist; and Mr. V. Maharaj, attorney at law.

The interim council, in accordance with the present Act and its amendment, convened a meeting with the Dental Board on January 28, 1999 for the purpose of electing a dental council, and for the information of hon. Senators and the for the record, I would outline the procedures which the council followed leading up to the election.

After the interim council was officially constituted, it sought and obtained from the lay secretary of the Dental Council at the registered office, a list of *bona fide* members of the Dental Board. May I mention that to become a member of the Dental Board, a dentist has to be registered with the Dental Council and in addition, sign a prescribed form indicating that he or she desires to be a member of the board. This means that there are registered dentists who are not necessarily members of the board. To verify the *bona fides* of the members of the board, the interim council collected all the signed forms of those who indicated their interest in being members.

In compliance with the Act, notices of the election were sent to all members of the board by hand, or prepaid post at least 14 days in advance, informing them of the details of the meeting. In addition, notices were published in two daily newspapers with all the relevant information including the list of eligible voters.

Sen. Prof. Spence: Could the hon. Minister tell us whether to become a member of the board one has to renew his membership annually, or is he a member once and for all, once an original form is signed? If so was the notice which went out in January 1999 sent to members of the board registered for 1999?

Sen. Yuille-Williams: A list was prepared by the lay secretary and sent to the *bona fide* members. Could the Minister tell me for what year were they registered?

Dr. The Hon. H. Rafeeq: They were registered up to December 1998.

Sen. Yuille-Williams: They were registered members for December 1998?

Dr. The Hon. H. Rafeeq: Yes.

Sen. Yuille-Williams: The meeting was held on January 28, 1999.

Dr. The Hon. H. Rafeeq: Yes.

Mr. President, the interim council also sought and obtained advice and assistance from the Elections and Boundaries Commission. Ballot papers and ballot boxes were provided on the night of the election. In order to facilitate the dentists as far as possible, the election was held on the same day, which was a Thursday at 7.30 p.m., the time when the dentists usually met.

Further, in accordance with the Act, the election was held at the council's registered office, that is the Medico Dental House on Abercromby Street, Port of Spain. There were no police officers, only security guards from the Ministry of Health.

On the night of the election, approximately 80 dentists turned up, but with the exception of eight, they refrained from entering the building. The presiding officer attempted to conduct the election inside the building, however, no nominations were received for any of the positions and, as such, no council was elected. In effect, the dentists successfully frustrated the will of Parliament to have a Dental Council appointed. The life of the interim council came to an end—

Sen. Daly: I thank the Minister for giving way. I think the Minister knows that these interventions are designed to avoid trouble. Questions have already been asked about the list and a key issue of fact which is probably going to influence everyone's approach to this is, why some or all the dentists did not enter the building? You are giving a version of events which I am sure has been supplied to you, and I have taken the liberty of giving you another version which is circulating. I think it is very important, if I may say so Minister, that somewhere along the line that you are able to establish that the list of dentists as at December 31, 1998 was the right list to use.

I thank you for giving way, and I am sorry to make my intervention so long, but I should advise you that a key issue of fact is going to be whether that list was the correct list to use, and maybe you could help us with that as you go along.

Dr. The Hon. H. Rafeeq: As I mentioned, the list of those who were registered to be dentists at the end of 1998 was supplied to us by the lay secretary of the Dental Council and in addition to that, the interim council collected all the forms of persons who indicated their intention to become members of the board. It is on the basis of that list and the forms that were collected, that the list of eligible voters was established. It is also on the basis of that list that dentists were allowed to enter the Medico Dental House for the purpose of the election.

Sen. Prof. Spence: Was that 1998 or 1999?

Dr. The Hon. H. Rafeeq: It was December 1998. The life of the interim council, as I was saying, came to an end on February 4, 1999, and the situation that exists therefore, is that there is no provision in law for the appointment of a Dental Council. With no council in place, and no provision for the appointment of one, we are faced with a critical situation in that no dentists or dental auxiliaries could be registered for the year 1999 or beyond.

The Dental Council is responsible for managing the affairs of the Dental Board of Trinidad and Tobago and among its responsibilities are registering dentists and enrolling dental auxiliaries; regulating the training of persons enrolled as dental auxiliaries; defining the dental work the dental auxiliaries may undertake and the conditions under which they may work; ensuring the maintenance of proper standards of professional conduct by dentists and dental auxiliaries; determining and keeping under review the professional qualification and experience of applicants for registration for enrollment; holding enquiries into allegations of improper or unprofessional conduct by dentists, or dental auxiliaries and disciplining those found guilty; and prosecuting individuals who are not dentists who hold themselves to the public as dental practitioners.

Mr. President, I cannot overemphasize the importance of dental health to the population. At present, there are hundreds of dentists who need to have their licences renewed. There are a number of new dentists, many of whom are graduates of the University of the West Indies Dental School who need to be registered in order to serve the public.

10.30 a.m.

Mr. President, my information is that there are at least 20 graduates from the University of the West Indies Dental School who need to be registered. In addition, the office of the Ministry of Health has had several calls from dentists from abroad who would like to join the dental fraternity, but at this point in time they cannot be registered. As a responsible Government, therefore, and having responsibility for the health of the population, we must put measures in place to appoint a Dental Council so that the population can be protected and served.

In order to address this untenable and unsatisfactory situation, this Bill proposes that the Minister of Health appoint an *ad hoc* council to run the affairs of the board and perform the functions of the Dental Council under the Act as outlined. The *ad hoc* council we are proposing should be appointed for a period of

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one year from among dentists who are members of the board as of December 31, 1998, in addition to the two recommended by the University of the West Indies and two prescribed under section 9(1)(f), that is the senior dental surgeon of the Ministry of Health and the lay person. The *ad hoc* council will have all the powers of the Dental Council under the Act.

Within one month before the term of office of the *ad hoc* council expires, it will be required, that is the *ad hoc* council, to convene a meeting of members of the board to elect a new council. However, in the event that a new council is not elected, the Minister shall appoint for a further period of one year an *ad hoc* council with the same powers and functions of the first *ad hoc* council. The Minister, therefore, is being given a maximum of two years to have a council elected. In the interim, the functions of the profession will not be affected in that the *ad hoc* council will be in place to regulate the affairs of the profession thus protecting the interests of the population.

Mr. President, in the unlikely event that a council cannot be elected after two years, I will—the Minister of Health will—come back for further guidance.

Sen. Shabazz: You would not be here. You would not be here. The way it is looking you would not be here. You are looking funny.

Sen. Yuille-Williams: Just before you close I want to ask something about the registration. The registration is for one year and at December 31, therefore, all 1998 registrations would have been invalid and in the month of December you could have started registering for 1999? So by January 28 when the meeting was held, am I to understand that the 1998 registrations were still being accepted on January 28?

Dr. The Hon. H. Rafeeq: Registrations were not being accepted because there was no council.

Sen. Yuille-Williams: No, I am sorry. I am talking about whether or not those doctors who are registered for 1998—

Dr. The Hon. H. Rafeeq: Dentists, dentists, dentists.

Sen. Yuille-Williams:—whether you were going to use that same list of doctors whose registrations would have become invalid by December 31 as the list for the elections on January 28?

Dr. The Hon. H. Rafeeq: By December 31, 1998 there was no council in place to register anyone. As a matter of fact, the council resigned—members of the council resigned in October or November—so there was no council in place to accept renewals. So the list we used was of those dentists who were members of the board as at December 31, 1998.

Sen. Yuille-Williams: One last question, if I may. There was no council in place, you said, to do it for new registrations. What about the old registrations and the lay secretary? Was not the lay secretary in power to continue registering?

Dr. The Hon. H. Rafeeq: No. That is a function of the council. Mr. President, I want to reiterate here that there is a degree of urgency in this matter since at this point in time there is no council in place to register dentists or dental assistants. As I mentioned, this is not an issue of the merits or demerits of the Dental School of the University of the West Indies. The issue is one of appointing a council to regulate the profession and protect the interests of the population. I hope, therefore, that in the interest of the entire population we receive the support of Members of this Senate.

Mr. President, the Bill contains just three sections with the provisions that I have outlined. There are a few drafting improvements which will be circulated as amendments and which I intend to move at the committee stage.

Mr. President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, you know, on the last occasion when we were debating the original amendments to the Dental Profession Act, I was lamenting the fact that the Government should seek to interfere with the management of a profession. Mr. President, I hate to say that I was right and that the Government was wrong. They did it wrong. They got it wrong and they have had to come here, and regrettably the Minister has made no apology to this Senate or to the people, and particularly he has made no apologies to the professionals who operate within our society. We have had to face an appalling situation where on a prior occasion I described the situation where the Ministry of Finance attempted to interfere with and to intimidate a professional firm of accountants. Following that, we now have a situation where the Government has decided to intimidate the profession of dentists, the whole profession.

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Mr. President, this is a sad day. This is a very sad day and it is a day when every person in this Senate has got to stand up and understand exactly what is taking place. And for my friends on the Back Bench over there, I want you to be very careful about what you say and with whom you associate. We are in very dangerous times and the actions of this administration can be described as nothing less than dangerous. Mr. President, I have spoken with some of the dentists and they have taken the time and trouble to circulate a statement of the events of January 28, 1999 and the circumstances leading up to January 28, 1999. Mr. President, the Minister has outlined the basic circumstances and I am not going to repeat them.

Mr. President, you know what has happened. You know that the Government has insulted the professional dentists in this country. That is what it did. It insulted them. The dentists clearly resigned in frustration from the council. There was no council. The Minister clearly anticipated that and has the mechanism within the amended Bill to set up an *ad hoc* council. This he attempted to do. In the Minister's words, he said that "the dentists frustrated the will of Parliament by not attending the meeting itself." What he has left out and what—in fact what he said was that 80 dentists appeared and went to the meeting. They went. And Mr. President, I have been assured by many of them that they went with the best intention and with the best good will to get the job done correctly.

What did the dentists do? And what happened? Mr. President, you have to understand what it is to be a professional. A professional, with all due respect, is not a labourer. He is an intellectual who has had to study very hard, whether it is at the University of the West Indies or elsewhere, he has had to study very hard to get his qualifications, and for the most part these men and women are gentlemen and ladies. They went to the meeting, some 80-odd of them. What did they meet there, Sir? They met armed guards. That is what they met. They met at least, I am advised, three security guards carrying weapons; carrying weapons, Mr. President, for dentists.

Mr. President, if that does not smack of fascism, I do not know what does. And my young friends in the back have got to think very carefully about whom they associate with lest they be tarred with the same brush, and do not treat this lightly. What we are talking about here is a dental meeting. Mr. President, I do not take that lightly, and if anybody on the Back Bench there smirks and grins let me tell you something very clearly. A revolver is an antipersonnel device. It was designed and crafted to kill human beings. You do not carry it for any other

purpose. It is not there for decoration. It is a very dangerous thing and in the hands of security guards and the armed forces it is designed as an antipersonnel device. It is designed to kill.

Mr. President, in order to govern a dental meeting, a meeting of 80 dentists, the Government saw fit to send at least three security officers with revolvers. That is what the dentists met. Is it any wonder, Mr. President, that they did not attend the meeting? Is it any wonder? And you want to sit on the Back Bench there and smirk? Mr. President, this is not tomfoolery. This is not television. This is not some *sitcom*. This is real life. This is real life. And when a free citizen—and we are still a democratic society—goes to a professional meeting and meets armed security, what does one think? What can one think? What can one think? It is very clear. It is very clear.

This Government has ominous designs on the freedom and security of the citizens of this country and if they do not get their will they will achieve it by any standard. What we are dealing with here is the dental profession. What did the Government think would happen? What did they think the dentists would do, bring along drills and threaten everybody? What kind of absolute nonsense is that? Mr. President, no person, no Minister, no government in their right minds could possibly have thought that armed security was necessary. It could never have been necessary, unless you intended to intimidate and to enforce your will upon the citizens of this country.

Sen. Shabazz: That is what they are accustomed doing.

Sen. D. Montano: No, Mr. President, we recognize bullies and fascists when we see them, and if you on the Back Bench do not see it, then you are being very reckless and you are not discharging your responsibilities to the people of this country. That action on the part of the Minister was to bully the dentists. Is that what this country has come to, where the citizens—and these are professional men and women, these are professionals—you intimidate and bully professionals with arms, with guns? Mr. President, what has this country come to? What have we come to?

Mr. President, there is the question of the lists. This is the dentists trying to organize their own profession but the Government now is insistent that they take it over and that they will run it and that they will run it the way they want. We have heard through some of the questions that the list was obviously incorrect. It was the 1998 list that they were using and not the 1999 list and they did not know what

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they were doing and the only persons who were willing to participate in the meeting were, of course, those new, young dentists who had a vested interest in the Government's programme and they were the UWI graduates.

Mr. President, the affrontry, the gross affrontry, not only to the profession of dentists but every professional operating in this society. Am I to expect, Mr. President, that at the next meeting of the Institute of Chartered Accountants I am going to meet up with armed security? Is that what I am to expect?

Sen. Shabazz: Next meeting of Local Government too.

Sen. D. Montano: Mr. President, in the words of the Minister, he says that he has brought this legislation to, and I will quote:

"address this untenable and unsatisfactory situation."

Mr. President, the untenable and unsatisfactory situation is of his own making. It is of his own making. They have created confusion where there was none. The dentists were organized, they were orderly and they were managing themselves in a responsible and proper manner and this administration, the Minister has brought it to total chaos, complete chaos. Mr. President, at the next meeting will there be armed security again or will there be soldiers carrying SLRs?

10.45 a.m.

What next, Mr. President, what next? What can we expect next? The Government has to come much better. This legislation is just simply out of order. It is wrong! It is improper! It seeks to correct a wrong of the Minister's own making. The profession must be handed back to the professionals. If those of you on the Back Bench over there do not understand and recognize that, then you are being very shortsighted. For the sake of the association and the apparent glorification of associating with a government in power, you truss yourselves up and think of how wonderful you are, that you are a Government Senator, when, in fact, what you are doing is participating in the destruction of our society and democratic rights and ways.

Understand it clearly. All of you there are gentlemen and women, you understand it. Some of you have your own associations that you belong to, and I think you would be grossly insulted, if not intimidated, if you went to your professional meeting and met armed security, put there by the Government. You would have objected to it most strenuously, as you should. It cannot be good only one way, it must be good both ways. It must be right for all circumstances and all

people, and this is clearly wrong. We will not support this! This is to try to, even further, give more power to the Minister, when he should have none at all!

Thank you, Mr. President.

Sen. Prof. John Spence: Mr. President, when the original amendments to the Act came to us last year, I perhaps agonized more over that piece of legislation than any of the bits that I have had to deal with in my 12 years in Parliament. I think I said that at the time because we were being asked to overthrow a principle in which I had a very fundamental belief. That principle is, that professions should be self-regulatory. This applies whether it is medicine, law, dentistry, veterinary science, engineering and so forth. I have a very strong belief.

Indeed, I think I said so at the time, but I certainly say it now: if I have one quarrel in Trinidad and Tobago, it is that I do not think that professionals as a whole, whether associated as professional bodies or not, have given back to this country, in general, what they should have done, given the fact that they have been educated here and received so much from Trinidad and Tobago. I have reservations as to whether professionals, as a whole, have made the input that they should have, into the society, given the benefits and privileges they have in the society. So I agonized terribly over that original amendment.

I went along with it in the end, although I felt that it should have been time limited—and I intend to move another amendment today which will once more attempt to time-limit that legislation, because I do not think we should break that basic principle. If we are going to do it for particular reasons which are extremely important to the society as a whole, then we must say that we will break it for now, but would reverse this as soon as possible thereafter.

On that occasion, my suggested amendment was not accepted. I shall put it again and have it rejected again, no doubt, because we seem bent on breaking that principle. In my opinion, the present Bill goes further again to violating the principle that professions should regulate their own operations, ethics and so forth, by the bodies that they elect.

Having said that as background, I would like to say a few things about the procedure for holding of the election which the Minister has outlined. We, indeed, gave the Minister what I thought was adequate opportunity to deal with the situation should it be the case that the council would not register or, as happened, resigned. Now I must say, I am totally in support of the council for having resigned. It was the correct thing for them to do, and that is the problem in

Trinidad and Tobago: that people do not resign on principle. They felt strongly that we should not have been registering dentists from UWI because they had reservations about the standards, therefore, they took the position that these dentists should take an exam.

We as parliamentarians were asked to go against the professional opinion of the dentists in Trinidad and Tobago. We were asked to say that these graduates should be registered in spite of the opinion of the dental profession, and we did so because we felt that we had an obligation to the persons who had been given this training in Trinidad and Tobago.

Nevertheless, since we went against the advice of the dental profession and the Dental Council at the time, they were absolutely correct to resign, that was the proper thing for them to do. It is a pity in Trinidad and Tobago, that more people do not take that position when they find that they are in a position in which it is clear that they should resign. So, I support the council fully in that action.

It did precipitate a situation that there was no council to register persons, or to carry out other actions that the Minister has outlined are necessary for a council to perform, but we had given the Minister the opportunity to rectify that situation if it occurred. In my opinion, it was the gross incompetence of the Ministry of Health—I am not saying the Minister, because I do not think that he was personally involved, although he has to take the final responsibility—why the process was flawed, because I take it that the Ministry was responsible for ensuring the process was carried out in the correct way.

The one thing I would ask the Minister in his winding up to respond to, is that he apparently appointed a chairman to the interim council. In fact, the amendment that we passed does not provide for the Minister to appoint a chairman. It seems to me he took that upon his own standing. Perhaps I am incorrect, but I cannot find provision for a chairman of the interim council in the amendment that we passed last year.

My understanding is that the Minister appointed as interim chairman, a dentist with two years' experience. In the parent Act, to become chairman or vice chairman you have to have been a practising dentist with at least five years' experience. Why did the hon. Minister appoint an inexperienced dentist for such an important job to be carried out, on behalf of the dental profession? It seems to me that the Minister has to take personal responsibility for this, if my information is correct. If it is not, I would give way and he can, perhaps, correct me, but I

assumed it was correct. This, to me, was the first error made in the process, and that must have been the Minister because perhaps he was advised to, to a point, but the decision was his, according to the Act.

Mr. President, the Act was passed on October 26, by which time the council had already resigned, so it was apparent from that date, indeed before, because the council I think resigned before the Act was assented to. It was assented to on October 26. Why did it take until January 4 for notices to go out? Why was the interim council not appointed immediately? Let us be quite clear as to what has happened now—and even the present legislation is flawed in a very substantial and important way—if the council was not re-appointed by January 1, all the dentists in Trinidad and Tobago, according to what we have been just advised by the Minister, were practising illegally, because they were not registered as dentists.

From January 1, if the Minister is correct in saying that dentists could not be registered because there was no council, it means that every dentist in Trinidad and Tobago was practising illegally. That occurred through the fault of the Ministry of Health, and I am sorry to say the Minister himself has to take personal responsibility for that. From January 1, every dentist in Trinidad and Tobago was practising illegally because of this fiasco. Why have we not got a clause in this present legislation validating the registration of those dentists and back dating it to January 1, 1999? It is incumbent upon us to do so, otherwise we have a situation which we have created in which dentists have been practising illegally. We must have validating legislation, it is clear to me.

I would have drafted that in the amendments that I had drafted, except that I was not aware of the fact that there needed to be a council in place for the registration to occur. The normal practice is that the registration goes to the secretariat of the council. The council does not actually vet each individual registration but if that is the law, if it is indeed the case—and I am now so advised by my learned colleague Sen. Daly—then it is clear that we have to validate it. As I say, I certainly would have drafted such a clause had I been aware of that particular circumstance.

Here we have a situation which we have now created. How did the meeting take place? A list was published in the newspapers on January 1—I have not got the exact date, Mr. President, but it was published sometime towards the middle of January. It was incidentally published less than 14 days before the date that the actual election was to be held. The notices may have gone out earlier, but that notice was published late. I am informed that the list which was published in the

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newspapers—which was the one used at the meeting—had, in fact, omissions from properly registered persons who had indicated on their returns, that they were desirous of being members of the board. I can name at least three if the Senate requires that I do so. Clearly, there was a problem even if those elections had occurred with the defective list. There could have been litigation following that process. That is the first point.

The second point is—and so my information tells me; if I am wrong then the Minister will have in his winding up, an opportunity to correct me—that the dentists did not, in the first instance, refuse to go into the meeting. But, in fact, the armed guards let certain persons in, according to the list that they had, and prevented others from going in. Some of the others who were prevented from going in, were, in fact, properly registered members of the board. It was at that stage that the dentists said, "Oh yes? If you are keeping out legitimate registered members of the board from this meeting, we will all stay out!"

What do we have now in Trinidad and Tobago? The Minister of Health has set up in opposition to the whole of the dental profession. If there was not full support for that action, apart from a few UWI graduates who clearly had a vested interest in the process, why did not some go in? The unanimity of the reaction was what has certainly made me realize that we have a serious problem in Trinidad and Tobago. If we pass the legislation that is now suggested, we have set up the Ministry of Health and the Minister of Health against the whole of the dental profession. What are we trying to do?

We talk *ad nauseam* about not wanting to create divisions in the society. We constantly say that we want to patch up differences, and we set out to act in an inefficient way. I do not think it was intentional on the part of the Minister, but it is just gross inefficiency which in important matters we cannot afford to ignore. We cannot have matters of this gravity being dealt with in this slipshod way. Imagine holding an election in January when the registration of the dentists has already run out, and that being done by the official Government agency! It is the Government that did that, not Parliament. Parliament gave the Minister the instruments to deal with the situation.

Mr. President, I am sorry, I get a bit worked up on this issue because honestly, I agonized for weeks over it on the last occasion. It never occurred to me that it would come back to Parliament, because we gave all the necessary instruments—I must say against my better judgment in some instances, but I went along with it.

What have we got now? The dental profession, apart from the UWI graduates, set up against the Government and the Ministry of Health.

11.00 a.m.

I refuse to believe that if there was not a severe problem at that meeting that there would not have been half a dozen senior dentists who would have gone in, because surely they too were looking after, as nationals most of them—Incidentally, if I may just digress for a minute, why did the notice in the newspapers ask for nationality? The notice asking for the dentists to attend this meeting, asked for them to bring proof of identity and proof of nationality, whether they are Trinidad and Tobago citizens. Where is that in the law? What was that for? Incompetence again? Somebody did not know that you did not have to be a national to be registered as a dentist and a member of the Dental Board? Why are we so inefficient? A thing as important as this, why was the Minister not taking a personal interest in what was going on and himself determining that there was a problem? Surely, among the whole dental profession he must have some friends that he can consult and determine what is going on. The Minister of Education is a dentist, could he not have talked to him and found out what was going on in the profession? I just do not understand, Mr. President—I do not understand.

I am not at all in favour of the existing amendment, because what we are saying now, is that we are throwing out the dental profession for regulating its own affairs, and for, possibly, two years, we are going to have the dictate from above. The profession is no longer going to be regulated by the professionals but by the Government.

Why, in 1999, when we are saying that we want less Government interference—all over the world they are deregulating—that people must look after their own affairs, we must empower the people that we cannot trust the dentists to empower themselves for two years? The Minister has said that after two years he may come back again, so why not throw out the whole Act now? Why not scrap this Act No. 29 of 54 and say the dentists of Trinidad and Tobago be registered by the Ministry of Health—by the Minister of Health, if you want it to be the Minister? Why not throw it out? Why are we fooling around to come back again to extend the *ad hoc* council? We are big people, we are not little children. Let us throw it out, if that is what we feel. If we feel that the professions should not regulate themselves, let us throw it out and take the consequences from the reaction in Trinidad and Tobago, because that is what we are attempting to do here. I really, honestly now am completely opposed to this attempt to control

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directly. In a few years' time the Minister of Health himself will suffer, because some government will come and regulate the medical profession.

As it is, something is happening in the veterinary field which I think we have to look very closely at, because the Veterinary Board has been declining to register a person trained in a certain country because they do not consider the qualification to be valid. That person, I understand, has been lobbying up and down to the Government trying to get registration. The Veterinary Board has just been changed, but unfortunately that board is a rather antiquated one, it is not modern like these, the council is appointed by the Government and I think that one needs changing too, to give the profession the ability to regulate its own affairs. And you know, Mr. President, what has happened, another person from Trinidad and Tobago is being sent on a scholarship to that same country, to do the same course that the Vets have now declined to register that person from. So clearly the intention is to change that as well, and it would be done by the way the board is manipulated by who is appointed to the board.

I honestly am quite concerned as to these developments with respect to the professions and that is why I am particularly worked up about this issue. In itself it may not be as grave as I am perhaps suggesting but by its implications and the precedence that we may be setting, it is indeed extremely grave.

Now I have suggested an amendment, Mr. President, which merely says let us give the Minister of Health another chance to see if he cannot do something efficiently and have the life of the interim council extended. In effect, in order to put it into the Bill it is worded that there should be a new interim council but really, what I am saying in layman's terms is to extend the life of the interim council. So I have suggested that there be a new interim council appointed by the Minister and if he cannot do it in one month, let us give him six months.

Dr. Rafeeq: I thank the hon. Senator for giving way. Just for clarification, in the amendment where you are suggesting the extension of the life of the interim council or the appointment of another interim council for a period of six months there are two problems that arise.

Firstly, what would happen to dentists who are not registered within that six months? At present, there are no dentists who are registered in the country and if it takes six months to appoint the council then what would happen? Are you suggesting that you give the powers and functions of the dental council to the interim council? That is one question.

The second question is, what would happen at the end of six months if a dental council is not appointed?

Sen. Prof. J. Spence: Mr. President, the first point, I certainly do not hope it will take six months. I hope it would take two weeks. Because if tomorrow you issue the notice with the correct list, then in two weeks' time you can hold your meeting, but since there seems to be a great deal of incompetence, I am saying if you cannot do it in two weeks, we give you up to six months. The last time around if we had said two months, perhaps it would have been possible. You see, if the original notices had gone out at the beginning of the month, there would have been an opportunity if the meeting was aborted to do it again, because two weeks and two weeks but the problem was sending the notices out late, by the time the meeting was held, the time had run out. So the six months is not suggesting that you wait six months to do it, do it immediately.

With respect to the Minister's second point, I think that we have to put a clause into this legislation—as I say I did not draft it because I was not aware of the problem, but now that the problem has arisen we have to put a clause in and it seems to me that we would have to break at some stage and draft that clause—which validates the registration of those dentists who have been practising in Trinidad and Tobago from January 1, 1999 to date, until the date at which the new legislation is assented to. I think, perhaps, during that period we would have to give a validating clause which allows the secretariat of the council to accept registration fees and for the registration to occur, but only until the new council is appointed. There must be a validating clause in this legislation.

I was once chairman of a government board in Trinidad and Tobago, and as soon as I read the Act I realized that the board was operating illegally and I immediately made representation. Of course, it took such a long time in the usual inefficiency in government that I had ceased to be chairman by the time it was corrected, but there was a validating clause in that legislation which made legal all the acts that would have been taken by this illegal institution for the last 10 years it was—before me as well because my predecessor as chairman had not read the Act, so he was acting illegally too.

Mr. President, I think we have to deal with the problems the Minister raised and I think we have to do it via a clause in this Bill. I am not a lawyer, so I would not make an attempt to draft it, but certainly, Sen. Daly might be able to help here, and the Minister has legal advice—I presume he has legal advice, although I wonder sometimes.

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Mr. President, what I have suggested really is, let us go back to the legislation that we passed last year and let us give the Minister another chance. Let us do something about the registrations in this Bill which we need to do in any case, because in any case, they have been acting illegally for the last two months or whatever it is.

Now, another point that I would like to bring to the attention is that the last time we drafted this legislation—and I take the blame as much as anybody else, because I was involved in the process of approving that legislation—we did not specify chairman for the interim council; on this occasion I have suggested a chairman. We also did not specify what qualifications this chairman should have and that was a pity, because the parent Act says that a chairman of a substantive council should have at least five years' experience as a practising dentist. I must say it could not have been foreseen, certainly on my part, that the hon. Minister would have appointed such an inexperienced dentist that he did not know how to run an election and what should be done and how the list should be made up and so forth. This time I am suggesting that there should be a chairman of the interim council appointed by the Minister and that chairman should have had at least five years' experience. So at least we would have somebody who knows something about being a member of the board and so forth.

I hate to have to speak in the way that I am speaking this morning, Mr. President, because it is not usually in my character but this really has been an issue which, to me, is so fundamental to the way that we organize our affairs in Trinidad and Tobago, that we need to treat it very seriously, even perhaps emotionally—rationally. All that I have done—I have tried to be rational and consistent and logical in the way that we approach it and I really think, that to suggest that we should have an *ad hoc* council for a year and then the possibility of another council for another year and then come back to Parliament and say that we have it for another year because we are still fighting the dentists, what are we saying? That there is going to be a permanent division between the Ministry of Health and the dentists in Trinidad and Tobago? After two years will there be enough UWI graduates to swamp everything so that they will be—By that time perhaps they will become part of the establishment and may not want to go in this direction.

As I said to them last time, I did not speak to the dentists, deliberately, because I wanted to hear what the students had to say. I spoke to two sets of students, I went and spoke to the head of the dental school for long periods of time, I agonized over it. I am still not sure that we made the right decision then,

and I am still concerned about—I would ask the Minister of Health this: We put into the law that within two years he should look at the dental school. It was six months since we had that debate. What steps have been taken by the Minister of Health to look into the affairs of the dental school? In his winding up let him please tell us that. Has he appointed a group to do so? What have they found? Have they been reporting? Has the dental school now got approval from the United Kingdom Dental Council? Have they asked for it? Are there any more appointments than there were? Are there four professors where there should be four? Or is there still only one? Why have we not heard something about that issue from the Minister of Health? Because those are the issues that agonized us the last time.

11.10 a.m.

I repeatedly said that what we need is to look at the university. I am not one to just run down the university, but it is clear that we have to monitor the university. We all talked about accountability. What has the Minister of Finance provided to the university, some \$80 million a year: is it not that? Or perhaps more. I do not know. There is certainly going to be more in the future.

We have no system in Trinidad and Tobago for monitoring what goes on in the university. You have to have a University Affairs Council as Jamaica does. It cannot be left to the Minister of Planning and Development who attends a meeting. Look, what has happened now, and not a peep out of the Ministry of Planning and Development. The university used to issue a detailed departmental report to every department in the university, so you could have seen what was happening in dentistry. You could have seen on that list what staff there was in dentistry, what their qualifications were, how many papers they had published that year, what courses they had taught. All of that was in the detailed annual report. Two years ago the university stopped issuing that annual report. That used to be presented to Council. I was Dean of Agriculture for six years, I used to sit in Council. That report was presented to Council every year.

Now what do we get—a glossy PR Vice-Principal's Report, no detail whatsoever and not one peep out of the Government of this country! Why did they not say to the university, "Where is the detailed annual report? We want to know what is going on in the dental school, we want to know what is going on in the Electrical Engineering Department; we hear there is some hold up in the recognition from the United Kingdom body." Apparently that is not very serious, but there is a public report about it. The Principal had to make a statement in the

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press about that. I think it has been corrected. I am not so sure it has been corrected in the dental school, but it has been corrected in the Engineering Faculty.

Why are we sitting and saying that the university must not be accountable to anybody? If it is going to take too much to draft a Bill of legislation to set up a University Affairs Council—and I do not see why it should—let us set up a committee in the meanwhile. Let us ask NIHERST to do it, ask NIHERST to set up a committee in order to do it. We are just not monitoring what goes on in the university.

The Faculty of Agriculture, as far as I am concerned, has been destroyed. I am sorry to digress a bit, Mr. President, but it is relevant to the issue, because what we are talking about—this whole thing would not have risen if there were not a division of opinion about the standards in the dental school. If the dental school had had registration from the United Kingdom Dental Board, the local dentists could not have done anything about not registering the dentists, but they were supported in the position they took by that circumstance.

We had a proud history in the Faculty of Agriculture. We started with the Imperial College of Tropical Agriculture which had a worldwide reputation. That became the Faculty of Agriculture. Now the Faculty of Agriculture has been merged into the Faculty of Natural Resources, so it is a Faculty of Agriculture and Natural Resources; which has diluted the agricultural thrust. Of course agriculture is finished in Trinidad and Tobago anyhow—three governments have seen to that. But that aside.

Why has the university done this? The one faculty that has had a very strong international reputation, every part of the tropical world you go, and the temperate world as well, they talk about St. Augustine. No longer—now the Faculty of Agriculture and Natural Resources. Why have we done that? Now departments are being merged, there is going to be one department in the Faculty of Agriculture—one department with everybody.

So to get back to this Bill, Mr. President, I really am feeling that we should look seriously at the amendments I have suggested, which will allow the process to proceed without doing further violence to the system, and we must have validation for what has been done up to this stage.

I have a second amendment which does not seem to have appeared yet, but I hope that is coming soon, and basically in that, what I have suggested, is that we should once more address the issue of limiting the time of life of this question of

Parliament deciding which persons should register or not. Something which has only become apparent to me, in looking at this again now, that what we did in that legislation last August was to say that persons from not only the University of the West Indies, but also all the institutions listed on the schedule could be registered in Trinidad and Tobago without sitting the board exams in their own countries. Because some of those institutions that we have said would be entitled to registration in their own country, are not entitled to registration before sitting the board exam. So what have we done?

Because in the past the local council had the power to give an exam or not, they made the decision, and they could do it in each case, even for somebody from an institution that they recognize. They could say we are not registering you, you must have an exam. The school has gone through a trough as we were told the last time; one institution in the United States at a time went through a trough, but there is now no mechanism except, if it seems to be slipping a bit, if one of the institutions in the United States, United Kingdom, wherever, seems to slip a bit, the only remedy is for the Minister to come back to Parliament for an affirmative resolution to have that taken off the list, until in six months' time they have regained their thing, and he has to come back and put them on again.

Whereas in the original situation, if an institution was seen to slip, and the dental council was aware of it, for that period of time when the institution seemed not to be performing, they would say "you must take an exam". But now it is said: no matter where you come from, no matter what the country that you are in, says about how they will treat their own graduates from the university, we in Trinidad and Tobago register, and this is a time when we are talking about total quality.

Now I disagree a bit with my colleague with respect to quality. I had absolute support for a nation going for total quality. What I am extremely impatient in, is if we have that as our philosophy and then we do something at the same time to reduce the quality. At least be consistent. If that is your objective, then all of your actions, in whatever field, must be to aim at that objective. You do not do something which undermines your major objective. So I support it fully, and that is why I think the question of the dental profession, really was one of quality. They may have been incorrect, but the dentists were saying "we want to maintain a certain quality and we cannot do it under the circumstances of the present dental school." They were, to some extent, supported in that position by the fact that the dental school could not get registration in the United Kingdom, whereas the

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Medical Faculty does, the Engineering Faculty does and so on. So there was an issue.

If we are not going to pass the amendment as I suggested, then I think we really must have a select committee, because now as a Parliament we would be irresponsible to pass legislation again, on this issue without talking to the parties involved. If I were on such a select committee, I would be prepared to sit every day next week, if it is a question of urgency of time; and talk to the dentists, the dental school, the students, everybody, because clearly, a lot of opinions are being expressed in this Parliament about who said what and so forth. Even I was not at the meeting, so I have had to quote other people. I would like to call those people before a committee of Parliament: the Principal of the University, the Dean of the Faculty of Medicine, the head of the dental school, the lecturers in the dental school, the past President of the Dental Council, the members of the Dental Council, the people from the Ministry of Health, the Chief Dental Officer—set up a whole series of meetings for the whole of next week—except Tuesday afternoon when we have to come to Senate—and get it through. If that is what it takes, I am prepared to give up the whole of next week for that purpose. Who else in this Senate is prepared to do that in order to solve this problem in a proper way that is not going to be detrimental to Trinidad and Tobago? *[Desk thumping]*

11.20 a.m.

Mr. President, therefore, I would like to move that the two amendments, one of which has been circulated, the other has not but, basically, it sets out the time limit, the question of the second of the schedules. It really time-limits the proposal that the Parliament should dictate which organizations are acceptable for registering dentists. That is how I phrased it. I am sorry it has not come as yet, but it should come before we finish our deliberations. So, the two things are the amendments that have been circulated—you would not want me to read it, Mr. President?

Mr. President: Not necessarily.

Sen. Prof. J. Spence: I would like to say that I move it. The other one which we hope will be circulated, which really just attempts to give a five year time-limit from the time the existing amendment is passed, so that we would vote powerfully—

Dr. Rafeeq: The amendment has been circulated with the two amendments that you have mentioned.

Sen. Prof. J. Spence: I am sorry, I do not seem to have got the other one. Are they both on the same thing? Oh, yes. I beg your pardon, Sir. Thank you, Mr. President. The first “A, yes.” “A” just tends to put us back somewhat, not for the whole thing, not for the changes in the council and so forth, the inclusion of a lay person, but the question of the schedule, which really meant by approving that schedule, we in Parliament are saying which dental schools are appropriate for registration or not, and I think that is not a thing for Parliament.

One thing I should mention in the amendments which I have suggested, and that is that the President should appoint an independent person to supervise election to be held under section (3). That is because of the confusion which seems to have arisen on the last occasion. If it is going to be the case that there is uncertainty about the list, and uncertainty about who should be let into the meeting, and who should be kept out, and if there is going to be suspicion between the Minister of Health and the dentists, then I feel that there must be an independent arbitrator, and the easiest way of achieving that, is for the President to make the appointment. And that need not be any delay, because on Thursday, the matter goes to Cabinet. It is a Cabinet appointment really, and then in due course—well, he would sign.

I want to, just in closing, Mr. President, say that in this contribution I have been somewhat harsh, I feel, on the Minister of Health, personally. Now, I realize that in most instances the Minister has to rely on the advice he is given but I still think he has to take the responsibility. If I have appeared to be unduly harsh, I apologize for that, but I do feel that it is important that we understand in this system, that people in positions of responsibility have to take the responsibility. So, if they are getting the wrong advice, it is incumbent upon them to seek independent advice, alternative advice, until they are able to arrive at the correct position.

Thank you.

Sen. Martin Daly: Mr. President, this debate is not simply what to do about the registration of dentists. Indeed, at the usual inconvenience to myself, I have come here at a time other than the normal time appointed for Senate. I would like to give the best assistance I can in this debate as neutrally as possible, because we now have a very, very, serious legal problem. May I say in passing that it is a legal problem that has arisen, as a result of a total lack of quality in the legislation which we are passing.

Now, let me try first of all, to outline what I see as the broader issues in this debate. There are three broad issues in this debate. The first is, the right of a properly elected Government to deal with a problem as it thinks fit. That is the first issue. Specifically, the Government took a policy decision, with which I happen to agree, that all those persons who had decided that they would try to qualify as dentists, through the University of the West Indies, should not be left in limbo, as a result of a dispute which had arisen between the various authorities which regulate the education of dentists. And the Government has every right to say that it will use whatever democratic means are available, as the elected Government, this is its policy. The Government believes that the University of the West Indies graduates should be catered for. There has to be give-and-take in this.

The dentists have to understand that the Government has a right, as the properly elected Government of this country, to use the legislature to put through its policy. And my concern about these dentists is, they have not understood that. They still seem to think that they are entitled, even though the Parliament has supported the Government in its policy, and that they still have the right to frustrate the Government. And I will come to what the Government understanding must be.

I got quite upset when I read the version of events that has been put out by the dentists, because I think both sides are behaving quite badly. The first thing that struck me about the version that the dentists passed around, is that they are still carping—and I made sure that the Minister has a copy of this—about the fact that we passed an amendment to solve the problem of academic standards at our dental school by legislation. In other words they have not accepted the judgment of the Parliament. Now, I do not care who they are, they have to accept the judgment of Parliament, and if they do not like it then they have a remedy the next time there is an election. So, I say to the dentists, you have to recognize the right of the Government to execute the policy on which it has decided. Both Houses of Parliament were persuaded to give the Minister certain powers, and they must respect that, and they must not seek to carp or reopen the debate that has passed already.

The second broad issue that underlies this debate, Mr. President, is the Government must recognize the right of the dentists to protect their professional integrity as they think best. And quite clearly, Mr. President, it is completely disrespectful of a professional body to conduct an election in the presence of, or with armed guards in the vicinity. The persons who took the decision to put armed

guards there, should be put on probation, like certain other people, for the next two engagements.

How can you expect—I mean, if I walked in here—we are so scrupulously careful about where we display firearms and so on— If I walk in here to a session of Parliament, I am always very pleased to see the tactical outside—and if they were not there, I would feel very threatened—but I certainly would object to conducting a debate if there were armed policemen present in the Chamber. I would object to that. So, I think that whoever organized the election, certainly did not understand a basic tenet of democracy which is: that there has to be give and take and people have to persuade each other by unthreatening means.

So, the Government bears a heavy responsibility for creating an atmosphere which would have been offensive—must, clearly, have been offensive to the dentists. I mean, this is not Soca Village. The Dental Council building is not Soca Village, with men in berets. Why not have pitbulls, then? If you felt that you were dealing with Soca Village, bring some pitbulls too, to keep the dentists in line. So, that is totally offensive, and I am not surprised. So, that is why I say the second broad issue is, the Government also has to respect that the dentists are entitled to take steps to protect their professional integrity. And I would come to the third broad issue in a moment.

11.30 a.m.

Now, of course, if the Government and the dentists could develop some respect for each other, none of this would have happened in the first place. But, as is common throughout this society and which is why I have never said that quality should not be objective, I say that we are so lacking in it that before we try to persuade poor people that we have it, those in the society who know better should show that they have quality.

Let us go backwards. The athletics people cannot get on, they end up in court. Writs are constantly threatened. Every year, for Panorama, there is a writ flying somewhere because nobody wants to obey the rules and everybody says, “Me, me, me”. I am coming to TICFA. Then we have TICFA and all these small, tiny, really petty island squabbles taking place all the time.

The third broad issue in this debate is that there is apparently lacking amongst us, an appreciation that for a society to function, we cannot rely on the operation of law, skillfully drafted or not. People have to understand give-and-take; they have to understand that most problems cannot be settled by legal warfare. People have to respect each other and there has to be give-and-take.

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What we are trying to do now is fashion a law that is going to make one side victorious in legal warfare to the detriment of the other and I object to that. That is the third broad issue. How far are we going to take the law, in order to make one side of a problem victorious at the expense of the other?.

While I have tremendous sympathy for the difficulty that the Government has, because as I said at the outset, it is entitled to say it wants the UWI graduates registered. It is democratically elected; it is entitled to take that position and it is entitled to come to Parliament to get a law passed for that. That has to be clearly understood.

We cannot just say, “Well, you know it is a good opportunity to kick around the Government because it has a war with the dentists.” We have to be more mature than that. So, what is to be done and what mistakes have we made other than the ones I have already outlined?

First and foremost, any government cannot appear to be “putting tanks on anybody’s lawn” which I believe is the famous expression. You cannot be putting tanks on the lawn of the dentists; you cannot be putting tanks on the lawn of the service commissions; you cannot be putting tanks on the lawn of TUCO—the Trinidad and Tobago Unified Calypsonians Association. [*Desk thumping*] You cannot put tanks on people’s lawns. A society cannot be run like that. Since I am hearing some dull thumps in front of me, you cannot put tanks on the Speaker’s lawn. [*Laughter*]

That is a mistake that we make all the time. We cannot resolve our difficulties by trying to put tanks on anybody’s lawn. If we have a policy objective and legislative objectives, we have to get people to agree with them.

In fact, Mr. President, there is a fourth broad issue in this debate and it is this. That our goodly Minister, and a more pleasant, courteous and open-minded Minister of Government to deal with would be hard to find. [*Desk thumping*] He did not approach the intention of Sen. Prof. Spence to amend this legislation by seeking to excoriate him; he did not treat it as an act of deviance; he phoned us up to try to find out what was our thinking so that we could exchange ideas; he did not regard us as devious.

Now, the fourth broad issue here is this and it is very important. In our small country, Ministers and their advisors are constantly being subjected to pressure from people on the inside, that is to say, let me give an example relating to my own profession.

When we began legal education in the West Indies, first with the Faculty in Barbados with the first year also being able to be done at the University of the West Indies here, many of us—and I do not know if the dentists have done this—gave up time and lent our labour and skills to teaching first in the Faculty and then in the Law School.

Anthony Jacelon and I were the first two private practitioners to enter the doors of the new Law Faculty which was begun with two permanent staff members, Mr. Mutunu and Dr. Parker from England along with Mr. Jacelon and I. That is how the Law Faculty started here. Then, over the years, many other people in the legal profession, very elevated people in the legal profession, gave up time to go out to the university, or to hold classes in Port of Spain, in order to have an input into making sure that people were properly taught and that the standards were high.

The objective was and, indeed, the government of the day had committed itself by treaty to phasing out foreign qualified, or United Kingdom qualified barristers. What used to happen was, it always had some Minister's child, some Minister's friend's child, the child of a chairman of a state enterprise, some Senator's relative, somebody's relative who had just started at Grays Inn or Middle Temple and needed three years to complete. So, what happened? The cut-off date by which English barristers would no longer be automatically admitted in Trinidad and Tobago kept changing, with the strength of the loins of people connected with the government who could produce more children who wanted to be barristers in England. The date just kept moving and moving and moving. And you would always hear—and I am going to use fictional names—"Boy, they change the date again, you know, because Theophilus son doing law in England now and he needs three years". That is what happened all the time and the whole thing became an unholy mess. It is a mess now.

I had the pleasure of accepting an appointment to a select committee to review this whole question of legal education which is going to blow up very, very soon after the dentists; we are going to be here talking about lawyers because we have a huge problem with masses of people who have acquired external law degrees and cannot get into the law school.

I sat on a committee appointed by the government, chaired by, I think Sir Isaac Hyatali—I do not remember—out of which certain recommendations were made, because the holders of external law degrees—and they are far more numerous than the locally qualified dentists—are bearing down. There are at least 10 of them in

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every constituency represented by a Member of Parliament on either side. That is a thunder force that is coming next.

Of course, this relates to what I am talking about as the fourth broad issue. There is no doubt that some of the more indecent acts committed by the Government in pursuit of this policy, has been driven by the selfish requirements of persons inside its party. There is no question about it and I am not going to say who “Theophillus” is, who has a son or daughter who is going to benefit from this legislation. We live here; we know who they are. So, really, Minister, you have to do two things.

First of all, you have to get experienced legal advice and I do not want the job; and, secondly, stop listening to the political Iagos who are putting their personal, poisonous ambitions in your ear. If you have a son or daughter qualifying, who has to benefit from this legislation, I “cyar” talk to “yuh” because “yuh” going to mislead me and “yuh” going to tell me things about the dentists which are not true and, thereby, everything is going to go wrong. Now, how do we deal with this problem?

First of all, Mr. President, we have to appreciate and compliment the Government for the fact that when first faced with the problem, it sought a solution that was essentially democratic, that is to say, it amended the Act simply for the purpose of making elections happen. That was a thoroughly good thing, indeed. It is quite clear when we read the amendment which we passed last year and we read the legislation which is before us now that at that time, it was never the intention of the Government and I say commendably so, that the interim council should do the work of what I call the “normal council”. That was never the intention of the Government and that is thoroughly praiseworthy.

As far as I am concerned, and the Minister was under much pressure from many of us, we gave the Government as much power as it needed to resolve the problem but no more than was necessary.

Now, the implementation of that power has failed, for reasons which everyone has a different version of why it failed. May I say at the outset, from my reading of the law—and, of course, as many lawyers as you get opinions—for anyone to say that the list was deficient because it was treated as at the December 31, 1998, is a bogus point, and it is clearly a bogus point because once there was no council, the council could not register anybody in 1999 because the Act is very specific:

“Registration is a function of the Council.”

I have taken the trouble to correct it. So, anyone who is trying to say that the Government was gerrymandering because the cut-off point was December 31, 1998, in my view, is clearly wrong, because section 12(b) of the original Act makes it quite clear that:

“The functions of the Council shall be to register dentists.”

If there is no council, no registration could have been done for 1999 and, therefore, in my opinion, it is extremely ungracious to say the least, of anyone to say that the Government is trying to gerrymander anything by using the 1998 list. I think it was legally correct to do so and using the word “gerrymander” in that context is typical of how we behave towards each other—say anything insulting and hurtful just to make your point.

So, I do not have a problem with the use of the 1998 list. Sen. Prof. Spence, of course, who is a very good lawyer, has seen the point that as a consequence of that, at some stage, we are going to have to validate everything that has happened from and including January 1, 1999 and, maybe, depending on the outcome of this debate, that will be a good time to do it.

This is quite a complicated problem and I want to let the Minister know that he lost a golden opportunity since the interim council provided for the use of a lay person. I believe he called the name of an attorney-at-law. But, he lost a golden opportunity because, as Sen. Cowie, Sen. Hamel-Smith and others would tell him, there are whole books written about the law of meetings, and how to conduct a meeting and run an election is a very technical thing. They really need to get somebody on the interim council who understands the law of meetings. It does not even have to be a lawyer. There are corporate secretaries who understand the law of meetings. It does not have to be a lawyer because a number of the mistakes that were made would not have happened under proper guidance.

Now, let us come to the immediate problem, the election having failed. What the Government is now seeking to do is to move away from a democratic solution in the sense that it is now seeking to have a nominated council. Now, if you cast your minds back to pre-1956 days, you would recall that we had a piece of legislation that comprised two types of members—nominated members and elected members.

Now, we only have to think about the progress we have made. In fact, we are the last anachronisms and people quite rightly challenge it all the time, that is, people who exercise constitutional and political responsibilities without subjecting

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themselves to some form of election. Now, in principle, I have a problem with taking any body, any organization backwards historically, away from democratic membership to nominated membership. I have a problem with that as a matter of principle. Also, my problem increases when you are dealing with bodies which should be capable of regulating their own affairs.

11.45 a.m.

As you know, we have a bit of a struggle going on now over new rules in the Supreme Court and I have to be very careful. I am always very open about these things. I have to be very careful now not to abandon the dentists because I might soon find myself in the position of a dentist if some of these new rules which we are discussing come into force. But, of course, all it does is remind me—as upset as I might be with the dentists—that in a democratic society there must be certain checks and balances and definitely it is out of order for the Government to be running the affairs of the Dental Council. That is to be avoided at all costs.

The Government is not only going the nominated route, but it is taking an even more grave step, in my opinion. In other words, we tried first of all to have a democratically elected—if you put an interim council in place, purely for the purpose of having a normal council democratically elected, that is very commendable. What you are seeking to do now is put an interim council in place that is not only going to hold an election, but is going to take over the functions of what I am calling the “normal council” and that is quite clear when you look at the last clause in the Bill which says:

“The presiding *ad hoc* Council shall have all the functions, powers and duties of the Council under this Act.”

I really have a problem with that as well. I understand that the Minister is concerned, and quite rightly so, about the inability to register anybody under the Act since January 1, 1999, but I think this power is far too wide. If there is a problem with registration which has come about as a result of this impasse, we must draft a clause that is wide enough to take care of that, but no wider than to transfer all the functions of the normal council to the *ad hoc* council. We cannot do this in a debate, neither can it be done in a hurry. It requires persons of experience to sit and work all these things out. Sen. Prof. Spence’s point about the lack of validation is a stunning one which should not have escaped any of us, and likewise, this is giving the *ad hoc* council far too much power in order to achieve a limited objective which is registration, and we can do that by a specific clause which deals with registration.

Mr. President, while I completely sympathize with the Minister's problem, I really have difficulty with the approach that is now being taken, the move away from democratically elected to nominated, and the move to give the temporary, or *ad hoc* council all the powers of the normal council. I really have difficulty in accepting that approach. It does not mean that I do not understand the problem, it does not mean I believe anybody is gerrymandering anything. I just think that the Act is going much too far in order to solve this problem.

Let me make it very plain that the amendment which Sen. Prof. Spence did, was entirely on his own and I take absolutely no credit for it. It is frequently thought that the draftsmanship of my colleague is inspired by myself. It is not. Sen. Prof. Spence would tell you that I was unusually bad-tempered about having to deal with this at all, because as far as I was concerned, we had disposed of it.

I do support Sen. Prof. Spence's amendment because it is maintaining the democratic solution as opposed to the nominated solution, and really saying to the parties you must go back and try again, and hopefully, if there are no armed guards, and if people take proper legal advice about the list, none of these disputes would arise and you would be able to have an election. Both sides have to acknowledge their mistakes. The dentists may say—at least in my opinion—we took a bogus point about the list in order to call the Government gerrymanderers; and the Government must accept that it cannot have an election in the presence of armed guards or anything else which suggests that we are not having a consensual democratic process.

So the advantage of Sen. Prof. Spence's amendment is that it preserves the completely democratic solution to the problem, and also gives both sides an opportunity to try again. We have many people here who know a lot about industrial relations and one of the things you would learn, if you practise industrial relations, is that when all the adversarial business is finished, the people have to live with each other—the dentists and the Government—and they are not going to disappear to different planets when all is finished.

One of the things I learned as a young lawyer who was brave enough to go into the Industrial Court and face the light of some Senators present and some who are not present, who used to rough us up “too bad”, was if you were a litigator in an ordinary court, you could be as offensive as you like to the other person's client on behalf of your client because when you were finished fighting that war in court, they had the option of never speaking to each other in life again and the option of carrying on the warfare outside of the courthouse for the rest of

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their lives. But when you act for an industrial relations client, if you contribute towards making the two parties dislike each other, then you are making it impossible for them to carry on a future relationship. Therefore, if you defeat the dentists in this legal warfare, you are creating a feud for future reference where the dentists and this Government would not get along and that cannot be good for the wider society. This is not a problem where you could shoot one side and kill them dead and they do not exist anymore. That is why we have to come to some mutually acceptable solution, which I think Sen. Prof. Spence's amendment does.

Of course, because of lack of time I readily concede that Sen. Prof. Spence's amendment does not address the problem of the inability to register anyone now and presumably, if we put our heads together, we could include a clause that would deal with that. For example, the solution that strikes me is that in precisely the same way when you start a new registration body, you deem everyone who was previously a dentist, a dentist at the commencement of the Act. We could deem everyone who was on the register as at December 31, 1998 that their registration continues and perhaps make some transitional provisions for the persons who have submitted registrations since. We have to deal with the validation problem among other things, and then we have to deal with the point which has been raised by Sen. Prof. Spence about the life of this Act.

One of the things which has confused me, Mr. President, underlines the fact that we were not going to solve this by debate and people of experience have to get together to deal with this problem. I was in receipt of two lists of amendments circulated on behalf of the Minister, and in one of them, they are referring to members who are members of the Dental Board of Trinidad and Tobago without qualification, and the other one is referring to persons who are members of the Dental Board as at December 31, 1998. I am sorry, I have expressed that badly. The original Bill makes persons members of the *ad hoc* council who are members of the Dental Board of Trinidad and Tobago as at December 31, 1998. That is in the original Bill. An amendment has since been circulated which removes the qualification as at December 31, 1998. I do not know why it was removed, but it strikes me as problematical, because if the Government's position is that the only valid registered dentists are those on the list as at December 31, 1998, it needs to be put in, otherwise an issue is going to arise about the date on which they were validly members.

Dr. Rafeeq: I am not sure we have the same document, but the amendment which we circulated does not refer to what you are speaking about.

Sen. M. Daly: Mr. President, I do not want to bore everyone with it, but I can take it up in committee. I am looking at the original Bill which has members referred to in section 9(1)(a) who are members of the Dental Board of Trinidad and Tobago as at December 31, 1998. That is in the original Bill. Then I have a document which says: "Lists of Amendments to be moved in the Senate by the Honourable Minister of Health.." It now rewords that paragraph to simply say: "Members who are members of the Dental Board of Trinidad and Tobago..." and the words "as at December 31, 1998" are not there. That is on the paper which I have. If that is wrong, then we can clear it up, because I am simply pointing out that is an inconsistency with the position that the only registered dentists are those registered as at December 31, 1998.

Mr. President, it is very dry and technical, but I only brought that up to emphasize that we are not going to be able to acquit ourselves of our responsibility by either doing this in a hurry or in an atmosphere of either political or legal warfare. There are serious legal problems here that have to be resolved, and I brought that up by way of example to show that the more we hurry this, the less consultation we have, at least with each other, because we are talking to each other. The less consultation we have with each other, the more we try to do it by exchanging pieces of paper, we are just going to create more problems for the Government in the long run. I really do not want to have to come back. I do not like going to the dentist at the best of times so to have to come here for a third time to face the dentists is something we should all avoid.

Dr. Rafeeq: I want to give a clarification on this issue which you raised. In subsection 7, the amendment to which you referred says:

"Notwithstanding subsection (9) where a council is appointed in accordance with subsection (6), the Minister shall appoint for a period of one year another *ad hoc* council."

That is the second *ad hoc* council and by that time the dentists would have been registered.

Sen. M. Daly: I am very much obliged. I stand corrected, it is a perfect explanation. I acknowledge my misinterpretation. It all goes to show how difficult these things are to make up as we go along, but that is quite right because by then you would have achieved your objective.

Mr. President, through you, my praise of the Minister was not miscast in the least. So I accept that. The point is, we are not going to be able to do this simply

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by debate and there is a fundamental issue. I do not want to go on longer than necessary. I am trying to lay out the issues as neutrally as I see them so that we can all make a sensible decision. Those who want to talk about gerrymander and all that business, that is up to them. I do not think the Senate is the place for us to deal with this problem talking about gerrymandering.

Of course, I do not think if I was in Sen. Montano's position, particularly as we say in another place, having regard to the composition of the court today, that I could really resist dilating a bit on the tools of armed guards. It is a perfect opportunity, but we have to resist these temptations. It really is an ideal opportunity to talk a bit about guns and roses, but we have to resist these temptations because we have serious business with which to deal here. I think this is the only occasion on which, the question of armed guards having come up, I would like, temporarily, to have occupied a seat in front, not out of any ideology, but out of the opportunities it would have presented me to have some fun.

12.00 noon

Be that as it may, Mr. President, it seems to me that those are the broad issues and those are the legal issues which we will have to resolve. There are many things which, even if you accept the Government's amendments, which I do not, have not been covered such as the validation and how properly to register the new dentists temporarily. I would ask, therefore, that we try to make this an occasion where we do not behave like the NAAA, we do not behave like TICFA, we do not behave like TUCO, we do not behave like "Wire", you know, we sit and acknowledge that we have a genuine difficulty and we are going to resolve it without writs, without armed guards, without socially deviant remarks. Let us try and be mature for a change. We have a problem, let us try and solve it by some good, sound, technical work.

So, Mr. President, I hope I have been able to lay out the issues as I see them, as neutrally as possible and it really is time for us to do a quality piece of work if we want to continue talking about quality and really I hope that we would be able to accomplish this task in less than the two months that has now become the extension, it is the new norm. In fact, the Minister is out of step, Sen. Prof. Spence is out of step by giving anyone six months to rectify anything. We now know that it is two months, otherwise there is trouble.

Indeed, Mr. President, while I looked at this question of how long one has time to improve, it occurred to me that there is a great danger of the initials TC, which is Trinity Cross, being reversed and becoming CT, and I hope it is parliamentary, meaning cut tail. So we have to be very careful. Thank you, Mr. President.

Sen. Kelvin Ramnath: Mr. President, I was warned it is not an easy act to follow Sen. Daly. And having read a lot of his contributions I thought, listening to his thesis today, that he was on a very conciliatory note. I feel very happy about that, after having listened to Sen. Montano. I, too, would like to commend the hon. Minister whom I have known for a very long time, mainly outside of politics, for being a highly responsible person, one who is highly respected, not only in his constituency but in the country at large, as a person who seeks to find solutions rather than enter into confrontation. But I rise today because this marks about three occasions that I have been here and I want to contribute, to justify the appointment that has been made, on a continuing basis, just in case there are other plans.

However, Mr. President, I had the opportunity about 20 years ago to participate in a debate on the establishment of the Dental School and I do not wish to digress from the debate here, but at the time the mover of the motion was the Prime Minister, Dr. Williams, and I was sitting on the other side in the House of Representatives. As you know, I have had quite a long stint in the other place, and the rationale for the establishment of that school at the time—and some of us were severely admonished and reprimanded for asking the government of the day to consider what will happen to people like ourselves who come from the rural areas where you do not have dentists at all. I think in Couva there is only one dentist in private practice, and—I am sure about that—the rest are called, unfortunately, quacks, and they serve a very large section of the population, something that we must not lose sight of.

At that time there were those of us who were concerned about the penalties that would be applied to these people because of that particular piece of legislation. But the government of the day decided that it was in the best interest of Trinidad and Tobago to train dentists locally and knew that after having expended a large portion of the national patrimony on Mount Hope, which used to cost us, just to maintain, about \$100 million a year at that time, that it should be put to some good use and one of those items listed was the establishment of a dental school for the purpose of creating additional dentists, which at the time was in very short supply.

I want to agree with Sen. Daly that we have a situation in which the current group of dentists who have, in fact, gone on strike, as far as their role in the council is concerned, is, and to use my own word, it is a rather selfish act on their part. Here is a group of people who believe that they have some special privilege in

the society, that they can hold the society to ransom, that they can embarrass the Government. Sometimes I wonder, Mr. President, whether they have a regulation with respect to the list of the fees, because I pay all kinds of rates and if any Senator here were to be in my position you would have expended a substantial portion of your small salary, working for a company like Petrotrin, Sen. Gangar, on dental care. And these people who are so concerned about democracy and Government's intervention in regulating their profession, have not, in my view, thought that they are a privileged class, many of whom are in position today because of Government scholarships, many of whom we all have contributed over the years to educate, that they will take this recalcitrant position of resigning from the Dental Council rather than negotiating. And I agree with Sen. Daly that this is not a warfare, this is not a legal warfare. This is an issue which affects every citizen of Trinidad and Tobago. I think that it will be interesting to find out, if someone were to bring a writ against a dentist for malpractice at this stage, whether such a dentist will have coverage in the law, but that is not a matter that I can adjudicate upon.

So what the Government is seeking to do is to deal with people who are recalcitrant, to deal with people who lack objectivity, to deal with people who feel that an elected Government does not have the right to intervene when it deems necessary. And that is the main problem I have with bodies which feel that democracy must be extended to the point where, because of their privileged position in society, they can do whatever they feel. I also belong to professional societies and many of us do, but there comes a time when an elected Government has a responsibility to look after the people of Trinidad and Tobago and the interest of the larger population. And all of this stems from their dissatisfaction with the recognition of the graduates of the University of the West Indies. You will never believe that people who hold such high positions in society can reduce themselves to the level where, because they are dissatisfied with the policy decision of the Government, they will try to hold the Government to ransom. And then you have a Senator from the Opposition Bench referring to an effort to correct a major mischief in the society as fascist.

I sat in the Parliament of this country for 15 years under the most fascist regime known in Trinidad and Tobago called the People's National Movement. The SLRs and SMGs were imported during that time. They hounded squatters on the railway line, not drug pushers. I am talking about ordinary, poor, dispossessed citizens of Trinidad and Tobago at the time of the oil boom when oil was fetching \$44.00 a barrel.

Sen. Alfred: And they still voted for us.

Sen. K. Ramnath: In the middle of the night they went into the homes with women and children with SMGs and SLRs and I was part of the Parliament of Trinidad and Tobago when these things were happening, when they presided over the arrests of workers who were demonstrating, and marching and democratically seeking permission from the Commissioner of Police to march, with SLRs and SMGs. A government that declared a state of emergency in Port of Spain, taking away the rights of citizens in order to deal with an internal problem of their Speaker, comes today to talk about fascism with respect to a Bill that is designed to protect the dentists. And I am quite sure that the Minister, who is a Cabinet Minister, and his colleagues will at the appropriate stage talk to Sen. Daly and Sen. Prof. Spence and others with respect to the amendments. I am sure that I am not allowed to be involved in that discussion. That is a matter of policy which Cabinet of course and Cabinet representatives will deal with.

But I cannot sit here and listen to a Senator on the Opposition Bench talking to the Back Bench, of which I am a member, temporarily of course, and to warn the Back Bench. I do not know whether he wants to have the privilege to appoint the Back Bench.

Sen. Shabazz: You will be in the front just now.

Sen. K. Ramnath: But to warn the Back Bench against a fascist Front Bench or a fascist Government and talks about “the Minister's action being designed to bully professionals, we are living in dangerous times, the action of the Government in this case is nothing less than dangerous.” I wonder whether we are talking about the same Bill that is before this Senate today. I do not know what paranoia has overcome the hon. Senator to descend to that kind of language which is almost frightening and which I am told is not very common in this honourable Senate. But clearly, the intention is to frustrate everything that the Government does.

12.15 p.m.

The intention is to use the worse form of criticisms against what the Government does. *[Interruption]* I will reply to you at a later stage. *Hansard* is replete with speeches that were very well received by myself over the years. But fascism in this case is nothing more than an attempt to put the Government in a bad light. It is not setting the Government up against the dental profession. It is an attempt to find a solution to a serious problem that has been identified because of

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the decision taken by the dentists to abdicate their responsibilities, as far as the operation of the council is concerned.

Mr. Speaker, I commend the Government for having acted so expeditiously, because it has recognized that a problem exists in the profession. I do not think that any government that is looking for a second term would want to confront everybody. I do not think that it is the intention of this Government to confront the lawyers, or the dentists. It would be committing suicide if it seeks to confront everybody in the society. I am sure that the political sagacity and acumen of the people in the Front Bench, will certainly inform Cabinet that it is not going to be a good thing to confront the professions.

It is not an attempt at confrontation or at setting up the profession against the Government, as Sen. Prof. Spence indicated. I am surprised myself at some of the statements coming from Sen. Prof. Spence, having spent a considerable number of years as a professor at the University of the West Indies, but I certainly do not know very much about how the university is structured. I had the honour of being educated elsewhere, at the expense of the state. I am one who understands my responsibility to Trinidad and Tobago.

Certainly, if there are problems at the University of the West Indies, I am sure Sen. Prof. Spence made considerable representation, over the years, at levels that he was capable of making those representations, in order to ensure that we maintain a high standard. That is a completely different issue, because it is a matter—I am quite sure—that the Ministry of Education recognizes as a major problem in the society.

Sen. Prof. Spence: Unfortunately, the Ministry of Education is not responsible for the university, but it is the Ministry of Planning and Development. That, in a sense, is part of the problem.

Sen. K. Ramnath: I am quite sure, Sir, and I stand to be corrected, that the Ministry of Planning and Development certainly must be aware. In fact, the Minister of Planning and Development is on record in this country talking about the University of the West Indies, and random research at institutions outside of the university, the amount of money we have expended on education and the kind of elitist education system we have in the country, where all of us pay to have a very small minority educated at the university.

I am glad that issue has been raised, because it is a critical issue. Whether the dental school, according to the Dental Council and the Dental Board, met their

criteria, is something that has already been debated. I am not aware, apart from reading in the press, what the position of certain people in this honourable Senate has been, but I am quite sure that the Bill must have received the support of a considerable number of persons who understood the plight of the institution.

Therefore, when people take decisions that they are not going to sit on the council, it is now the responsibility of a responsibly elected Government to take steps to ensure that chaos does not reign in the society. Sen. Daly and others have constantly pointed out that it appears that our attitude towards finding solutions is to go to court for everything. It is happening in the church today. I do not know whether Sen. Rev. Teelucksingh's church of which I am a member, has withdrawn the charge against a certain deviant member of the church. [*Laughter*] It is happening at every level of the society.

The Trinidad Islandwide Cane Farmers Association is a good example—and somebody had promised to talk about TICFA—of an organization which has been in chaos for more than 25 years. The solution which was attempted has not worked. There are still people who claim to represent a substantial number of farmers in the country and who have decided not to co-operate with the duly elected group. I am certainly in favour of conciliation and of coming to an agreement that will best serve the profession, while at the same time maintaining the politically responsible position that the Government has to maintain.

Mr. President, I would say that three security guards—not tactical squad members, or people armed with submachine guns—were there to protect the members of the council, the dentists in the society, sent there. Who says that problems cannot arise in a meeting of dentists where you require some sort of protection? Why should it be seen as an affront to the dentists? It should be seen as an attempt to create order and peace. It was not sending members of the police service. For those who talk about seeing policemen with guns and so forth here, let me remind you that I was in here for six days. I have no problem with seeing policemen with guns inside here after what occurred in 1990.

I have a problem with what the building looks like after I demitted office prematurely in 1991, but I have no problem with security. You cannot say that we must declare a national day of shame in Trinidad and Tobago because of the rising crime rate and the irresponsibility of many people in the society, and worry about three security guards armed with pistols designed to kill people. I do not know if every policeman who walks with a pistol has it there because he intends to kill

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somebody. [*Interruption*] It is designed to protect and serve and to ward off people who have criminal intentions.

Sen. Montano: Like the dentists.

Sen. K. Ramnath: The dentists are no special group in the society. I have a lot of respect for them. I have an excellent, painless dentist—I cannot call his name here. He is a reasonable dentist, his fees are not very high. What I am saying is, why should that be construed as an attempt to intimidate dentists?

When you fight elections in Trinidad and Tobago with the Elections and Boundaries Commission supervising the elections, in every polling station there are policemen with machine guns. Is that an intention to intimidate the voters? What is the intention? If you fought the election you would know. I fought three elections and I have been to every polling station. I will tell you that policemen are armed to the teeth at these polling stations, with no intention of shooting anybody. But in the event of difficulties that could arise as a result of unruly behaviour, either encouraged by parties, politicians or supporters, the police must be in a position to protect the peace.

I do not think that this accusation of having three security guards, who went there to make sure we had peace and order, should be construed as an act of intimidation against the dentists. Sen. Montano speaks about these people as though they are God's gift to society. Did he enquire whether they had guns down at the TICFA elections? Or are cane farmers not his concern? They have never been, of course. His class position does not allow him to understand the plight of the working class in the society. [*Interruption*] He does not understand the plight of workers and ordinary people. He has never stood up against the attempt by governments—

Mr. President: Sen. Ramnath, I think you should avoid those comments.

Sen. K. Ramnath: I deeply apologize, Sir, and to you Sen. Montano. I got a little carried away like you did. [*Interruption*]

Sen. Montano: Then it should be withdrawn!

Sen. K. Ramnath: Certainly. But I do not believe that he should treat the dentists as a privileged group in the society, and feel that the presence of security guards is designed to intimidate them.

I think, that to attack the Government as being fascist, admonish Members of the Back Bench and also to advise us that the Government's action is nothing less than dangerous so we should be very careful, is over-stepping his duties as an Opposition Senator. He should understand that we voluntarily accepted these positions, although as Sen. Daly put it, it might be the last anachronism of our constitutional set up. We would debate that at another time. I am quite sure that would be debated fully next year, when some of us would be appearing on the front line. But in the meantime, Mr. President, I simply want to add my support to a very genuine attempt by the hon. Minister to find a solution.

I am sure that the amendments proposed will be considered by the Government, because you are dealing with a reasonable Minister and Government; a Government which sits here and takes a lot of abuse. Members do not respond in the way that I have been trained to respond, so you have to forgive me if I appear to respond in a fashion not becoming to this honourable Chamber, but that is my training. I commend the Minister for attempting to find a solution to a difficult problem.

I would like to see this matter settled very expeditiously, within two or three months, and that once again, the dentists in this country would understand the Government's responsibility, that they would recognize the UWI graduates have now been accepted by law in Trinidad and Tobago to be registered as members of the board—that is a fact of life—and that a compromise would be reached between the Government and the dentists with respect to restoring the democracy which we all seem to want.

In the absence of any attempt by the dental professionals to meet and treat fairly with the Government to find a solution and to accept the policy decision and UWI graduates, the Government would have no choice but to ensure that the vast majority of professionals are protected. I support wholeheartedly the efforts, and I trust that when we come to the committee stage, the discussion of the amendments would be handled by the Government Minister.

Thank you.

Mr. President: We will suspend for lunch at this stage until 1.30 p.m..

12.29 p.m.: *Sitting suspended.*

1.30 p.m.: *Sitting resumed.*

Sen. Joan Yuille-Williams: Mr. President, unlike the last speaker before lunch, I would like to make my very short contribution in a fashion that is becoming of this honourable Chamber.

Mr. President this morning we had some very serious contributions. I am trying to bring this debate back on course, because we are all concerned at this time about the status of the members of the dental profession.

I remember that I was one of those persons who came to this Chamber and really agonized during the last debate because here we were confronted with a system in which we wanted the dentists to regulate their own affairs and on the other hand, there were a number of young dentists who were unable to get registration, and we were very concerned about them, and we would have hoped, Mr. President, that consensus or dialogue would have brought the university and probably the Dental Council and those concerned together. We were told that was not possible and as a result, to some extent, we had to accept the efforts of the Government to put something in place in law. As a result of that, we worked very hard to make certain amendments to the original Bill, which was brought in such a way that, at least, we could satisfy both sides and so that the dentists in some way, stayed in control of what had happened to their profession.

I remember the hours we spent talking to the various bodies; the informal discussions that we had in the Chamber, in the Committee Rooms clearly because we wanted to do the best that we could and about what was possible at that time. We considered it very seriously for both sides.

However, some of us realized that, at that time, that was not going to be the end of it. When however, I received this amendment, I recognized that we were actually going down a route which we had tried at the very beginning, to avoid going. I must say in fairness to the Minister, who I think is one of the ministers who really tried to work with suggestions given at that time, I felt somehow he might have been ill advised. However, I am still very serious with my commitment in trying to bridge the gap between those that need to be registered and those dentists who exist, because we know we need to look at it and at the same time, keep the dignity of this profession.

Before I came to the Chamber today, I was sure, Mr. President, that I could not support the amendments brought by the Dental Profession (Amendment) Bill,

1999. Let me say quite clearly that I am sure I am not going to support this Bill. I was also clear that something could be done to bring an amicable solution to this—what I call—“little crisis” at this time. I was doing. so based on my research and my information before coming here.

Mr. President, I recognized that the meeting of January 28 did not come off and therefore I thought if I am to make any contribution to this amendment, I should at least try to talk with some of the people who were involved. Some of it has been said here already, and I do not think that I need to repeat it, but when one hears that approximately 80 dentists tried to attend the meeting, I give it to them that they were a bit sincere and that they wanted a solution.

In my conversation with them they had accepted the law. There is no doubt about it, they had to accept it at this time, that we were going to register the UWI graduates. I think that it is clear that they had accepted that situation and therefore they should have gone to the Interim Council Election. As I already have stated, we took a little while before we had these elections. Unfortunately, this should have been done last year and we might not have had the problems that we are experiencing now.

In speaking with them—and this is a human situation—I gathered that when they went to the election, the main objection—and I am going to say what concerns me to be the main objection—was that the list for the election, which was the 1998 list which was used, was incomplete. That is what I was told. It was incomplete. It means that some of them who were eligible to vote were not allowed to vote, and that is why they did not enter the building, plus the fact that it was the first time that they had arrived at their own meeting place in such a hostile environment. We need not go back to the hostility of the environment and I disagree with one speaker who believed that those guns were there to protect the dentists. We could not believe that. They had not had a history of inciting any revolutions or doing anything like that and they found the environment to be very hostile. Secondly, they could not all enter.

One of the dentists told me that normally when they go to those meetings, all would go into the house—everybody, those who were eligible and those who were ineligible. There is a lot of camaraderie there and at the time of the election those who are eligible voted. So, you could well imagine the kind of shock they got this time on arriving to find not only that some people were debarred because they were ineligible but those people who thought themselves to be eligible were also debarred from entering. I think that it was in that atmosphere that people did not

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go and I clearly asked: What do you think was the solution? They clearly said and I believe them, that—at least I had to believe that if these elections were conducted in a manner to which they were accustomed; if a complete list were given, they would again return. That is why when I left I was sure that I would not support this Bill and I therefore will support any measure which would allow that Dental Council meeting, as you would say, to be called again.

Clearly, this is the way we should go. They are humans. There is nothing wrong with them and I am sure that would not prevent others from being registered.

It is only when I got here today, I recognized that those people who had paid their 1999 fees to the secretary—lay secretary or to anybody else—were not properly registered. I feel some of them believe that they are properly registered.

I understand that at the very beginning, the secretary was not accepting the fees, until she was told that there is some law which exists that she can accept the fees and she had started accepting the fees. So, a large number of them have paid for 1999, but I was informed today by those who were here that those people are not duly registered.

1.40 p.m.

Therefore, like Sen. Prof. Spence, I have a concern that we have a number of doctors practising who are not registered and I do not think that they, too, understand that for whatever reason it is, probably it is the first time it has happened and I think they believe that payment of the fee meant an acceptance of it, and given a receipt meant they were automatically registered. If that is the case, and I still think it should be checked out again, they are having this election, again, which I hope they would have, then I hope it will be the 1998 list which will be used. I hope that all those who were registered up to 1998 would find themselves on the list. As I said before, the problem was that the doctors felt it was an incomplete list.

If, therefore, as a government, we made an error, or whoever was put in charge of the elections made an error, I think it is only fair that we correct it. It is not the first time we have had an election and something has gone wrong and we had to abort the election. In fact, when we look at it, apparently there were a number of people there who did not even understand how this election was to be carried out and so, there was no nomination for president or whatever it was. Apparently, there were some people who did not understand how it was to be done. It was the

first time this had been done by them. I understand that there were a number of young dentists, most of them UWI graduates, on the interim council, who were being advised by legal persons from the Ministry of Health and that kind of thing. I suppose, in that atmosphere, errors were made.

Therefore, I am one of those people who would support any kind of amendment which will allow us to go over this exercise. I am hoping that the Minister would understand it. In that way, we will allow the dentists, to some extent, to continue to regulate the profession. We will also make it possible for the graduates who were there to be registered. I think what those “registered dentists” believe now is that the new dentists cannot be registered, but those who were previously registered in 1998 were automatically registered now by having paid their fees. I think from what I understand from them, this is what they believe.

Therefore, to me, it is not too difficult to do that and I would also have to go along with the statement that those registrations would have to be validated. Because of the fact that people have been practising in a country like this from January without a licence, I think we need to move very quickly. I feel if we accept that framework and go along with that in an environment which is much more conducive to professionals operating, I am quite sure that the hon. Minister, in spite of what his colleagues will say, would not have been too happy with the environment. I feel that if it is a more conducive environment, from what the members of the profession said, we could be able to go along with this election and there will be no need for this amendment.

When I read this amendment which spoke about the *ad hoc* committee now and after one year, another meeting is called with another *ad hoc* committee, I felt we would be going into very, very dangerous grounds when there was no need for that. All we need to do is to give the opportunity, again, to have the elections called again with proper listing; with persons who can conduct the exercise to do so; publish the list of people and allow people to function properly.

I even asked them how they felt about having the UWI graduates being registered and, at this point in time, whether they liked it or not, they have to accept it as law. There is nothing they can do; they are going to be registered and registration means having a board in place with no testing or anything like that. Whether they liked it or not, they have complained about trying to get the standards raised but, in the final analysis, the Government has made a decision that all UWI graduates are to be registered, therefore, I do not see the difficulty at this point in allowing this to happen because I feel the members have accepted it.

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There is no way there could be 80 doctors going to a meeting just to prove a point and walking out. Something must have happened there. I really hope the Minister would look into it so that that can happen, but I feel that this is not the end of it as well. I feel that we have been given the assurances by the hon. Minister that he will continue talking to UWI and to the councils, because I do not think he can feel very comfortable at the stage where he will always have to look to legislate in an area like this. I duly ask him to continue to see what could be done to raise the standards of those who are trained in Trinidad and Tobago. I understand it is not only those here who have been kept out, it would be those who were trained abroad as well who would be applying for new registration and are not able to do so.

This, Mr. President, is where I would like to make my comments. I am one of those people who, as I said before, feel that we can in this Parliament here, go the other way by not moving towards this amendment which the hon. Minister has brought, and I think Sen. Prof. Spence has one of the elements of what I would like to see in an amendment but I have not gone through it very thoroughly. Anything that gives the opportunity for that meeting to be called again, I think we need to go that way, because I feel that the doctors themselves have very good grounds on which to stand. Let us see what happens.

For those who feel they are an elite group who consider themselves a very favoured group, or whatever people would wish to say—they are a very professional group—we have to look at their professionalism and give them that opportunity, because I think they really had good grounds for not going inside a building which they were accustomed to, where they have been having all their meetings at all times.

Yes, they had sent us some literature and, probably, by looking at some of the literature, we might have felt they were still grieving about what had happened, but that is long past. We have all accepted the fact that the UWI graduates will be registered. We are now trying to put a board in place and I would hope, through you, Mr. President, that the hon. Minister will do all that he can to give them a second chance at this election, as I said, under more favourable conditions, having the list published and having more experienced people.

There was one thing I understand that whenever that registration form is had, there was some part at the bottom which was signed about whether you wished to be considered as a member of the board or whether you wished to remain on the

board, and I think that is where some of the problems could have come about, by people not clearly reading that or considering what was there. But, clearly, there had been some problems. This was 1998.

Now, I did not come here to support the 1998 list—that is why I asked my questions initially—because I felt that there was a meeting of January 28, 1999 and people were ineligible at December 31, 1998. So I came here originally to ask that those who had registered for 1999 be the persons allowed to vote at the meeting. Having been corrected in this Parliament and hearing that those people are not eligible; their registration is not legal as we say, although the moneys have been paid according to law, then I have to fall back and ask that the 1998 list be updated.

That is my reason for asking some questions earlier because I did not think that the 1998 list should be used in 1999, but I stand corrected, having been given that kind of information and I now have to go back on the same list used, but this time asking that some corrections be made to that list so that all those who are eligible are allowed to take part.

At the same time, we are hoping and the reason we are trying to find a solution to it and not use the Parliament at this time is because we really do not like the fact that we have to come here to redress some of the things which I feel could be redressed if we worked together. If it does not work and we have to use the Parliament, then we will do so, but I still feel we have to give that extra effort to other means other than Parliament to decide on this particular thing because, as some former speakers said, we may be leading ourselves down some kind of road from which, probably, there will be no escape and the other professions might fall into this.

It does not speak well of us when we talk about our democracy and devolution of power and all that kind of thing, where we are asking even our local people in their councils to empower themselves, to run their own affairs, but at some of the highest levels where we have professionals, we are not allowing them to do so.

I hope the hon. Minister will accept my comments in good faith because I really think we have a way out, at least one opening and if we do it—I remember Sen. Prof. Spence talked about six months and people asked questions, but I am hoping that we move as quickly as possible so that we do not need the six months. We delayed last year a bit and that is why we found ourselves in this little difficulty, but I feel if we go to it right away and we start checking our lists and

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getting out our invitations and whatnot, we will be able to avert something and I think the profession and all those who work in it, will be much happier for it.

The hon. Minister himself is a professional and I am quite sure he regards his profession with his dear life and he would not hope, at any time, that we could reach to this.

Some people might find that, on this side, some of the things we are saying might be to frustrate the attempts of the Government to remedy situations. I hope the hon. Minister, who I know actually tries to listen to what people say, will recognize that this is not an attempt to frustrate. At the same time, even the resignation of the council, I did not consider an attempt to frustrate. They moved off the scene even before we were finished with the Bill. They felt that they wanted to send a signal; they felt this was happening already; there was no need for them; they moved off so the interim council could be put in. We have to accept it. They are professionals and, therefore, I did not even consider it an attempt to frustrate. Neither did I consider the attempt not to go into the meeting any attempt to frustrate.

As someone said, he did not think the Minister was well advised. This is not the first time we have looked at a Bill in this Parliament where we felt that the advice given to the Minister may not have been the best advice. In the circumstances, I do not want to berate, but to support, the amendments given by Sen. Prof. Spence, which will give that interim council a second opportunity to call that meeting of the Dental Council, having been reassured by some of them that they are willing to attend that meeting and vote that council in, then we can continue with the registration going on very quickly.

With these comments, Mr. President, I await the hon. Minister, not only his reply, but in a positive way that he would, to some extent, withdraw his amendment Bill 1999 and allow the amendments by Sen. Prof. Spence to go through, which I think is something at the end of it all, we could be very proud.

Thank you, Mr. President.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. President, I thank all those who have spoken in this debate. I do not think that anyone can question the objective of this piece of legislation, which is to find a solution to a problem that exists at present.

Today, we have had some very serious and sensible contributions from all those who spoke in the debate. As a responsible Government, we take counsel when we are given advice that redounds to the benefit of the population. [*Desk thumping*] As I said, some eminent suggestions have been made and we need to take cognizance of them.

Therefore, I propose that we adjourn the debate on this Bill to give the Government some time to consider these suggestions and to come back in one week's time when I shall continue my winding up taking into consideration the suggestions which have been made.

Mr. President: Hon. Senators, in light of what the hon. Minister has said, the question is that further debate on this Bill before us be deferred for one week.

Question put and agreed to.

**VALIDATION OF THE THIRD REPORT OF THE ELECTIONS
AND BOUNDARIES COMMISSION (LOCAL GOVERNMENT) BILL**

Order for second reading read.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. President, I beg to move,

That a Bill to validate the Third Report of the Elections and Boundaries Commission under the Municipal Corporations Act, 1990 and the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50 for the purpose of Local Government Elections, be read a second time.

This Bill seeks to validate the late submission of the Third Report of the Elections and Boundaries Commission under the Municipal Corporations Act, 1990 and the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, for the purpose of local government elections by deeming the said report to have been submitted to the Minister in accordance with section 4(2)(b) of the Elections and Boundaries Commission (Local Government) Act.

1.55 p.m.

Mr. President, section 4(1) of the Elections and Boundaries Commission (Local Government) Act clearly stipulates that the Elections and Boundaries Commission, herein after referred to the commission, shall define and review the boundaries of the electoral districts into which an electoral area is or is to be divided and shall submit to the Minister of Local Government, reports thereon.

Further, it should be noted, Mr. President, section 4(2) of the Elections and Boundaries Commission Act clearly states that reports under section 4(1) of the said Act shall be submitted by the commission not less than two, nor more than three years, from the date of the submission of its last report.

The third report of the commission was submitted to the Minister on November 02, 1998, that is to say, more than three years from the date of the submission of the commission's last report. The commission's last report, that is, the second report of the Elections and Boundaries Commission was submitted on August 15, 1994.

Mr. President, based on the third report of the Elections and Boundaries Commission, the commission, which is the competent authority for holding elections in Trinidad and Tobago recommended the validation of this report. The commission has indicated that the late submission of this report was mainly due to a custom which allows the commission to submit reports of this nature as close as possible to the due date of an election.

Mr. President, it is to be noted that the term of office of councillors; whether city, borough or regional corporations expires on June 24, 1999 thus causing new elections to be held within three months of such expiry.

This custom, Mr. President, ensures consideration of updated and relevant topographical data, and hence their reflection in the commission's report. The presentation of this report, that is the third report today, reflects the advantages of this useful custom. But, Mr. President, it unfortunately falls outside the deadline prescribed in section 4(2)(b) of the Elections and Boundaries (Local Government) Act. Consequently, this report may not be presented to Parliament for its consideration unless it is validated.

It is also pertinent to note, Mr. President, a validation in a like situation was enacted by the sixth report of the Elections and Boundaries Commission Tobago Act 1996, and it is the respectful view of the commission that this validation provides an apt precedent to follow in this case. Therefore, in view of the foregoing, Mr. President, I ask Members of this House to support the Bill entitled "An Act to validate the Third Report of the Elections and Boundaries Commission under the Municipal Corporations Act, 1990 and the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, for the purpose of local government elections. I beg to move.

Question proposed.

Sen. Rev. Daniel Teelucksingh: Mr. President, we have been informed that there will be local government elections in the next few months, possibly June. Mr. President, the Bill before us—I do not think that it should be relegated to concerns about Elections and Boundaries Commission’s problems, but maybe like defining and reviewing the boundaries of electoral districts and questions about the lists. I remember a few years ago we had a problem of having no electoral ink. That was responsible for the postponement of elections, with all kinds of problems. Mr. President, I want to add a very important concern of mine about local government elections and possibly not only local government elections, but all these national elections.

Recently, Mr. President, your good self and the Hon. Speaker hosted quite successfully a meeting of the Commonwealth Parliamentary Association sub-committee meeting here, and one of the issues raised at that conference, for those of us who attended, was the question of quality of candidates. I want to spend a few minutes talking about that, since local government elections is not only about the passing of this Bill today, about the boundaries; it is not merely about lists, electors’ lists and so forth and electoral districts, but it has to do with the quality—the quality of persons who are screened by parties for these elections. I cannot—I would not separate that from all our concerns about the forthcoming elections—and this piece of legislation is tied up to the June elections—the local government elections in Trinidad and Tobago.

Mr. President, many years ago, because of the nature of our politics in Trinidad and Tobago, particularly party politics, and the whole question of “sure seats”, it has been said that it does not really matter who we put up in these “sure seats”, that we are going to win; even though it is a crapaud. A few days ago I read, I will not quote the party’s name—on February 12, 1999, the most interesting short article in the *TNT Mirror*:

“Party phasing out ‘rum-shop’ councillors,”

This has to do with the elections coming up:

“While some people may retain their seats, it must be on merit.”

Now, I like this. I am interested in this kind of thinking, that this party is looking for qualified candidates. Listen to this:

“An officer of the party, in search of candidates for June local elections is hinting that there will be phasing out of the popularity contest and the rum-shop style selection of candidates as used to happen in the past.”

Validation of EBC Bill
[SEN. REV. TEELUCKSINGHGH]

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—*TNT Mirror*, February 12, 1999.

Mr. President, we are very concerned about problems at local bodies; the regional corporations, the municipal bodies; and I think that all the parties who are interested in contesting the elections relating to this Bill, this Bill is opening the way or preparing the way for the June elections, that we need to think like this, not about putting up anybody because we are surely going to win. It is time in Trinidad and Tobago, not only for local government elections, but for the national elections which may be two years away from now, that in truth and in fact, if we did have the rum shop style selection of candidates, that we need to steer clear of that. We need a new kind of thinking in the selection and screening of candidates for these elections.

2.05 p.m.

Based on competence, we need qualified persons, efficient persons, persons of integrity in morals, persons who are respectable and would be respected by their community, service-motivated persons. These are some of the qualifications which we need both for local and national elections.

Mr. President, I am not too sure about the powers of the Elections and Boundaries Commission, but if even it is too late to add to their powers by way of selection, I think parties must be extremely careful in the screening of candidates for the up-coming local election.

Mr. President, we have had a serious debate within the last few weeks about the captaincy of the West Indies team and all across the Caribbean, people are analyzing what kind of leaders we need. Is it someone who is only proficient with the bat? Caribbean people are now saying in their analysis of leaders even in sports—we are talking about cricket—we need not only someone who is good at the wicket, but people of character, integrity, commitment, dedication and sacrifice to make good leaders. We need this not only in sports, but also in politics, industry, and any form of service and leadership not only in Trinidad and Tobago, but right across the Caribbean.

I support the Bill, but would strongly advise that the parties contesting the up-coming election should go beyond, if ever there was the rum shop style selection of candidates, or the kind where you are so sure about your candidates that you could put anybody there and still win. We should move away from that and look for other qualities; competence and other forms of qualification for leadership.

Thank you very much.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. President, I wish to respond briefly to the comments made by the hon. Senator. I wish to clearly state that we on this side do not select candidates in the rum shop and I can speak for myself. I was not selected in any rum shop.

As regards the identity and authority of the person who made that comment from which the Senator read, I do not know on what basis he made it and I am sure that he is not one of us because he does not know what he is speaking about.

Mr. President, local government election is in the air and we are indeed looking for better candidates to carry out this Government's policy to ensure a certain amount of efficiency and effectiveness in governing at the local government level. We have over the last three years conducted ourselves in local government in such a manner to have increased the responsibilities given to local government practitioners. We have increased the amount of money available to the Ministry of Local Government and, by extension, the regional corporations. We have added to their responsibilities the Unemployment Relief Programme, we have given the corporations management over 50 per cent of the road improvement fund. We now rely on the local government practitioners to implement some of Government's policy such as the school repair programme. The primary school repair programme is now being assisted through the local government bodies. So we are mindful of the fact that we need to have candidates who are best suited to the process of governing a nation and would carry out Government's policy.

With that, I hope that the Senator will know that the governing party is also looking for better candidates to carry out Government's policy.

I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

The preamble 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.

Mr. President: Hon. Members, in view of a certain development, I must suspend the sitting for 20 minutes. We would resume at 2.35 p.m.

2.15 p.m.: *Sitting suspended.*

2.53 p.m. *Sitting resumed*

Mr. President: Hon. Senators, I am sorry for the delay in reconvening.

**PATENTS (VALIDATION OF INTERNATIONAL APPLICATIONS
FILED UNDER THE PATENT CO-OPERATION TREATY) BILL**

Order for second reading read.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. President, I beg to move,

That a Bill to validate the effect of certain international applications under the Patent Co-operation Treaty designating Trinidad and Tobago, be now read a second time.

Mr. President, although the title to this Bill sounds rather lengthy, and somewhat obscure, it is my respectful view that it is not a matter which should delay us, or detain us for very long. Since the purpose of this Bill is merely to formalize the validity of certain international patent applications made between the date when Trinidad and Tobago signed the Patent Co-operation Treaty on March 10, 1994, and the date of coming into force of the Patents Act, No. 21 of 1996, which was proclaimed on December 1, 1997.

Mr. President, some of us may recall that this Bill was previously on the Order Paper of this honourable Chamber in the last session of the House. It lapsed at that point in time, and it has been brought back. So, it has been around for some time. It is a very, very short Bill containing only three clauses and relates to the Patent Co-operation Treaty. This treaty is an international treaty which came into existence in 1970, and the purpose of that treaty was to assist in the international and timely recognition of patents by a simpler procedure.

The new procedure allowed an inventor to apply by way of international application, in his or her own country, or in the country in which that inventor may

be resident, for the recognition and registration of a patent, not only in that country of domicile, or residence but in any other country designated by the applicant at the same time, provided of course that, that other country was also a signatory to the Patent Co-operation Treaty. So, what this Patent Co-operation Treaty did, was to set up a networking as it were, of mutual agreement to allow for a sort of simultaneous filing of patent applications.

As an alternative to filing the application in a national state, an inventor could also have filed with the International Bureau of the World Intellectual Property Organization, or with any one of several major regional patent offices, but the applicant could still designate any other contracting state at the same time. So, once another country, or another state was a party to the Patent Co-operation Treaty (PTC), an applicant could file the application in his home country or country of residence, and then designate other countries as being countries where an application would in effect be filed.

The effect of this new international procedure on patent applications worldwide, was to make the procedure for applying for an invention to be granted a patent much less a matter of chance. For one thing, an international application immediately results in a search by one of the regional offices which culminates in an international search report being prepared on the application, based on published documentation throughout the world that might be relevant to the granting of a patent for the invention.

So, right away such an applicant who had access to the provisions of this treaty through its contracting state, on filing the application in his home state, or in his state of residence, would result in an international search report being done. That could be done by any one of the major regional offices, as a result of the provisions of the Patent Co-operation Treaty.

This trawl for information on similar inventions would be likely to result in the withdrawal of an application, if it was evident that a very similar invention had already been patented in some other jurisdiction. So that, an individual inventor/entrepreneur would be spared the trouble and expense of a fruitless application.

Now, if the treaty were not enforced, if we were not signatories to that treaty, if we did not have that treaty as part of our domestic law—in a sense this is what this Bill is now seeking to do. Having signed that treaty in 1994, we did not take

steps to make it part of our domestic law. It was not essential, as it became under the Patents Act when we expressly provided that applications should have this simultaneous kind of effect upon filing.

So, after the 1997 legislation, we needed to put this piece of legislation into effect to give jurisdiction to the provisions of the treaty. I am saying if that were not so, then what would happen, is an individual inventor filing an application in his or her own home country, would have to, at his or her own expense and time and so on, have to run these researches elsewhere. Whereas, if what we seek to do now goes through this honourable Chamber, it means that the individual would have access to that upon filing only here, in his home country.

In addition, once the international search report gave the all-clear, the international bureau or any national office where the original application was made, would immediately communicate to any country that had been designated by the applicant in the original application, the results of the search.

So that very early in your trying to get a patent for your invention, an inventor would know whether it would be worth his while to carry on further, or whether the application should be withdrawn. That search report would also go to other countries which the applicant would designate in his or her application.

So, there would also be an advantage for national offices especially in the developing world, especially in a small country such as ours, because those national offices would have less research work to do in order to establish whether or not an invention fulfills the criteria set out in section 8 of our Patents Act, 1996; that criteria being that the invention be new, that it involves a new inventive step, and that it be capable of industrial application.

The Patent Co-operation Treaty came into being in 1970. Trinidad and Tobago signed this treaty in 1994, and at that time our existing patent law in Trinidad and Tobago was the Patents and Designs Act—No. 10 of 1900, found in Chapter 82:23 of the Laws of Trinidad and Tobago. That law was based on Ordinance 25 of 1867—quite archaic laws, up to that point in time in 1994, when we actually signed the Patent Co-operation Treaty.

I stress that our patent laws in 1994 were based on the 1867 Ordinance, basically the kind of situation in the time of Queen Victoria—1867 legislation. That would have been far dated, given the pace of technology in the past 30 years, Mr. President. So that when Trinidad and Tobago signed the treaty, it was a time when our existing law on the registrations of patents, was based on very outdated 1867 law.

3.00 p.m.

The effect of signing the treaty should have been that our nationals and nationals of any other contracting country could have applied in any participating country under the procedure that I outlined when I started speaking. Further, if their invention was eventually patented it would have been entitled to be registered here in Trinidad and Tobago and the date of application in Trinidad and Tobago would have been deemed to be the date of filing of the original application wherever else in the world this was done.

There was only one drawback, one snag to all this, Mr. President, and it was this. Legislation such as we now have in the 1996 Patents Act created the Intellectual Property Office and the Intellectual Property Register and stated the effect of the Patent Co-operation Treaty—I am sorry, in the 1996 Patents Act where we created the Intellectual Property Office, we needed the effect of the Patent Co-operation Treaty. Mr. President, that kind of legislation was needed to give effect to the Patent Co-operation Treaty in order for it to become, as I said before, part of our legal administrative system, part of our domestic law in Trinidad and Tobago.

So whilst we were signatory to the treaty we did not place within our domestic law the validation such as we are now seeking to do. Mr. President, the effect of the delay from 1994, when we signed the Treaty, to date is that international applications filed in Trinidad and Tobago after the treaty was signed in March, 1994 but before the coming into effect of the Patents Act on December 1, 1997 were possibly not effective under Article 11(3) of the Patent Co-operation Treaty. And Article 11(3) of that Treaty states that the:

"...international applications fulfilling the requirements under the Treaty and being accorded an international filing date have the effect of a regular national application in each designated State as of the international filing date,"

So that the date you filed at home would be your date internationally of filing. Remember, the person with the first date of filing of a patent is obviously the one who is going to have his or her invention granted the patent than anyone at a later date. So, for example, if I were to file in Trinidad and Tobago today and I did not take steps to seek to have it patented in other places and apply in other places, my filing date in Trinidad and Tobago would be today but in other jurisdictions it would be at a later point whenever I got around to doing that.

So that, under the treaty it is saying that once I file in Trinidad and Tobago it does not matter at which point it reaches another office, the effective filing date would be the date of filing in home country. So in order to comply with our international obligations fully and for the avoidance of doubt in anyone's mind it was decided that this Bill which is before the Senate today should make the position clear. Paragraph 4 of the Preamble to the Bill states that this Bill seeks to put beyond doubt that any international applications designating Trinidad and Tobago filed between the entry into force of the treaty for Trinidad and Tobago and the day on which the Patents Act, 1996, entered into force, that is, filed between the 10th day of March, 1994 and the 1st day of December, 1997, have effect in Trinidad and Tobago as provided for in Article 11(3) of the Treaty.

Clause 2 of the Bill provides that, notwithstanding any rule of law to the contrary, any international applications made between the two dates mentioned which fulfilled the requirements of the treaty and which have been given an international filing date shall be treated as a patent application under the Patents Act, 1996 as of the international filing date, which is also to be considered as the actual filing date in Trinidad and Tobago.

The only other clause, Mr. President, in this very short Bill, clause 3, provides that any such international application designating Trinidad and Tobago shall be deemed to have been lawfully and validly filed and no legal proceedings or other action, whether pending or not, shall be entertained in respect to the validity of the filing of such application simply because it was filed on a date before the Patents Act, 1996 came into force.

Thus, Mr. President, the Bill is in essence a Bill dotting the 'I's and crossing the 'T's to ensure that we comply with the obligations of the treaty we signed in 1994, the Patent Co-operation Treaty. Mr. President, I recall that in 1996 in this Senate there was wholehearted support for that Patents Act, 1996 and I trust that these matters which are before this honourable Chamber today are far from contentious and that we would look forward to the support of hon. Senators and certainly their comments and suggestions.

Mr. President, if you will permit me to take a moment to just deal with a few matters since that Act came into force, the 1996 Act, which relate to the role of Intellectual Property Office. Mr. President, you may recall that the 1996 Act proclaimed on December 1, 1997, established for the first time in Trinidad and Tobago an Intellectual Property Office set up with a controller, a deputy

controller, and as I said for over a century we had used very old-fashioned patent legislation which we had inherited from the colonial days.

At the time that we were piloting the legislation or upgrading our patent laws I pointed out that this task had been done by our predecessors in office and we continued that task to bring that entire package of legislation to the Parliament. From the early 1990s our predecessors had begun a project to modernize intellectual property legislation. That had been underway and there were several WIPO consultants on the project. The project required the passage of the very complex pieces of legislation which came to this Chamber during 1996 and 1997. Six major pieces of legislation dealing with these issues were brought by my Ministry to Parliament and they were passed with unanimous support.

Now on that date of proclamation, December 1, 1997 by section 3 of the Patents Act, as I said, we created this office of the controller of the Intellectual Property Office and with other staff to carry out our obligations. Mr. President, there have been several initiatives that have been undertaken by that Intellectual Property Office since then and perhaps it may be fitting that we mention the efforts of Ms. Mezena Kadir, Mr. Malcolm Spence and now Ms. Oma Joseph engaged in that office, because I believe through their efforts we have been able to take intellectual property legislation and matters incidental to that a very long way in Trinidad and Tobago.

With that, Mr. President, I beg to move and I thank you.

Question proposed.

Sen. Nafeesa Mohammed: Mr. President, let me take this opportunity to congratulate the hon. Minister on her presentation of what, at first blush, appears to be a very simple piece of legislation which she hoped would be noncontentious because of the fact that we supported the previous package of intellectual property legislation that was passed in and around 1996.

I wish to assure the hon. Minister that in terms of this legal framework that is being established, we on this side certainly have been, if I may say so, to an extent, the architects of much of the changes that are presently taking place so that in those circumstances we—At the outset let me say that in terms of what is being attempted here today that we have very little difficulty in supporting this particular piece of legislation. But you know, Mr. President, when we speak about intellectual property legislation, we know that this is a very complex area, it is a very specialized area, particularly from a legal point of view, and many of us

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would recall when the package came a couple years ago that to some it may have looked like Greek, as well in reading through some of the bills. Nonetheless, Mr. President, it is an area that is indeed very, very interesting. It is a new and developing area in our country.

Mr. President, I would just like to quote from a document that I have in my possession. It is a WIPO training manual that is entitled *Introduction to Patent Law and Practice*. At Page 9 of this document it says here that:

"It has been said that economic vigour and growth depend on effective use of technology for the development of new products and resources and for the more effective utilisation of existing ones. Highly specialised human and material resources and an environment that encourages and rewards invention, innovation and risk are required to advance and to apply technology."

Just a few moments ago, the hon. Minister made mention of the pace of technological advancements that have been taking place in our country over the past 30 years, so that we would appreciate the need for the kind of legislation that we have been enacting in this particular field involving intellectual property. I was rather surprised that the hon. Minister was so brief in her presentation and, I mean, I know the Senate Chamber had been suspended for a while. We are very glad indeed that she was able to make it in such a short space of time. Mr. President, I would just like to touch briefly on some aspects of patent legislation and indeed the treaty that has been referred to, not in any great detail, I would just skim the surface in order to have a better appreciation for what is being done today.

Mr. President, the hon. Minister mentioned that Trinidad and Tobago has been a signatory to the Patent Co-operation Treaty. It is a treaty of 1970. It was concluded in 1970 and amended in 1979 and modified to some extent in 1984. According to the Preamble in the Bill that we have before us this afternoon, it states here that Trinidad and Tobago became a signatory on the 10th day of March, 1994. Now Mr. President, as the hon. Minister sought to indicate a while ago, this treaty makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an international patent application. In essence, it regulates in detail the formal requirements with which any international application must comply.

3.15 p.m.

Mr. President, the development of the Patent Co-operation Treaty System is shown by the fact—and I would just quote some statistics here—that in 1979, 2,625 international applications were received by the International Bureau, while

the corresponding number was 54,422 in 1997. The average number of designations per application was 6.66 in 1979 and 63.64 in 1997. It shows that this system has been developing over the years. As at June 30, 1998, 97 states were, in fact, parties to this Patent Co-operation Treaty.

In looking at the role and function of a patent system, again, I would quote very briefly from this manual from the World Intellectual Property Office where reference is made to the Economic Council of Canada in a report dated 1971 that dealt with intellectual and industrial property. In that report it is stated that:

"A patent system, like other kinds of intellectual and industrial property, is one of a variety of incentive devices used by governments to correct the situation in sectors of the economy where there is judged to be a tendency towards under-commitment of resources to knowledge protection and innovation."

In effect, a patent system is an important instrument for promoting industrial development. It is important to improve the industrial techniques and in order to encourage the:

"disclosure of improvements in preference to their use in secret, any person devising an improvement in a manufactured article, or a method of making it, or a new substance and/or the process of making that substance, may upon disclosure of the details to the (relevant) Patent Office of a country, be given a monopoly for a certain period of time. After that period expires, it passes into the public domain."

The effects then of the grant of a patent are that the patent invention may not be exploited in the country by persons other than the owner of the patent, unless the owner otherwise agrees to such exploitation.

Very briefly, again, the hon. Minister gave a little idea as to the background that led to the Patents Act of 1996. I think that we must all bear in mind that the Patents Act we passed in this Parliament in 1996 is really the foundation upon which the whole intellectual property laws in this country lay. As the hon. Minister pointed out, the Act itself deals with the setting up of the intellectual property office, but I would come back to that issue in a short while.

I think it is important for me to put on record again the developments over the years that led to this particular Act. The hon. Minister made mention of the fact that for a number of years we have had this centurie-old—I think it is 1867—piece of legislation, the Patents Act, which we inherited from our colonial past. This was the actual patent law in operation in our country for nearly a century.

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I remember when the hon. Minister was presenting the Patents Act of 1996, she gave us a good chronological background to these developments. We know that when you are talking about intellectual property you are really talking about two main branches: industrial property that deals mainly with inventions, trademarks, industrial designs and so forth; and the other main branch deals with copyright which is chiefly in literary, musical, artistic, photographic, and audio-visual work.

It is rather timely that today when we are dealing with this Patents Act, we have acting in the Senate, Sen. Kelvin Ramnath. I say so because I distinctly remember in doing research on the Copyright Act that was passed in our country in 1985, that Sen. Ramnath in particular, was very vocal in the debate that took place in the Lower House, in terms of the updating of our copyright legislation. With his involvement in the energy sector, I am sure he feels some kind of empathy with this particular kind of legislation; although earlier today I saw him getting back to his old style and personality, that the country would always remember him for. As he said he was trained. He made some reference to his training in the past, and we all know what he is talking about.

Mr. President, in 1985, the then government enacted a comprehensive Copyright Act which had replaced the Copyright Act of 1911, which again was another piece of legislation that we inherited from England. Later on, in 1996, or I think it may have been 1997, we enacted a new Copyright Act.

Since 1984, an international consultant had, in fact, been hired to draft a new Patents Bill to replace that outdated Patents and Designs Act which, as was mentioned just now, was dated 1867. The work of that consultant resulted in a draft Bill, but for a number of reasons over time, that Bill was not introduced into Parliament. In the meanwhile, several events were taking place. In the period between 1991 and 1995 when the PNM was in government, a number of significant developments took place.

I make specific reference to the fact that, around that time, I think it was in 1993, there was the Uruguay Round of GATT that took place, and this led to what is commonly referred to as the "TRIPS Agreement" which was a specific agreement that dealt with intellectual property rights, the trade related aspects of intellectual property legislation. Trinidad and Tobago acceded to that Agreement on April 15, 1994.

Subsequent to that, we signed a bilateral agreement with the United States on September 26, 1994, and we know that this has had a tremendous effect on the

package of intellectual property legislation. In fact, I remember when the hon. Minister came to Parliament, she talked about our agreeing to a short period of time to enact the legislation, but we will not get into that today.

Mr. President, at that time, I know that the Chamber of Commerce had established a particular committee known as "the Ad hoc Committee", to review the laws of intellectual property in Trinidad and Tobago. That particular committee has been working from that time. Since then it has been working very closely with the then Attorney General in terms of the new package of intellectual property legislation. I must congratulate the present Minister of Legal Affairs for continuing with those efforts and for seeing to it that this package of legislation has been brought to Parliament. As I did when we debated the 1996 Patents Bill, I would like to raise some concerns about the practical aspects of the legislation that we are dealing with today and, indeed, the Patents Act that was passed in 1996.

The hon. Minister in her presentation this afternoon commented on the fact that there has been a delay in putting into our domestic laws the provisions of the Patent Co-operation Treaty. I have to ask the question, why is it when we were dealing with the 1996 Patents Bill, that we did not deal with that issue at that time, to validate whatever was taking place since 1994? We know that we became a signatory to this treaty in 1994. We all know that in 1995 the government changed, now it is some three and a half years or more down the line. I am very glad that it is here. The provisions of the Bill seek to validate whatever has been taking place between 1994 to date, but I wonder if there is some reason why in 1996 this validation could not have been done? Earlier today, in the Dental Profession (Amdt.) Bill, we heard about validation as well. Therefore, it is something we can, perhaps, look at.

Under the 1996 Patents Act, Part II deals with the establishment of the intellectual property office. As I said, this particular Act is really the foundation for the whole package of intellectual property legislation, because much of the activity takes place in this office. Under section 4 of the Act, if I may just read section 4(1):

- "4(1) For the purposes of this Act, the Controller shall be responsible for the grant and administration of patents and utility certificates, for the provision of patent information services, and for the promotion of inventiveness among citizens of Trinidad and Tobago.
- (2) The patent information services referred to in subsection (1) shall consist of the making available, in the manner prescribed for use by the

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public, and on payment of the prescribed fees, if any, of patent and relevant non-patent literature, including all domestic patent documents and such foreign patent documents as are available."

This section clearly envisages that there would be some kind of service being rendered by this office with respect to the public.

We would like to know what is the present status of this office? I know the hon. Minister made mention of the appointment of a controller and a deputy controller, but to me, this kind of service to be offered by this intellectual property office suggests that it requires far more staff than a controller and a deputy controller. The efficiency of the intellectual property office is as important as the legal framework for the existence of an effective intellectual property system we have already given to the hon. Minister for seeing the legislation through. We are concerned now about the implementation of this legislation, and this is where the greatest help from the Minister is required. It is for this reason I am raising these concerns.

To me it suggests—I do not know how many people are supposed to be employed, and by no means am I lobbying for the employment of any person or persons. It is just a general concern that we raised in 1996 and I am raising it again, in terms of the setting up of this office. I am raising it because, to me, the operation and efficiency of such an office also envisages a modern information system. The staff who have to operate that office obviously would require very hi-tech pieces of equipment. What kind of information system do they have in place in the office?

The reason I am raising these concerns is because I have in my possession the project document dated January 3, 1994 which had been received from the World Intellectual Property Organization. In this document Mr. President, if I may just quote from page 7. In terms of the plans for this office, and what is required to be done and what is supposed to be done . In paragraph two of page 7 of this document, it deals with what the then government's strategy was, that is, the PNM government because, you see, Mr. President, we have to put this whole package of legislation in the context of what was taking place under the former PNM government, because people have laughed and they have scoffed at our world-class vision that has been enunciated time and time again.

3.30 p.m.

I am sure as we look around and see what is happening in the economy today, if you want to be truthful and honest to yourself, and I am sure that the hon. Minister of Finance himself, if he were to look back he would see that during that period, in terms of the economic development of our country, a lot of very good and positive developments were taking place. You would remember, that the vision of the government then was to make Trinidad and Tobago the business and financial capital of the Caribbean and Latin America. These are very important issues that relate to patent legislation, that is why patent legislation has been brought to this Parliament, because that was the thrust of the government at the time, and you can laugh all you want about it, that is a fact. It is recorded; it is there for all to see.

You would remember that there were plans for this city of Port of Spain: the kind of development that was going to be taking place. The setting up of the ACS Headquarters. What has become of that? All of these were initiatives designed to encourage investors into our country, and there are those who go around today and boast about what is happening in Point Lisas, I am sure Sen. Ramnath, some 30 and 20 years ago when he was in this Parliament Chamber—In those days, he would have been lambasting the PNM government for the setting up of the Point Lisas Industrial Estate. [*Interruption*]. It is just memories of the kinds of statements that I have grown up hearing.

So if it is that they have seen the wisdom and the vision in what has been taking place in that area, I commend them. In terms of the attraction of foreign investors, the only investor I can see that they can boast about that they have brought into Trinidad and Tobago is “InnCogen”. Other than that, we know, Mr. President, that the whole thrust was to make our country the gateway to Latin America or to the Americas at large.

Mr. President, at this point in time after I looked at the headlines on today’s *Express* I have to express concern and be alarmed, because the Prime Minister himself is saying that things are bad.

One week ago, during the carnival festivities, I saw on the news the hon. Prime Minister boasting that with the economy things were going well, that is why people had more money to spend for carnival, and yet today, we read a report that he made a statement in Moruga yesterday that things are bad. These things are relevant because it affects the pace of development and the kind of developments

that were taking place, and it is relevant in terms of the legislation that we are dealing with, because this is the cornerstone of patent legislation. It deals with industrial development and technological advancement. You know as we talk about technology, it is rather interesting that, today, we have in our midst as well, in the Senate Chamber, the Deputy Political Leader of the UNC, Sen. Dave Cowie, because only yesterday we heard reports about the installation of what is known as “the ASYCUDA” system. *[Interruption]* Thank you very much, Mr. President. As we speak about computer technology, it is in this context that whilst talking about the setting up of the Intellectual Property Office, I was making the point, that it is envisaged that there would be some real hi-tech equipment to operate the office and certainly staff who would be trained to operate the equipment, and if I may just refer to paragraph 2 on page 7. I do apologize if I may have deviated a bit, Mr. President, but it all seems relevant to what we are dealing with, and the hon. Minister of Energy and Energy Industries would know that. It says here:

“The Government’s strategy within this subsector, is to modernize the current legal framework and to improve the procedures for the granting of patents for inventions and the registration of trademarks and industrial designs. For this purpose the Intellectual Property Registry will be assisted in establishing a better infrastructure (staff, premises and equipment). The Government also aims at having a small group of trained staff who would be able to utilize the modern methods and systems to be introduced by the project efficiently and improve and extend services to users, thereby raising additional revenue for the country. It is also intended to make the information accumulated in the process of granting industrial property protection accessible as an instrument for stimulating innovative activity in the country, controlling the quality or other characteristics of products and services as well as obtaining statistical and economic information.

In order to meet the information requirements of local enterprises and government authorities, the Government intends to improve and extend its technological information services based on patent documentation and to complement the trademark register by a documentation and information system to enable immediate tracing of registered and pending trademarks. Both documentation systems would be most effectively supported by means of electronic data processing.”

Mr. President, I have referred to this because clearly the strategy has been to set up the office and to equip it. This is the direction in which we were going and I

am merely asking the hon. Minister to tell us, how far she has reached in terms of the outfitting of this office, in terms of staff and in terms of equipment. Indeed, I must raise the question of the location of the office as well. It is an issue that I raised in 1996, when we debated the Bill.

I remembered since then that we heard talk that the registry would be relocated and I believe that these plans may still be intrain but I am very worried. If it is that the plans are to take this Intellectual Property Office and house it at the Huggins Building in South Quay, Port of Spain, not too long ago I remembered the hon. Minister staying at home in Siparia because of the asbestos scare in the building and it worries me how this building is going to accommodate this registry.

I am very concerned about it, because I can tell you as a member of the legal profession in this country, I am very much aware of the problems and concerns that have been raised as well, with respect to persons who operate from the other registry which falls under the hon. Minister's portfolio, and I refer specifically to the Search Clerks who have been protesting about the conditions that they will have to be subjected to, if they are to relocate in that building.

These are very serious concerns and the hon. Minister, I know—how should I put it—is a very dynamic person: she was very enthusiastic when she brought this package of legislation; there was a lot of enthusiasm in her. But what we are concerned about is the actual moving of the process, the implementation, the practical aspects of it. I know the hon. Minister ever so often on a weekend you would see her in the newspapers very involved in the cultural affairs of the country and so forth—various chutney shows and steelpan. I know that she is an ardent fan. You know, in 1986 there was the concept of one love and I know that she truly embodies that spirit in the conduct of her affairs and I want to congratulate her on that. Because in Trinidad and Tobago that is what we need. We need, Mr. President, to remove some of the tensions that are existing in our society and let us have unity in our diversity, given our multi-cultural state, Mr. President.

3.40 p.m.

I am merely asking the hon. Minister to please give us a little report. I know she touched briefly on it, but we would like to know some more. I was reading through a document last night, a document that I got from a gentleman who was one of the few experts in this country in terms of science and technology—a man who was very, very much involved in the process of formulating a science and technology policy for this country. Unfortunately, this gentleman passed away just

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a few months ago and, as I make mention of that, I ask as well, in terms of this patents legislation—I am not too sure; the hon. Minister would have to assist me here—whether we have acceded to the 1978 International Convention for the Protection of New Varieties of Plants, or the 1991 legislation. I know this is something in the domain of Sen. Prof. Spence, who would be the authority on it, but from what I gather, the thrust was to accede to the 1978 one but, time wise and what have you, I am not too sure. I am finished, in any event.

Mrs. Persad-Bissessar: It is the one of 1978. You would recall that Sen. Prof. Spence was very vocal on that, and we all recognized that that would be more advantageous for us. I am very happy to say that we were able, even though we took so long, given what you were doing in your administration, we did get it done in time to accede to the 1978 one. This administration did that.

Sen. N. Mohammed: Good. I am through with my contribution, Mr. President.

Sen. Cynthia Alfred: Mr. President, my contribution shall be fairly brief. As someone who has been in the arts most of my life, I found it very interesting, this whole question of patents, so I decided that I would make my contribution for whatever it is worth.

If we go back a bit, as early as 1883, the international community was mindful of the importance of the protection of industrial property and so, at the Paris Convention of that year, the International Union, otherwise referred to as the Paris Union, for the protection of industrial property, was established. Even though at that time Trinidad and Tobago was under the colonial system, the Paris Convention was applied—I think that is the polite way of putting it. The Paris Convention was actually imposed on this country in 1908, 25 years after 1883, and I think the intention even then, was to ensure that all countries in the world took cognizance of the fact that intellectual property was of importance and, therefore, the countries needed to be part of it.

Two years after this country became independent, in 1964, under the astute leadership of Dr. Eric Williams, Trinidad and Tobago became a signatory to the Lisbon Union Agreement on August 1, 1964. This was under Class 6. Each country decided which of the classes it would sign to and Trinidad and Tobago signed under Class 6. Just for information, Class 6 says:

“It is a union for the protection of appellations of origin and their international registration.”

That was the Lisbon Union.

It is also very interesting to note that in 1978, when the World Intellectual Property Organization had an agreement with the Government of Austria in respect of intellectual property, Trinidad and Tobago was one of the countries that requested state-of-the-art search reports based on patented documentation and a little later on, Mr. President, actual patented documentations were sent to developing countries.

I make the point because we can see, if we look back, that from very early the developed countries which already had established the mode of having patented documentations put in place, were willing to assist the developing countries to have their act, so to speak, put in place and, as far back as 1978, at that particular convention, we found that Trinidad and Tobago was one of the countries that asked to have state-of-the-art documentation and later on, the developed countries decided to go even further to assist all developing countries and the developing countries were congratulated by WIPO for the interest taken in these developing countries.

I was going to ask the question, Mr. President: What really became of the office, that is, the intellectual property office? The hon. Minister did indicate that the office has been set up but I, too, would like to know, perhaps at a later time, a little more of the actual operations of the office.

Mrs. Persad-Bissessar: Visit us. We will take you on a guided tour.

Sen. C. Alfred: Thank you. I will take you up on that.

I make note of something here. This is the Memorandum of Understanding that was signed between this Government and the Government of the United States of America concerning Protection of Intellectual Property Rights. This was in 1996. This is actually stamped July 10, 1996, so I take it that that agreement was signed sometime in 1996. There was one part of which I would like to make mention, on page 2, Article 2, which talks about national treatment.

“1. Each Party shall accord to nationals of the other Party treatment no less favourable than it accords to its own nationals with regard to the acquisition, protection, enjoyment and enforcement of all intellectual property rights and any benefits derived therefrom.”

I thought I would quote from this because—

Mr. President: Senator, would you identify the document, please?

Sen. C. Alfred: Yes. It is Memorandum of Understanding between the Government of Trinidad and Tobago and the Government of the United States of America concerning Protection of Intellectual Property Rights. It is stamped by the Parliament Library, July 10, 1996, so I presume it is sometime in 1996 that this came about.

Sen. Prof. Spence: If I am correct, in fact, it was signed by the previous government, so it must have been before 1996.

Mrs. Persad-Bissessar: Yes it was 1994. If the hon. Senator would look at the end of the document where the signatories are, I am sure that the document would have the date if it is a Memorandum of Understanding. Because it would not be 1996.

Sen. C. Alfred: There is nothing signed at the end actually, not in this that I have got, but I take your word that it was 1994.

Mr. President, I make the point because I think that in the same way an agreement was signed—if it was in 1994, it was by the PNM government—with, in this case, the United States, if we are, indeed, to treat treaties signed with outside governments in the same way as we would treat our nationals, by the same token, I think that leaders in this country should be more mindful of what they say or certain positions they take, especially with respect to certain established principles and positions. I am talking here about censorship, for instance.

Now, we are talking here about intellectual property, which is all part of the patent agreement and I want to make the point that even as we sign agreements with other countries, which is fine, leaders must take cognizance of the fact that our nationals must be treated in the same way as countries outside and, therefore, when governments speak about censorship of certain intellectual properties of this country, they must be careful and they must be mindful of the fact that nationals must be accorded the same sort of privilege that others are accorded outside.

I look on the Caribbean community as our community, so to speak, and I will not call names but I make reference here—I am sure everyone will know what I am talking about—to the way certain of our Caribbean people, local people, are treated in respect of this whole question of intellectual property and intellectual rights. You see, Mr. President, intellectual property is not only property as some

'thing', but we must take the 'human' element into it and the human element is the person. I hope I made that very clear.

Mrs. Persad-Bissessar: I do not understand what you are talking about.

Sen. C. Alfred: All right. I think I have made the point. Let me just reiterate.

In 1994, a treaty was signed between the Government of Trinidad and Tobago and the Government of the United States of America in respect of protection of intellectual property rights. I am saying that when we are talking about intellectual property, we are not only talking about property as the thing, we are also talking about whoever is behind the property, behind the 'thing'. I am talking here about our artistes and I am saying here that whatever conditions are laid down between our Government, any government, and an outside government, we must accord them the same respect that we accord our nationals. Then, I am saying by the same token we must remember to treat our nationals in a manner that is befitting their intellectual property. So I made the point about the Caribbean being considered part of our local environment and, therefore, when we treat certain persons from the Caribbean in a certain way, we are in fact diminishing their property rights.

Having said that, I would like, as I said before, to give support to this particular piece of legislation because I do not see that we can do otherwise. It might be a little late in coming, but I think for Trinidad and Tobago, indeed, to take its place in the international scenario, we must support this piece of legislation.

Mr. President, I do so support.

Sen. Martin Daly: Mr. President, when I refer to brief, I mean brief. I just want to record my absolute disgust that, through the diligence of the hon. Minister, Trinidad and Tobago is very faithfully fulfilling its obligations on international trade and intellectual property matters.

3.55 p.m.

I see this Bill as part of our overall co-operation with the WIPO and these organizations, and we are doing everything faithfully and diligently, as the Government must do, co-operating with these international organizations, making sure that we have an intellectual property regime here that fully protects them.

But we are doing this in a part of the world in which the same organizations with which we are co-operating, are wiping out bananas as a feature of the

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economic life of the region. Just in case these international organizations think we swing in trees, I would just like someone—and I am proposing to do it—to let them know that there are those of us who understand and support the Government in carrying out faithfully, its international obligations; but we really do not feel too good about what they are doing about bananas, largely at the behest of a contributor to the Democratic Party in the United States.

So I would just like them to know that we are not so foolish and primitive, that we do not know, that at the same time they are seeking our co-operation in these matters—and it is no fault of the Government, they are being very faithful and the Minister is being very diligent in carrying out our obligations. I do not know whether “shaft” is a parliamentary word, Mr. President, but at the same time we are faithfully doing their bidding, they are seeking to exterminate bananas as a feature of economic life in Trinidad and Tobago, and I would not like to detain us much longer but I am seriously thinking of calling for a division, so that I personally can abstain from any further co-operation with these worldwide intellectual property organizations while they are killing bananas as a feature of economic life in this region. [*Desk thumping*].

Sen. Muhammad Shabazz: Mr. President, as on this side anything to do with patents, with copyright, anything to protect the rights of the citizens of Trinidad and Tobago, we could only agree with it. As a matter of fact, it is important to see that at this point in time something like this is going to happen. But, we have other concerns on this side. These other concerns are; one, we are very much aware that it is very, very difficult to control all situations with intellectual property and copyrighting. As a matter of fact, it is not only a problem in Trinidad and Tobago but it is a worldwide problem. How do you control copyrights? How do you control people’s intellectual property? Signing to the convention, yes, very good, all right, but it does not really stop at signing at conventions.

We have certain things happening, take for instance in Trinidad and Tobago, I would like to point out to you that the question of the Copyright Bill coming into being came about because of a committee we had here called “The Committee of Ten”. I was one of the ten people on that committee. That was a committee with Clive Nunez, Penguin, I think, Super Blue, Bally was one of the strong people on that committee which came about in 1982, I believe. That was the beginning of the fight to bring about copyright. As a matter of fact, most of us were founding members of the same calypso organization, TUCO, that continued to fight for better conditions in the country as far as copyright and intellectual property are concerned.

One of the things that we are still finding in Trinidad and Tobago is that one, up to today, 75 per cent of the moneys made in Trinidad and Tobago still go to foreign artistes in this country. We saw the Government at some time talking about—I felt that it was a good move to implement—the question of having the radio stations play a certain amount of local music, because it is the only way the local industry could grow—if the local radio stations would play more of the local music. I think the Government, at one time, wanted to go that way, but had to pull out. I do not know why they pulled away from that direction. Perhaps because it is not so easy to deal with the radio stations and to deal with big business in Trinidad and Tobago.

As a matter of fact, I remember in 1983, when Superior was fighting for the radio station, I had spoken to one of the very big business people in Trinidad and Tobago and I made a statement to him that I felt that Superior should get his radio station. His statement to me was that if Superior got a radio station, then everybody else had to get radio stations. I have lived to see that when Superior got his radio station, everybody else got radio stations. You see the radio station is a means of getting our work. What is the sense, in Trinidad and Tobago, of having a local radio station and you are not even hearing your music on the radio station? I think it is time, because this Government is saying that they are doing a lot of things. They are saying that they are really working towards copyrights, the protection of rights. You are still walking in town and getting people selling you tapes, or offering you tapes in Port of Spain to be sold. There was a police department to be set up, and we need to look at that.

Let me just show you a shameful incident, something that looked very shameful to me. We went to take some people out on Carnival Monday. We went up to this place called—the restaurant in the Airport—Pizza Hut, you know upstairs only pictures of Elvis Presley and the Beatles are seen—nothing about the local artistes. *[Interruption]* I think that even at this point in time we need to look very seriously at what is happening, how to build a different kind of culture in Trinidad and Tobago. Yes, they may say that the PNM did not do it, that we should have done it a long time ago but we need to look at that. We need to look and see how we will build a better culture, how to get the people more aware of this music, more aware of the things that we are doing so that they would like it, enjoy it and promote it more and give Trinidad and Tobago a better place on the international market. We have done a lot on that road. We expect it to continue and to make sure that it happens.

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We have a tendency to talk in Trinidad and Tobago. We have a tendency to say yes, the Carnival—today people still coming into Trinidad and Tobago, taking pictures of the masqueraders, taking pictures of mas' on the whole and taking it back outside and selling it, putting it in magazines and nobody here making money with it. We are saying yes, we are dealing with the copyright, but there are a number of things escaping us, that we are not doing anything about. We are speaking as though we are serious about it. We are saying that it is time to take the mas' and export it to the world. Take it to India. Take it to other parts of the world, and while we talk that, we do not have the tolerance to even listen. We stop fetes and put tourists out of these fetes, people who come to support the Carnival, because the thing is too noisy and we cannot tolerate it. How do you love something and all of a sudden it becomes noisy? It reminds me of the time when pan was a noisy instrument. Today even Ministers and everybody playing pan and love the pan.

We have to look at the thing and have a different attitude towards it. [*Desk thumping*] I am very serious about that. You cannot sell something to the world if in your country you do not believe in it.

Mrs. Persad-Bisessar: Hear, hear!

Sen. M. Shabazz: You cannot sell it to the world. How would the world market look at it, that you want to tell us that Carnival must be exported to the world we are taking it to all other cities; all other cities appreciating Carnival and appreciating mas' but in your country you are stopping it because it is noisy? Something must be wrong. Your attitude.

You are signing all Bills that are good for the country, but you need to have an attitude when you sign these treaties; the Government, the Minister, the people of this country. We need to have a different attitude when we are coming to sign treaties and things like that. It is not just signing just to say “well, we have passed a law, and Trinidad and Tobago has now subscribed to a convention and we have passed another law”. Mr. President, it must be different from that. I am asking that the attitude be different.

4.05 p.m.

We have talked about the radio stations and the offices to be set up. Where are they? I remember when the Minister came with the Copyright Bill she spoke about the awareness and reaching to people daily. They were going to go out and

educate the people. I know the Minister understands how important it is to educate the people to make them know what is happening so that there can be control.

You cannot go out there and tell a man not to sell tapes when you do not know what is happening. It was the Minister's duty to educate. She said she was going to do it and to this date, I think she is falling back in this process and I am calling upon her to step up on it.

On the question of the police and reaching out to people who are pirating tapes and all these kinds of things, she is falling back on it. Yes, she is doing very well because this Government is one that is really passing Bills and getting things done and pushing and bad-talking the PNM for not doing it. It is not doing more than that. It is not reaching out and getting things to happen and making them work; and in this Intellectual Property Office of Trinidad and Tobago, there is need to do more to make sure that it works.

To say that we did not subscribe to it, or did not sign, the PNM has been working on it to a certain point, the baton has now been passed to you, take it up and do it seriously because you know what has to be done. One of the good things, after hearing the Minister speak, is that she knows what has to be done.

We look at censorship. How are we going to deal with it? Who are you going to censor? How are you going to deal with the things? Do not only love it when it is in your favour, and when it is not, you go against the artiste. Do not love some artistes because they are talking nice things to you and hate the others. If you are doing it, do it for everybody across the board. This is what it must be. It must be fair to all, not for those who like you and against those who do not like you. Set up the laws in such a way that it must be that way.

Again, I must say that I understand intellectual property, patents, copyright are very difficult to deal with. It is a worldwide problem because the pirate market is one of the biggest markets in music in the world today. I know how difficult it is, but I am saying that the Minister and this Government should have a different attitude towards the music, the art form and the artistes. Reach out to all. Do what you are doing for all. I know you would say it is for all, but your attitude in the country does not show. If it is done with a proper attitude, there would be better results.

In that light, we support the Bill.

Sen. Prof. Kenneth Ramchand: Mr. President, just a very brief intervention. Like Sen. Daly, I rise to commend the Minister for her diligence in complying with international treaties and conventions to which the Government has felt itself obliged to subscribe.

Very recently, the Minister of Foreign Affairs came to the Senate and was very critical of my statement about the Government's readiness to sign up with these international bodies, and I did speak very strongly saying that we were hog-tied by the international bodies. The Minister of Foreign Affairs did not do anything to persuade me that I was wrong, but maybe my language was a bit strong. Essentially, I do agree with Sen. Daly that here we are signing up these treaties for pressure reasons. The hon. Minister herself, in an earlier debate, was trying to hurry through the legislation, and confessed that if we did not do it quickly, sanctions would be applied against us.

We have been under pressure to comply with these regulations and I just want to re-emphasize Sen. Daly's point, that we really have to look at some kind of reciprocity. We are going along in good faith signing, and signing on time, but the banana industry is one instance of where we are not getting any reciprocation. All I want to do is to echo Sen. Daly's sentiments.

Sen. Prof. John Spence: Mr. President, I want to reiterate the point that this agreement with the United States of America was signed by the previous government and, indeed, had not the hon. Minister made every effort to implement the agreement after she came into office, we would have had a great deal of difficulty. The point is not just the agreement with the Americans that forced us in this direction because we also belong to the World Trade Organization and many of the provisions we have signed into in that regard also take us in this direction. We have to decide whether we are living in the world as it is today. I think the position with the banana is not that we should not agree to some other treaty, but we should continue what we are doing now, that is, to fight the opportunities under the World Trade Organization.

A final point. I am all in favour of controlling noise pollution and I hope we continue to do so.

Sen. Rev. Daniel Teelucksingh: Mr. President, in January 1999, there was a very important meeting bringing together the United States of America and the people of the European community into this 71-nation fellowship to which Sen. Prof. Spence made reference, the World Trade Organization.

Mr. President, here is a wonderful headline I had longed for the day to come—and I am glad it came today—when I would quote it: “Carib states block US over bananas”

Mr. President: State the source please.

Sen. Rev. D. Teelucksingh: The *Trinidad Guardian* of January 26, but it has been in all the newspapers. The most beautiful thing that would have happened in the whole business of the borderless world for me to read about, and I am quoting:

“Two tiny Caribbean nations on yesterday challenged the might of the United States in the World Trade Organization (WTO), blocking Washington bid for quick approval to slap sanctions on the European Union over bananas.”

Mr. President, I heard nothing from the Government of Trinidad and Tobago complimenting St. Lucia and Dominica. I had said this before in previous debates that in signing these international treaties that somehow or the other the treaties have been drafted and approved elsewhere, somewhere in the First World, and we have to sign and approve as we have been doing and I always worry about this.

I felt so elated last month to know that St. Lucia and Dominica, in that massive conference, bringing 71 nations together, could cause so much turmoil by voting against it and saying we are small, but we have a voice. I cannot ever remember the Government in my country in January or February, 1999 complimenting St. Lucia and Dominica for the stand they took and not a word from Caricom. These two little nations and the one or two other small island nations in the West Indies have been fighting all alone and not a word from Caricom. *[Interruption]* Well, his representative went there and fought for his nation but Caricom, the Caribbean Community, has not been taking up the cause of the small nations which have been participants and signatories of these international treaties and they have been going it alone and I have been wondering what is the use. What is the function? Where is the voice of Caricom in this world organization, these international conventions?

Mr. President, I am very happy for the few small nations. I know Sen. Nafeesa Mohammed made reference to the Association of Caribbean States. I find small nations are having it very hard when it comes to these treaties and the small trading blocs which we have like the ACS and Caricom, I do not know if these blocs have become clubs where the heads meet now and then, but when it comes to the real issues affecting the smaller states, we hear very little from them. I wonder sometimes when these treaties come to us if we should just close our eyes and rubber stamp them and let the world know we are good co-operative people.

The borderless world is only for some people who could come to our borders. In fact, they caused us to break down our borders, we removed our borders. They advised us to make this world a borderless world for them and this is what is happening in the World Trade Organization and others responsible for the Bill before us.

Mr. President, when we have discussions on these international matters I am very worried about small states as Dominica, St. Lucia and Trinidad and Tobago. Most of the times we have to go it alone and I feel very disappointed that the first countries of the world have been taking us for a ride. I remember a couple years ago, during the tenure of the previous regime where we had to remove almost all our trade barriers. There is no Dunlop company in Trinidad and Tobago again because barriers had to go down and many of our small industries were absorbed or destroyed by the bigger industries of the metropolitan countries. This is one of the ways in which we are suffering today because we had to break down all barriers because we have been told from Europe and Washington that is the only way to survive. We are in serious trouble today.

I express my own reservation along with the others, for Bills like this one and motions like these where we have to become not only signatories, but being absorbed in a great stream as the river is coming down from the North and from Europe to absorb us.

Thank you.

Sen. Prof. Julian Kenny: Mr. President, I am going to try to outdo Sen. Daly in brevity. I think the Government would surely see concern coming from this side about being puppets on these treaties. We do the right thing and we are congratulated and miss some of the major issues. I want to illustrate one treaty called the Montreal Protocol on Refrigerant Gases. We are going to be compliant by July of this year, that means that we are doing our bit to protect the ozone layer over the Antarctic and yet there were probably 800 or 900 tonnes of lead slag distributed throughout the country.

Thank you.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. President, I share the concerns of the hon. Senators with respect to sharks and sardines in the sense of when we are speaking of the large nations and the smaller nations. It was interesting that Senators on the Independent Bench raised that issue of the sharks eating the sardines in the small countries like Trinidad and Tobago,

but I wondered why they gave examples of bananas, the ozone layer and so forth. I did not hear any of them tell me what were the disadvantages of this particular treaty that is under debate in the Senate today.

I share the concern, but it is my respectful view that there are many advantages for Trinidad and Tobago that are to be gained out of this Patent Co-operation Treaty. Needless to say, it was not signed by the present Government, it was signed prior to this time, but the advantages are numerous and I attempted to give some of the advantages when I piloted the Bill initially in this Senate.

4.20 p.m.

It is important to note, with due respect Sen. Daly, that whilst the United Nations bodies may have many, many disadvantages, it is my respectful view, once again that the WIPO, which accords a one state, one vote kind of situation, could result in the scenario painted by Sen. Rev. Teelucksingh when he talked about the banana issue, where St. Lucia and Dominica were able to get the 71 states and out-vote. And this is what is happening in the WIPO, because each of our small nations is given a vote on its own in order to deal with the issues that arise. It is because of that, that we have seen in recent years in the Caribbean, especially in Trinidad and Tobago, Jamaica and Barbados, that we are getting far more benefit out of our participation and involvement with the WIPO.

So yes, I agree there may be international bodies and international treaties that accrue, not in the sense of advantage but severe disadvantage to Trinidad and Tobago, it is my respectful view that our involvement with the WIPO is not one such participation or involvement.

Mr. President, I notice that both Sen. Alfred and Sen. Shabazz, spoke in parables, because I could not really understand part of their contributions. It seemed to me one was talking about artistes and national and international—I really was not sure what was the point being made by the hon. Senator in that regard.

Sen. Shabazz was a bit more clear and he spoke about censorship and noise and that at one time the pan was noisy and now Ministers are playing pan. I would like to say, quite frankly, I grew up on High Street, Siparia, and behind my house was a pan yard, the famous Siparia Deltones. So, pan was never noisy for this Minister from way back when.

Secondly, what the hon. Senator is also saying, is that if we like some music, calypsoes, and we do not like others; we like some songs and we do not like others, we should not say anything, and we should not be bothered with them. I

want to make two points: There are rights and fundamental rights in this country for every individual, but no right can be practised at the expense of others. And where it is that your involvement, where it is that the protection of rights —The Constitution is very clear. Every right has a check and balance; it is not an untrammelled right. If you had total freedom there would be anarchy in a state. It must be that there must be control and regulation of what takes place in any particular society. That is the only way that a civilized society can function. So, hon. Senator I say to you, if I do not like a particular song, it is my right and freedom to say that I do not like a particular song. There is nothing wrong with that. There is absolutely nothing wrong with that. And if it is that there is noise and there is noise pollution affecting the entire society at this point in time, it is an issue that has to be addressed by the Government. It must be addressed.

Sen. Shabazz: I just want to be clear. I am not telling the hon. Minister not to like a song or like it. As a person, Mr. President, I just want to see the star. But when you are dealing with taxpayers' money and you are dealing with taxpayers, you must have a different kind of attitude. That is all I am saying to the hon. Minister. She could like and dislike just as the other person has the right to like and dislike. So the Minister does not want anybody to be vex when she likes and dislikes, she should not be vex when they like and dislike. That is all I am saying.

Hon. K. Persad-Bissessar: That is fair enough. I still say that no right is total freedom. There cannot be absolute freedom in any state. It must be regulated and it must be controlled. The Constitution, which we all uphold so dearly, sets that very, very clearly. There are checks and balances to the practice and enjoyment of any right in a society. So I think we need to make that very, very clear. I understand the Senator's view that they cannot be personal likes and dislikes, but they must be rights practised in such a way that they do not inconvenience other persons in the society. There must be a balancing of rights in any society for that society to function and be a civilized society. I think this has been part of our problem for so long that we believe that our rights are total rights, absolute rights, regardless of what they do to any other person or any other group of persons in this society. I think that issue is one that needs far more ventilation and needs to be dealt with in a civilized society.

Several issues were raised by Sen. Mohammed with respect to the Operations Office, and also Sen. Alfred, the IPO Office—Intellectual Property Office—and of course, I welcome her to join us for a visit at any time.

I want to make it very clear that it is not the physical office that we are speaking of here. When I said that the Patents Act established the office of the Intellectual Property—the Intellectual Property Office—we are speaking of a creation of statute and, I do not mean the desks and the chairs. It is obvious that it is an office; the Controller is an office in the sense of a post that is held by the Controller.

So, whilst it is that the office physically, has remained in the same building where it has been for a very, very long time—You know, sometimes our memories are so very short. I heard the hon. Senator speaking about the location of the Intellectual Property Office, and the location of the Title Clerks at the Lands Registry and so on. Mr. President, I have said it in this House before, that the decay and decadence that took place in this Red House under the former administration, we must not be held accountable for that. And since I have come into office, I have taken every step possible to move the persons out of the Red House. If it is that there was asbestos in the building, I did not think that any member of staff should remain in the Huggins Building and put their health at risk. What we did, was to move them out. And having done that, it means that the work that is proceeding on the Huggins Building can obviously proceed much faster, because there are no members of staff there to hold them back.

So, what is happening is that work is proceeding, all the asbestos is being removed out of the Huggins Building, two vaults are to be constructed at the back of the Huggins Building which would house the records that are coming out of the Red House. But, again, I say the memories are very short when you want to speak to me about the physical kinds of conditions that we met in this Red House, Mr. President. Give us five years, we have two more to go. We have two more years in this term, Mr. President, and I assure you that within that time, we would have done far more in this five-year period than I ever saw my colleagues do for the past five years that they were there.

Mr. President, I am saying that office is established, we have put several things into place. The office staff has passed me—the equipment that the hon. Senator described in the project document referred to has all been purchased. It is in fact, now outdated and will be replaced to meet the current needs of the office, and also to make it fully Y2K compliant. So this is expected to arrive in the office by next month, I am informed.

With respect to staff, training has continued through WIPO. We have brought several members of staff into the office. So, when I mentioned the Controller and

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the Deputy Controller, I did not mean those were the only two persons in the office. I said the Act had established those persons.

What is happening at this very point in time, the Chief Personnel Officer and the Organization and Management Division, with a WIPO Consultant, together with the Heads of the IPO, the Intellectual Property Office, are currently meeting with respect to discussing human resource management within the Intellectual Property Office.

Sen. Mohammed: Can you indicate —*[Inaudible]*

Hon. K. Persad-Bissessar: Sure, 24 persons.

Sen. Mohammed: How many do you have employed today?

Hon. K. Persad-Bissessar: On the last count I thought I had 22, but I am advised by Mr. Spence we now have —22 persons. It is 22 persons.

Sen. Mohammed: Is it that the posts of Controller and Deputy Controller would now fall under the Salaries Review Commission or what is going to happen?

Hon. K. Persad-Bissessar: In fact, what has happened, we had sent those posts to be classified by the Salaries Review Commission. There is a separate Salaries Review Commission's Report, separate from the one that is in the Parliament, which has been returned by the Salaries Review Commission to the Cabinet and that particular report regarding the Controller and Deputy Controller, is before the Finance and General Purposes Committee of the Cabinet for decision as to whether we would go ahead with that, or whether we would put that together with the other report of the Salaries Review Commission. So, it has been completed. The Salaries Review Commission's work on it has been completed and we should be bringing it to Parliament shortly.

So, there are several other points that were raised with respect to enforcement, and enforcement is a particularly difficult area. I agree with Sen. Shabazz that there is far more that needs to be done. There will always be more that needs to be done, because criminals do not sleep. So, as fast as you catch one, there is another one out there. So that our task is ongoing. As my hon. colleague, Dr. Morgan Job, would say, crime began in the days of Adam and Eve. We would see that from thenceforth that has been happening. But we will not stop, we will continue. And I have always said that we will continue in the fight. I believe we have made some headway; there are many more proposals to come forward in terms of dealing with the enforcement of the legislation.

You heard the point that I talked about going out and educating the public. I think if anybody could say that work has been done with respect to public education, it will be in terms of the area of copyright law. We have done so much work in the area of copyright law. Again there is always more that needs to be done but there has been a tremendous amount of public education campaigns run with respect to copyright and the law relating to copyright. In other areas of law perhaps there are other areas we need to look at, and that is something, only from January of this year, I talked about doing public education programs with respect to other areas of the law. But certainly the copyright law I think that one has gone out so far in terms of the newspaper, TV, holding of seminars and so on we have done a lot of that.

4.30 p.m.

In addition, we have had training seminars for police, the customs officers, we are continuing that. Fairly recently for the first time in this country, through the Ministry of Legal Affairs, we were able to bring from other countries experts from the judiciary, who had had intellectual property laws in their jurisdictions for many years, to come and speak with our judges. It is the first time I know of that happening where we had the seminar for the judiciary, the entire judiciary attended and were familiarized or given that kind of exposure to other judges from other jurisdictions who are practising intellectual property law.

So we have looked at it in terms of the public awareness, we have looked at it in terms of police, in terms of customs. We did not stop there because there were always complaints that when you arrest the person, they go before the courts, then the magistrates and the judges operated in a certain way. We have also gone into that arena and I am saying that was a first for us as well. We intend to do much more than that. I agree with you, the battle is never-ending and we will continue our endeavour to do what we can.

There is one other proposal that is upcoming and that has to do with the banderole system that we have spoken about. We have convened a committee and we have a report from a consultant. I talked about that so many times with the consultant who was at the IPO office in Ghana. Fugazy Crooks is a Nigerian lawyer at present based in London and she had helped to set up the banderole system in Ghana. She has done a report for us here. That report is now before a committee comprising the interest groups in that area, from COTT and the Neighbouring Rights Society and others of that kind, the kind of category of

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persons to look at that report and make recommendations. It is my fervent hope that the banderole, like it worked in Ghana where there was a 95 per cent reduction in piracy in Ghana as a result of the banderole, it is my fervent hope that if we can do something similar in Trinidad and Tobago, that we can have equally satisfying levels of reduction in piracy.

So Mr. President, I want to thank hon. Senators for their contributions on this what we thought would be a very short debate, some very interesting comments and points raised and it was very refreshing. Sen. Nafeesa Mohammed took me back to sort of classroom days when she gave us a treatise on patents. I want to thank her for that and hon. Senators for their concerns and suggestions. Mr. President, may I just say that at the start of the sitting, the sitting was suspended for a short moment in time and if it is that it was due to any neglect on our part, I wish to apologize to hon. Senators for the inconvenience, but I did come as soon as I received the call that I was needed. I left where I was and proceeded here.

I want to thank you again, and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Mr. President: We will suspend for tea at this stage and resume at 5.05 p.m..

4.34 p.m.: *Sitting suspended.*

5.08 p.m.: *Sitting resumed.*

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Preamble 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.

LEGAL AID AND ADVICE (AMDT.) BILL

[Second Day]

Order read for resuming adjourned debate on question [February 9, 1999]:

That the Bill be now read a second time.

Question again proposed.

Sen. Joan Yuille-Williams: Mr. President, before I begin my short contribution, I want to commend the hon. Minister for her presentation of this Bill. I do not want to say because she is a woman it was presented in the manner it was, because we have been suffering in here from presentations that would walk us through.

I also commend her for recognizing previous governments, organizations and individuals who contributed to this Bill and to bringing it to this state. Not often people tend to want to recognize what had gone before, and sometimes people try to hug what eventually comes at the end, as a personal piece of legislation, so whenever you see this thing happening—to say it is the sum total of the advice and contributions of several people—I think we need to note it.

Mr. President, as I tried to do some research on this Bill and I looked at it, from those who were involved in it, many people have been generally satisfied, to a certain extent with what has been brought before the Parliament. In many areas what has happened is that the Bill was able to widen the scope, so that more persons qualified. Quite early in the explanatory note we noted that criminal offences, defences of appeal in the Appeal Court, probate and letters of administration, and so forth, were now included, which were not previously included, as well as the ceiling for certain areas. I compliment the Minister for that, and in particular, I note the inclusion of domestic violence applications, which many people have been clamouring for, and added to it the whole purpose of the emergency certificate.

But while I listened to the hon. Minister, one thing disturbed me when she came to the end of a very fine presentation, and that is, when my colleague, Sen. Montano, asked what is the anticipated cost of the whole programme. From what I have been looking at and reading and discussing with people, we could almost have about three times as many cases as we usually had before, as we now open the place. It is going to be a tremendous number of cases now coming into the ambit of the Legal Aid Authority.

The Minister said that she had not worked out the cost, she had to do so with the Minister of Finance. I noted she said that we may not be able to implement all those matters immediately, but certainly we could put some into effect. Now, I was a little disturbed, because after sitting and listening to all that was expected here—and some of them are very laudable—one would have thought that we might have been able to move in that direction. I am really disturbed about it.

I am wondering—with due respect to the hon. Minister—whether or not we are going to pass this legislation, and it would go where we have several other pieces of legislation just lying there, and not be able to be implemented. That is my greatest concern. We have opened it up and given good reasons why we want to do so, and probably we are not able to fund it. I have sat in this Parliament and so many pieces of legislation have come before us: legislation that we worked on, legislation that we reviewed, we argued and tried to bring the best that we could, and what we have noted is that after some time, we hear nothing about it and it goes the way of all flesh, somewhere just resting and waiting, on what, we do not know. Unfortunately, that is why sometimes, these are the kinds of things that make us on this side ask: "Is it necessarily public relations?"

I noted that when this record came into the media it was given good coverage, and quite rightly it should have been. I am sure the hon. Minister was given good coverage for her presentation, and people were very hopeful about it. But is it just public relations? That is why we say sometimes that much of what comes here is public relations, because the implementation is not there.

I feel at this time, judging from what she has said, that we might not be able to implement it, because it is going to be very costly. It is about two or three times as much as it cost before, or even more than that. But we will continue as we always do, hoping that, at least, we could put aside a good piece of legislation for whenever it is implemented. I do hope that we would be able to implement this piece of legislation because I consider it a good piece of legislation.

Mr. President, there are just one or two areas I would like the hon. Minister to look at. I do not consider it just a safety net. I think that there is more in this Bill than just a safety net. When I say a safety net I mean that I do not consider all that this is to do is give funding to those people who are in need of it, to go through with their litigation. I think it is more than that. Therefore, there are some areas I would look at almost immediately.

I noticed that the domestic violence areas have come into it, and as I commented, we really need that. I am wondering if in this whole scope of that Bill we did some time about cohabitational relationships, if those people could also fall into this. I just looked at some of the things that came in.

I know that the Status of Children Act, Family Law, (Guardianship of Minors, Domicile and Maintenance) Act, Attachment of Earnings Act and so forth, would fall in this. I remember we passed that bit of legislation on cohabitational

relationships. When we minus the Status of Children Act it would take care of the children, but I am talking about the adult partners if they would be able to get assistance through this, if they would qualify. I just want to know. We have passed that Bill as well and, therefore, I am wondering if that would also fall into this. I would like the hon. Minister to look at that very closely.

There is something within this legislation: mediation, alternative dispute resolution. When I saw that whole thing about mediation, I remembered that the hon. Minister in presenting it, talked about mediation being the way to go, and that we had been going with mediation in several areas. Here again in this bit of legislation, we are talking about mediation, and I asked myself: What have we been doing at all to get this whole process through? We need mediation.

We had a Bill that introduced mediation and there were several Bills in which we talked about mediation. But with mediation you need training and the setting up of centres. We need to do so much. Now, we have brought another Bill in which we are calling for mediation. I am saying, at least let us see what we have been doing so that we could get the support system for all these Bills we are bringing here which talk about mediation. It is not something that we have. I do not know if the mediators are out there and we just go and grab them. I know that there must be some kind of training for everybody, and I am not seeing that happening.

5.20 p.m

I remember one of those mediation bills deals with juveniles; that is one of the areas calling for mediation. I cannot remember the name of that Bill but I remember that we talked about mediation for first-time offenders and so forth, and setting up certain pilot areas—I think one was in San Juan and one somewhere down in the west. I remember all of that. Nicely said, but I have heard nothing about setting up those areas, nothing at all, and here we are bringing in another piece of legislation where we will want to use some of the same personnel. So at least to make us comfortable, let us see some kind of training beginning somewhere, so that we could believe what we are passing here is real. If we do not see that start we would believe that we could use all these terms and nothing would happen, but we must start that process of training the people.

We understood that there were personnel at the university who were willing to set up some kind of training establishment so that we could start training people, but nothing has been done. It is all well and good to say that mediation is the way

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to go, but if we do not have the mediators, I do not see how we are going this way. So, I am hoping that as it is also in this bit of legislation, that we would put it all together and Government will see the need, at least, to satisfy us by showing that it is really serious about this whole process of mediation.

It is all well and good, as I said before, to read about it, to hear about alternative dispute resolutions, so you do not have to go to the courts, but if there are no mediators in place at all, and we are passing the legislation, then we are not doing anything to help. I do not see how we can trust what we are reading, I am hoping that we will take that opportunity to start something somewhere which will satisfy not only this Bill, but the others which we have passed and probably which we will do in the future.

Mr. President, I was speaking to some of the investigators and I am saying that this Bill is not just a safety net providing finances for those who cannot afford it. An investigator told me that sometimes they go out to investigate a case—especially since they are bringing divorce cases into this—and as far as the investigators are concerned a lawyer is not needed to take them to the court to help them fight a divorce case. The investigator said that several times for frivolous reasons there is a separation and many times the investigator says: “I wish I could do some counselling” and that will be the end of it. I think on one occasion, there were family services available and they would send them, but the matter was outside their authority and it was difficult for them to deal with. Therefore as we look at these pieces of legislation, I recommend that somewhere within the authority, a counsellor could be included, and we would save ourselves much money and save a number of families and as I listened, I had to agree with him.

You know, men and women, for some frivolous reasons decide; I need to go my own way and they just walk, and the next thing that happens is, they tell themselves “I cannot afford divorce proceedings, I am now in the net; I can go to legal aid and get a lawyer and continue.” I am sure that all of us here, looking at the family as a whole, wherever we could save a family or a relationship, we would do so. Therefore what I am recommending is that somewhere within the authority, there must be a counsellor, so that these investigators, when they meet a client who needs counselling, could just tell that person, “Well, look, before we go any further, I want you to go to this counsellor who has the authority to assist you.”

Now, I know some people will talk about other units. One of the investigators told me that he had used some NGOs, but again that is outside, and it is not easy to tell people go to such an NGO and the NGO appreciates what is happening.

Perhaps we should consider using counsellors, as this is quite different from the mediator who sees about settling certain things out of court. Counselling is about bringing families back together and I really strongly recommend that we look at that particular area including this whole matter of counsellors within this piece of legislation.

Mr. President, when we look at the legislation and recognize the extent of the work that has to be done, this legislation did not address the support system. I should like to speak a bit about that because it would not be the best legislation if you do not have the support system, and we would not be able to implement the legislation.

My investigation tells me that at present within the authority there is one director for Trinidad and Tobago; positions for five legal officers, but we have only one legal officer for Trinidad and Tobago—one; and if you can consider what I am talking about and the amount of work that is being done there, we could not be very effective with one legal officer. So we need to look at that. We have to strengthen the authority staff very early. In fact, that one legal officer is already strained with the number of persons who come to him. There are three accounting officers and four clerical. But more important than that, we have four investigators—three in Trinidad and one in Tobago.

I understand at present, each investigator would have about 200 cases per year. Since with this legislation we are widening it about three times, one can only imagine how much work is going to be placed on an investigator. My investigations tell me that the areas are quite large, for example, we have North East, South, and North West, Tobago. The North East investigator will work in an area from Freeport as far as Couva, San Juan, Toco, Blanchisseue. Just imagine that spread for one investigator.

They go out there to a temporary office, two half days a week and then on the other days, they are running from corner to corner trying to investigate each of the cases that they get, whether or not there is legal aid or whether or not they fit into that. That is the spread for somebody who is in the North East.

I understand in South it is at Couva, Freeport area, Point Fortin, Cedros, Mayaro, Biche, one person—one single person doing that and I am thinking about this in terms of what this new legislation is going to put on us now that we have opened it up. I am talking about the support staff. The North West area, Port of Spain and environs, to Chaguanas South to Aranguez, Blanchisseuse, Maracas

and San Juan. That is the kind of area I am talking about. You have three people in Trinidad. You come to your temporary office and for example, when I say temporary office—borrowing office where you come in and meet the clients for two half days a week. All these officers have their head office in Port of Spain and all the files for everybody around the country are in Port of Spain. So, the investigators are really here, and they move on to the temporary offices for two half days and, really, it is not a very satisfactory situation. Very little could be done there and that is why I am saying, with three times as much work, we have to pay particular attention to those who are supporting it. They are already crying out for too much work that they cannot do very effectively, and it is all well and good to bring this legislation but is also costly.

In fact, I was very much surprised to hear that if you are in San Fernando and you have to get a file for a client there, that file is lodged in Port of Spain. These people are moving from place to place—three investigators in the whole of Trinidad and one investigator in Tobago—and it is necessary to have these investigators out there.

Another thing that comes to mind is that when some of these clients go before the magistrate, the magistrate will tell them get a lawyer and they will turn to legal aid and I understand that some of them feel that the magistrates are not well educated about the whole process of legal aid and they usually tell them what time they should return to court. I understand that the time the magistrate gives them, nothing could be done in terms of getting the lawyer because all these investigations have to go on. There is always a backlog and many times the client gets back before the magistrate who is very much angered with them. No lawyer!

5.30 p.m.

Therefore, one of the things which I hope would be included in your public education is that the entire Judiciary should be appraised of the whole process of how long it takes to get a lawyer, because it does not make sense that the magistrate tells someone to get a lawyer and then the person invariably turns up without one because the request goes through a long process with very little staff. Therefore, one of the things they were asking was that the relationship with the courts and the lawyers could be improved if we let them know exactly what was happening, so that when they try to put the cases at a particular time, it would be at such a time that the person who is seeking legal aid can really get that legal aid.

At the same time, somewhere in the Bill, it talks about transferring from the Legal Aid Authority to the public service—something that is done in the Regional Health Authority.

I was very much surprised to find that those people who worked in the Legal Aid Authority, in 1992, which I think was the first year in which their status was being regularized—if I can use that term—are neither fish nor fowl as they would call themselves, in that area. When they are transferred, they are told that they are being transferred with their benefits but they have no benefits, so there is nothing that they will be transferred with. It is all well and good to say transfer them into the public service; they cannot fit in and they have no benefits to take with them. That, in itself, does not make sense, so let us forget that.

What is better is that they get the benefits where they are, and from what I see going to happen with this new Bill, with the kind of travel they have to do, they need to get some benefit. For example, they cannot get a car loan. There are investigators who are travelling all around and they cannot get a car loan, or borrow any money at all. Even their counterparts in the public service, get more travelling and that is why I am saying do not worry to talk about the RHA and movement of one to the other. That is an impossible feat.

What we need to think about is doing something to regularize their status so that where they are, they could qualify for a loan to buy a car or, as one of them said, even to repair the old car they have; that will do. The travelling, as they said, should at least be brought on par with others who are in the public service because where they are, their travelling is much less.

But these people have soldiered on for many years in the Legal Aid Authority. Many of them have gotten to like the job because they feel it is service they are doing, but I do not think at this time, we could impose anything more on them until we regularize their status and we increase the staffing, because, from where they are, they are barely making do and trying to serve those who have come to them where they are. Therefore, I am asking that we try to regularize their status so that where they are, they understand who they are.

It is all well and good to say they are working and they have been working there for many years and not understand whether they are public servants, or whether they work with the authority, or what they could do at all. They hope they will get some kind of pensionable positions. I think they started looking at that from 1992 and I still think we have not gone far enough and now that the

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Government is going to pass this Bill, making certain amendments here, we are asking that the support staff be looked at a little more.

In fact, as they said, they found that the Bill was addressing those outside the authority rather than those inside. I am not saying that those inside should not be addressed. For example, they said a lot of focus was put on the attorneys outside who are co-opted to assist their clients, but not enough attention was paid to those who worked inside the authority.

Whereas we would say yes to the increase in fees for the attorneys, in many instances, we found that as soon as there was a legal aid lawyer, someone told me people felt that you were already going to lose the case. For some reason, there was this perception that as soon as someone came with a legal aid lawyer, the person was going to lose the case and probably it was because of the fact that the fees were so small. In many instances, the legal aid lawyers were so inexperienced and in some cases, they could not find the time to do as much research because they were not paid very much, so that there was that perception. This will probably try to remove it.

One lawyer told me that in his first year out of university, he took a brief for a murder case. He needed money and somebody needed a lawyer and he offered his services. This is a person who wanted money, therefore, you take the brief for the murder case. No wonder people will say, "If you come with a legal aid lawyer, you are going to lose your case", because of who you really were able to get.

Therefore, I could very well support increasing the fees so that even those lawyers who are very successful, as a matter of commitment to the country, would say, "Look, I will do one, two or three cases. I will give that, not necessarily for the money but at least, I would give that. I could get somebody to work with me to research the things and they could go into it." But, as it stands now, you could scarcely get anybody from within the legal profession with any kind of experience at all who, willingly, would want to go out and work for the Legal Aid Authority.

As I said before, I am very much in support of changing certain things within the law, making the amendments so that the law will assist the clients. I agree that we need to broaden the base. I am seeing where probate of estates and all that, has now come into it. I do not dispute that that is necessary. As I said before, I supported the Domestic Violence Act very well but, at the same time, this cannot go without the support of the Legal Aid Authority which means I need to see a much more strengthened staff.

One other area about which people talked quite a lot is, there is one main office as I said before and we need to decentralize now. With the kind of work, there should be permanent offices set up now in other areas of the country, so that if I am working in the South, I can have a permanent office in the South where the files are available when I get there and that kind of thing, instead of having just one small office in Port of Spain. I think one day I passed—I cannot remember the name of the street—and I saw the name Legal Aid Authority. But I think what is necessary is that we have proper offices for our investigators, or for those who work. As I said before, even with the clerical staff, there were just five people working and I think three of them were seconded from the public service. It was very temporary in most cases.

At this point, I commend the Government for making this move to bring this legislation to the Parliament, but I also hope that we can be comforted by the Minister, in her winding up, that she would look into some of the areas I have pointed out to her. This will probably need some kind of amendment, but I believe we may have time to do it because I do not know whether the debate will end today. It might not, so that we will have time to do some amendments. There are certain areas that we feel could have been included in this Bill.

Again, Mr. President, thanks for the opportunity to make my contribution on this Legal Aid and Advice (Amdt.) Bill and I am really hoping that this will not go the way the other bills have gone and next year at this time, we will not have implemented this. But I know it is because of the funding—and I am really worried because of the funding—from what I have heard from the Minister as she replied to Sen. Montano. I see the Minister of Finance here and he is just going to smile because he will say, “I cannot make any money and there is no money”, and I heard the Prime Minister talking about the downturn in the economy and here we are putting things in place, elaborating on everything and doing much more. Some of the best things that we have, we cannot fund.

When I say that, it brings me back to where, at this time, as a Government we need to prioritize. What are the important things that we need to do and which can we leave? That is critical to us. This is important because we want the domestic violence to be included, so we consider this Bill very important. I hope in some way that we could find the money to fund this. I do not see how we can implement it in parts after we have passed it. I cannot see that, but we have to find the money to implement this.

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I might be drifting a bit when I talk about priorities and what is happening. As I said before, when I talked about the mediation, not only for this Bill but for the others, I call that a priority so that should come in and we should set up that process because we have our first-time offenders out there. When I talk about priorities, Mr. President, I hope you would forgive me, but sometimes, we seem to lose what is very important to us in terms of priorities and I hope you would permit me to step aside for one minute just to make one observation in terms of the priorities and why I am speaking about this.

I remember when the hon. Minister of Finance, in his budget statement, talked about priorities and the things he wanted to do for young people, we were quite happy with that. But somehow or the other, that priority seems to have lost its focus. That is why I say I do not want this to happen, because just this morning I heard some really sad news, that our Civilian Conservation Corps shall be no more, or that it has been shifted from one place to the other; shifted from the Minister to somewhere. I thought we had lost the priority because if we had learnt what was the objective of it, there is no way it would have been shifted from where it was, because that is where it needs to be and I hope the hon. Minister will do all he can to get it back, because he was doing an excellent job with it.

That is why I talk about priorities and focus and I am saying here that we are talking about priorities and we are talking about focus and everybody here talked a whole lot about domestic violence, cohabitational relationships and mediation and if those were our priorities and our focus, then we should find money somewhere to fund this legislation.

Mr. President, I would like to conclude on that note. Thank you.

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, I would like to begin by congratulating the hon. Minister on her flawless presentation when she presented this Bill on the last occasion. I can still remember the clarity of her presentation and how very well we understood what was meant.

I also congratulate all those lawyers who gave of their service and time at such small fees, because when I read the old Act, I could not believe that people would work for that type of money in this day and age, as professionals. So, I congratulate them. Because, not only was it a matter of being paid small sums, but it is a matter where they spent so much time with the people who come for legal aid. When there are very well-off people coming to you for service, who can pay, they are very much more easy to deal with. You get information from them so

quickly that you can dispense with them in 15 minutes, whereas when you get the people who come for legal aid, sometimes they do not even know their own story and they have to be coaxed to get information out of them and that takes a very long time. I congratulate those lawyers who have given time. I also say to them that we look at it as a time of giving back a bit of their service and so I congratulate them.

I congratulate the Government for the expansion in the charges that one can now claim for, under the legal aid system; raising the ceiling of income of the people who are going to access the funds, especially the disabled.

5.45 p.m.

Mr. President, I am wondering whether we are not doing too much at the same time, whether we probably should not stagger what we are doing, probably saying okay, let us increase the pittance that we give to the lawyers; then by a certain time we increase the types of charges; and then by a certain time we raise the ceiling of the people who are going to access the system and so forth. And whether we could not stagger it, and give the Minister of Finance more time to put more money into the fund, because from what I have been hearing, Mr. President—I just want to give a little bit of what I was able to pick up from Tobago.

In 1998, there were 33 requests and that is, after a person has gone to the courts. The Magistrate says “do you have a lawyer?” “No, Sir, I cannot afford one”. “Go and get legal aid”. The person leaves and goes to the Legal Aid Office, where he or she finds an investigating officer. The officer normally asks cursory questions, no form is given or anything. At that stage you could be told that you do not qualify, because your case is not a case that comes in the system, or you are working somewhere and you are not entitled. So no record is kept of that person, because you are not given a form.

After this, you are given a form if you qualify, then you go to the Justice of the Peace, you swear to an affidavit to say what is true or not. Then you go to the probation officer who does a means report and then it goes back to the magistrate. So it is a very long system, and it is one in which there are no records as to whether the number relates to all the people who would have applied to get into the system.

Mr. President, we had two persons out of 33, who were able to get legal aid in Tobago in 1998—31 persons were rejected and out of those 31, 12 would now qualify if this Bill is passed today. So it means that we are increasing the number of

people six times. We are increasing the lawyers fees so many times but, yet, we are leaving two probation officers in Tobago to do the work.

Mr. President, my concern is that of putting more money into the fund, and the question of implementation, as you heard from Sen. Joan Yuille-Williams. I have been here, we have had the Coroners Bill, the Community Mediation Bill, night court, all sorts of things and my question has always been, what about the implementation? For this we can say that we already have a system in place, but I am not sure whether we will have the money in place to do this.

We must also remember that the probation officers are the main investigating officers when it comes to the cases in the Magistrates' Courts, and we have only two. They have to do investigations from Charlotteville to Crown Point. Two of them, and this is not all that they do, they do so much in other areas. They have all sorts of investigations to do.

Mr. President, I would also like to bring another point, and this came from one of the lawyers who is in the system. His problem is, he does not get any travelling allowance but he has to do cases in Charlotteville because there is a day when the magistrate sits in the court at Charlotteville. It takes an hour and a half to drive to Charlotteville, an hour and a half to drive back, if you keep within the speed limit. That is telling you how one spends three hours on the road. It also does not guarantee that the magistrate will try the case on that day. He does not get any travelling allowance. He does not get any allowance for having gone that distance. What they are asking is that the magistrate transfers the cases to Scarborough, but it takes \$20.00 one way for a person to come to Scarborough from Charlotteville. So it is \$40.00 and if they keep adjourning the case it could tell you how much that is—you are talking about a poor person. If you could pay \$40.00 for transport alone to come into Scarborough you might as well pay a lawyer.

Mr. President, this is one of the areas that I would like to see addressed; we could look at a way of trying to give them a travelling allowance. I think you should give the lawyer who goes out of town, because all the lawyers' offices are in Scarborough, all. If they have a case and they come to Scarborough or whatever, the magistrate says, okay, legal aid for you, that person either has to come to town to give his or her story or the lawyer has to go up, and this is what I am saying. If you give them a travelling allowance, I think that would help in these special circumstances.

Mr. President, there is a sort of reluctance to serve because of the delay in payment. The processing of the claims normally took a long time but one of the lawyers told me that within the last few months, they have been—oh sorry.

Sen. Mahabir-Wyatt: Mr. President, I wonder if I could ask the hon. Senator? Do I understand correctly that you are saying that in Tobago, the probation officers are not travelling officers and, therefore, do not qualify for travelling allowances?

Sen. Dr. E. Mc Kenzie: No, the probation officers are. I am talking about the lawyers, the attorneys who do the cases for the clients. The probation officers are travelling officers, but the lawyers do not get a travelling allowance for leaving Scarborough and going to Charlotteville and they spend an hour and a half on the road one way. So if you are spending three hours, and many times you go, the case is adjourned—what they were saying, they were asking the magistrate to transfer the cases to Scarborough and I said “no”, because then you are asking the poor person to pay \$40.00 in transport money to come into town, and if you keep adjourning the case and he has to keep coming back down to town, he might as well pay a lawyer and get his case done wherever. This is one of the points that I would like the hon. Minister to consider.

Mr. President, I was talking about the speed with which the processing of the claims has been taking place recently, because one lawyer said previously the claims took months before they got their pittance, but, within the last few months, within three weeks they have been getting their remittance and they found that was satisfactory.

In the case of cases that go before a judge, the field work is now done by the office as opposed to what happens in the Magistrates' Court, and the decision whether to grant legal aid or not is taken by the Legal Aid Board in Trinidad. Again, Mr. President, the client is in a quandary, he or she does not know whether he would be granted aid or not. We think that systems could be put in place where the processing of applications for legal aid could be done much more quickly, especially with respect to things like domestic violence and so forth, because I have heard the attorneys say justice delayed is justice denied. Am I right, Sir? That is it? By the time you know you have a problem, you should be able to go—before you go to the magistrate before he says yes, you can go—and begin to access legal aid, since it takes a long time.

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I think we have to speed up the process. I would recommend that we stagger the whole thing, introduce points; after certain months, we look at the lawyers who have to travel for long distances and we increase on the number of probation officers who have to do the investigating work.

Thank you very much, Mr. President.

5.55 p.m.

Sen. Martin Daly: Mr. President, access to the courts is one of the hallmarks of civilized society and I regret again to make the point that this is another area in which we are lacking in quality. Access to the courts now is not readily had by persons with low income.

The problem I have with this Bill is that it is a manifesto, it is not a practical piece of legislation because the Government has not committed the sum of money that it is prepared to make available for legal aid. Without such a commitment or such an indication, this document might be a good manifesto, but it is only a manifesto; it is only a statement of the Government's intention of what it would like to do about legal aid. If this Bill is passed in its present form, effectively, it has done nothing about legal aid because the Bill is to come into effect on a date to be proclaimed and the Minister, through no fault of hers, has absolutely no idea what money the Government is going to commit to legal aid and, therefore, this is merely a manifesto.

I have some practical suggestions as to how we might deal with it. I think it was quite wrong of the Government to come with this pretty manifesto without saying what money it is prepared to commit to it. It is a wrong approach. Sure, it is a laudable statement of intention, there is not one of the objectives of this Bill with which anyone can quarrel, but it is completely impractical without a commitment as to how much money is going to be spent over what period. So there is nothing in here to fault in terms of its objectives. What is at fault is, it is merely a statement of future intention.

I have what I consider some practical suggestions on how to ease the burden on the Government while they set about deciding what sum of money they are going to attribute to legal aid. I think Sen. Dr. Mc Kenzie is absolutely right, that it is not going to bring all this legislation into effect at the same time and, therefore, the first thing I would like to do is suggest that provision be made in this Bill giving the Government the ability to bring it in in parts, or in sections and

for that purpose—and I think Sen. Dr. Mc Kenzie is absolutely right—and I would bring this up in committee stage, it would be necessary to amend clause 1(2) which says:

“This Act comes into force on such day as is fixed by the President by Proclamation.”

That means the whole Act has to come into force in one fell swoop. So it means all the increases, both in the categories of cases which qualify, plus the fees, all come in in one fell swoop.

I do not believe in reinventing the wheel and I would be formalizing this in due course, but I think we must include there, a provision permitting the President to appoint different dates on which different sections shall take effect, so that there are different degrees of urgency. If, for example, as no doubt would be advocated, the provisions about domestic violence are urgent, then it would be possible to bring in that section by itself without having to bring everything in it. I think it is very important in a Bill of this kind where the cost considerations are completely unknown to have such a provision. I will submit a formal amendment in due course.

If that is so, then the structure of the Bill is bad. I am not a parliamentary draftsman and I do not know very much about the process of proclamation, but it seems to me the structure of the Bill is bad because if you are going to bring it in parts, I would need some guidance from the Minister's advisers as to how the Schedule is going to be brought in parts. It seems to me that is going to be very difficult the way this thing is done because the Schedules are so all-embracing they are such broad heads: Offences and Summaries Jurisdiction, High Court matters, assignments of legal aid to prisoners in high court matters. Even the domestic violence section is lumped together with the Status of Children, Family Law, (Guardianship of Minors, Domicile and Maintenance) Act and Attachment of Earnings (Maintenance) Act. I think we need to restructure this Bill in such a way that various things are singled out with the objective of introducing them at different times according to their priority and I do not think the structure of the Bill permits that. I would like the Minister's advisers to look at that to save the Government the embarrassment and the expense of having to try to find the money to bring all these provisions in at the same time, because I am quite certain if you proclaim this Bill and then deny people legal aid because you do not have the money, you are going to be faced with public law litigation.

Mr. President, to summarize where I am, I want to see a provision that makes it possible to bring in the Act by sections and I would like to see it restructured. If

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it cannot be done by reference to the Schedules, then the Bill would have to be restructured so it would be possible to bring different parts of it at different times.

I also think that the time has come when we have to make a quite separate provision for capital cases and I am very strong on this. Let me declare my usual position, subject to certain safeguards. I am strongly in favour of carrying out the death penalty, but one of the conditions—and it is as yet unexpressed by our masters in London—of carrying out the death penalty must be that the person whose life is at stake has competent and reasonably experienced representation at his trial. I think with the greatest of respect, although many very good lawyers have volunteered their services for \$750.00, the probability is that you would certainly get prisoners who are charged with murder from time to time who get a \$750.00 defence and, therefore, I think it is very important that we make a separate provision for capital cases, because I think that we are going to find ourselves in difficulty in the future. One of the conditionalities that I am sure is going to be exploited for the retention of the death penalty is adequate provisions by the state for the representation of indigent persons. For that reason alone, we need to put capital cases in a separate category.

We also need to put them in a separate category as far as the money which is paid for those defences are concerned. We also need to put them in a separate category because it is extremely urgent, more urgent than domestic violence cases, with the greatest of respect. It is extremely urgent to bring in the new provisions about legal aid for capital cases as soon as possible if it is this Government's intention to carry out the death penalty.

I think that capital cases must be taken out of Part III where it is lumped together with Assignment of Legal Aid to Prisoners in the High Court. I also think, in the case of capital cases that the starting fee, if you can call it that, of \$2,500 has to be revised upward. I appreciate it is \$2,500 with the discretion of the judge to increase it to \$7,500, but I think with capital cases there is need to have a far higher starting point. Of course, the figure these days, usually because of globalization, we think in US dollars, but a pound sterling figure struck me because that is where our capital cases go. I think we would be on much better ground if the starting fee for a capital case was £1,000 which, at the present rate of exchange would be TT \$10,600. I do not think a civilized society could reasonably ask a competent, reasonably experienced lawyer to put his best into a capital case for a figure much under \$10,000 and it fits well with £1,000. It is very important, otherwise this is going to be another stumbling block which is not very far away.

We are having a number of cases which are being referred back to the Court of Appeal by the Privy Council on grounds to do with the conduct of the trial, and believe me, I am giving you a free prophecy that is not far away. They have been referring cases back about exculpatory evidence not having been properly provided to the defence, inadequate exploration of insanity, and diminished responsibility and it is not far off. So I want to strongly urge the Government to make a completely separate provision for capital cases and to bring that provision in as soon as possible.

Mr. President, those are a few practical suggestions which would enable the Government to breathe life into what is only a manifesto and, therefore, they could work out more or less immediately because of relative to overall litigation, what the small number of cases are going to cost the state to provide proper representation in cases where the prisoner is on trial for his life. This can be worked out fairly quickly and bring that part of the Bill into force fairly quickly.

I am very sympathetic to the provision of legal aid in domestic violence cases and indeed, the Minister—I am not quite sure it is flawless, this might be a voop that went through the slips—was quite strong in her statement that the extension of the Legal Aid Act in these amendments will, I hope, lead to a reduction in the number of pointless murders and battering of innocent women and children. If you believe you are going to save just one life on the basis of that hope, just one life, and you know how I feel about total quality murder. If we are going to save one life by making these provisions, if you believe this, then you are on a bound to bring the new provisions relating to domestic violence into force almost immediately. I have a very strong position on how we are unconcerned, and those of us who express concern about it are excoriated for it. We are unconcerned about the cheap loss of life in this country. I would continue to drum that in for as long as possible. If we accept that we are a society which has pointless murders—that is what I have been complaining about so I am happy to welcome the Minister on my side in the total quality fight. That is what I have been complaining about, that and the battering of women and children. So you are on a bound to bring those provisions relating to domestic violence into force almost immediately. You are not going to be able to do that unless the Bill is sectionized or you segment the various headings in the Bill and provide for them to be brought into force at different times.

I regret there is some work for the draftspeople to do to ensure that different parts of the Bill—and these Schedules are very muddled and I do not think it is

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possible to bring various parts of this Bill into force piece by piece given the present structure of the Act. I would like the draftspeople to be a little more inventive than doing it by bundling up everything in the Schedule.

Finally, Mr. President, I think it is absolutely clear from the debate so far, that the Government is looking—and I speak in language of hyperbole—at zillions of dollars if it is serious about this, because not only is it what it is going to cost to provide the fees for the attorneys to conduct these cases, and Sen. Dr. Eastlyn McKenzie has extrapolated a six times increase in Tobago. Not only are we looking at the cost of the increase in the fees payable to attorneys, but it is clear from those who obviously know much about this in the field that the infrastructure to manage this scheme is also going to have to be beefed up considerably at big costs to the Government because again, it would be completely illusory to tell people we have improved legal aid, but it would take some years to get it. Completely illusory. So, let us be very clear that we are talking about some serious nuts and bolts arrangements here and some serious financial commitments. I feel equally strongly that it is a terrible thing to raise people's expectations and not actually provide the money or the infrastructure where they can access it.

6.10 p.m.

So we are looking at a very big cost here. In fact we have had the more personable ministers today. It is not characteristic of this Minister to get carried away by her own rhetoric and I think that it is very important that before the Government starts touting the fact that it has improved legal aid, Members sit and do the prioritizing and the arithmetic. Otherwise this Bill, even when it becomes an Act would simply be a manifesto. Thank you, Mr. President.

Sen. Muhammad Shabazz: Mr. President, it seems as though praises are in order for the Minister. That seems to be the trend today. This is indeed, again a good Bill. At this point in time—I just have a little thought here. I am wondering, a Government that came into power—and I am saying the Bill is good—saying that when you do the crime, you do the time. At a time when we see crimes increasing, here is a Government talking community mediation, talking plea bargaining, sometime in the future, talking a number of ways to make it easier for the person committing the crime. Maybe that is commendable. Their theme: “Do the crime, do the time”, and where crime is indeed increasing, probably it is nice to see you being so nice to the criminals. Very, very good.

Another point that we looked at, 27 years ago this Bill was implemented. A number of people talked about the costs for 27 years, that was paid to lawyers. I want to say, here and now, 27 years from now when we look at what you are paying lawyers today, when we look back, it would indeed look like a small cost. What we have to understand, is that the effort was made, the time it was implemented, and it was implemented under the People's National Movement Government. Just as you are taking credit for it now, we did it with a reasoning.

Mr. President, it was quoted here, what was the intention of the Government at that point in time. Let me say it again, when we look back 27 years from now at the figures here, it will indeed be very small figures. So, remember that it was started at a point, and you have continued it, so continue it without condemnation for what had happened in the past, because it is the past that determines now, and will continue to determine the future. I hope that now you have taken it up, when we come back into power, Mr. President, next five years, that we would look at it again and hope that we would take it to a different level.

There are a number of things that have been widened. We talked about widening the range. It is good to see that the range has been widened; that things like domestic violence, and a number of other things have been brought into consideration, as far as this Bill is concerned. Maybe, we need to look at other things, but again, one of the points that keeps coming up is the question of financing. Mr. President, because of the financial situation, the economic situation this country is in, something that we have always been warning them about, and they have always seemed to deny—it seems very difficult to have this Bill implemented. It is nice to hear the truth coming from them, that we are in bad economic times, things are harder and it may be a bit difficult, as everybody is saying now to implement this. But, again, it is good to see it coming forward.

The question of the increased fees, there are certain other things that are of concern to people. Although the ceiling for the amount of money somebody is to earn, has gone up, there are still certain considerations that must be looked at. There are people who may be making more than the money, but because of their financial situation, family situation other commitments, they may still need to access legal aid. Maybe there should be a way, or some sort of consideration, some sort of body to investigate, that may be able to help some of these people. I think that you should look into it.

Of course, with the economic times, the financial situation, it might be asking too much to try to widen that base. But it is something Government needs to look at and think about.

Some people talked about the question—I see it has been brought into effect, procedural matters, how quickly these things are to be effected? I have seen that you have taken the time in some cases—I think domestic violence was one of those things which I saw, Mr. President—to try to do it quickly. Maybe Government needs to look at it for other cases. Maybe the system needs to work and to operate a little faster. The Minister has made a point here that I would like to read. Mr. President, I think the Minister understands. She said: “I am saying that clause”—when speaking of a certain clause—“would allow us to set up schemes, such as this one and others that we can deal with”.

One of the things that I have very much in my mind since last year, since the coming into being of this Government, is the whole business of public legal education programmes. That is commendable, because I think the Minister is always talking about educating the people on the things you are doing. The question is, Mr. President, whether it is being implemented, whether you are putting them into effect. The Minister’s intention may be good, but there is a good old saying: “The road to hell is paved with a lot of good intentions”. Be careful! You have good intentions, you are committing people, you are committing your Government to wanting to educate, wanting to reach out to people, and a lot of times it is not happening. Maybe they are not seeing it as you are seeing it and a lot of it would not happen now, because they do not have the funds to do it. But I understand that.

I said it publicly I think sometime last year, that we pass laws in the Parliament almost every week. Sometimes we sit here for several days on end, and we keep passing more and more laws, but how many people out on the street have any idea what these laws are? What effect these laws have on their lives and how can they benefit from them. And, of course, how can they be defended by them?

Yes, I think you agree, and you understand. Mr. President, the Minister understands, you come in here and you pass a number of laws. I do not know, as I have said before, it is fashionable for this Government to pass laws, and they pass many laws. And the point is made here today, again they are passed for public relations reasons. It seems—I am not saying—it seems to be, that they pass them to try to show that they are doing something so different from what the People’s

National Movement government did. You come here, and the intention seems to be in question all the time. That you pass these laws, you bring these laws, and you do not care whether they are implemented. You seem not to care whether you have the funds to do it, nothing at all. You just pass them and at the end of the day you would say, I have passed 120- something laws, when you have only passed 40-something. Maybe, if that is what your reasoning is, I think you need to look at that. But I commend you for thinking about the question of education, and educating the people, as far as the laws are concerned.

There are a number of things. I saw here again, a provision that I sort of like, something that you were talking about—"We are too familiar, as practising lawyers—where because there were no lawyers to advise, the wrong charge was placed on someone, and the person goes free at the end of the day". Maybe that is nice, have lawyers at the station, have lawyers all about, set up lawyer stations, if you could get them, where people could go in and talk to lawyers. Talk it, have it nice, have it all, have as many lawyers as you could find, where people could get as much advice. Whether, it could be implemented again, is where the question always would be.

Again, the Minister's intention is good, but it seems sometimes when she talks, Mr. President, you seem to be talking maybe just public relations. And as somebody rightfully said, in the House many of the Bills really seem to be part of Government's manifesto for the next election coming—that you are definitely going to be losing.[*Laughter*] I just add part of it.

In the Minister's presentation she said, and I quote from the *Hansard* of February 9, 1999:

"For example, one person may do damage to another person, whether to that person's property, or physically damage limbs. To go to the court and the perpetrator may end up being locked away in jail, when what the person needs is, in fact, if you have damaged my car or my person, I may very well need money in order to get compensation to bring myself back on my feet."

6.20 p.m.

I think that that—it is sounding good but I think you need to look at that because again your philosophy, not mine, and although mine may be mine, is to operate within the law. Yours is when you do the crime you do the time.

Mr. Maharaj: Those are not crimes.

Sen. M. Shabazz: If somebody mashes up somebody's car or somebody injures somebody's limb, I do not know if you are trying to misdirect me to make me feel that is a civil matter. If somebody destroys somebody's limb, I am not a lawyer, but to me that is not a civil matter, Mr. President, that is legal action. My limb is injured, that cannot be a civil matter. I am saying that if that is done so and you are trying to pull the thing together, some sentences must be custodial. Not that you are thinking of the other person but you are thinking of other people to deter—as a deterrent to other people from committing such crimes.

So this way that you want to be patching up all the time and you want to be helping out other people, your thing is if you do the crime you do the time. Hang them high. You want some time?

PROCEDURAL MOTION

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): I just want to move a procedural motion, Mr. President. In accordance with Standing Order 9(8), I beg to move that the Senate continue until 6:45 p.m. or at the end of the Senator's contribution, whichever comes first.

Question put and agreed to.

LEGAL AID AND ADVICE (AMDT.) BILL

Sen. M. Shabazz: Yes, Mr. President, as I was saying, some sentences must be custodial. I like the way—you see it is a pattern or it is something with this Government that I keep hearing one thing one way and like my next ear is hearing something else. Again, be sympathetic towards the criminal but remember what you stood for and how you came into power.

Mr. President, you know, when I hear that it is like I am hearing somebody saying in my ear, to get results in this system you must protest, and then I am hearing in the next ear on that side somebody saying it is only fools who protest. I am saying I would like to get results, I am saying I would like to hear this Government, Mr. President, talk with one voice and say one thing so that confidence they need to build in people to move this country forward will be there and not those double standards and double-talk that we continually hear coming from on that next side, and again that will be their downfall when the election comes, Mr. President.

I did not get something clear and I hope the Minister, Mr. President, will explain. She is saying that “the extension of legal aid in these amendments to include domestic violence will, I hope, lead to the reduction in a number of pointless murders and battering of innocent women and children.” I would like her to explain that because maybe it is clear to her but to me, Mr. President, it is not so clear. It sounds just as she said just now, a sort of parable.

How would giving legal aid help to decrease domestic violence and the battering of innocent women and children? How would it? I would just like the Minister to explain. I am not seeing it as clearly as they are seeing it. But I am seeing it here. It is in *Hansard*. I quote:

“The extension of the Legal Aid Act in these amendments to include domestic violence will, I hope, lead to a reduction in the number of pointless murders and battering of innocent women and children. If this amending Bill will achieve this alone, it will serve its purpose, but it does far more than that. I have given a broad outline of the existing Legal Aid Advice scheme as it operates under the existing law, and it will be apparent why amendment is so desperately needed today.”

If the Minister could explain that to me, I would be really—or maybe it is an error printed here.

Mrs. Persad-Bissessar: Mr. President, I am sure I would have my turn to reply but that seems totally opposite to what I said, so I would really like to see if it says increase or decrease because I spoke about reduction. I have not heard you mention, when you were reading, the word “increase.” When you read it I heard “reduction.”

Sen. M. Shabazz: That is what I am saying. That is the very question you would get the chance to explain to me and I would see how, by giving legal aid, how it would reduce crime. I do not know if that is a new way. I do not know, Mr. President. I do not know how domestic violence will be reduced. I cannot see it. It seems as though we are putting the cart before the horse, or as I normally say on this side, the radios before the jeeps.

Again, we come back to why should we—remember the legal aid is not just for dealing at the point of the courthouse; it is also legal aid and advice. Commendable if you could widen the scope, very, very fine. As I have said, what I have seen here is that a number of things have been included. A number of things have been brought into the net; whether it could happen is a very important thing.

Some of the things that lawyers seem to be questioning, one, they seem to feel that the way legal aid comes to lawyers there could be some type of favouritism. That is just a concern I have heard out there, as to who gets legal aid cases and how they get them. I think you need to look at that. It might be absurd but I am saying that because lawyers feel—because the same question came up with the question of the lawyer who was a first-year law student who got a murder case and they are saying that some lawyers get more or have access to more than others and maybe because of some connection. I do not know. I ask the Minister to look into it and probably to explain.

There is another situation. You have a number of lawyers—because I think that this is what is happening—who might be very good lawyers in this society, who would like, probably because of what they have received, and I have heard this coming from some, from taxpayers' money they have been educated and they would like to give something back to the system. I think the hon. Minister said that she did that too. Maybe she could call some of them in and speak to them and perhaps she may not have to increase the fees but they may give the Government one case a year or two cases a year and the Minister may be able to take some of these very murder cases that she is talking about, where money is limited, to some of these lawyers.

Maybe Sen. Daly might be one of the people very willing to give a case a year or a case every two years. [*Interruption*] I am not saying you do not but I am saying “maybe” and maybe he could do a free murder case on a legal aid basis without even thinking about the £1,000 for the case, you know, as a contribution. Maybe if you could get more people it would raise the standard of legal aid, it would raise the kind of lawyer you would get, people who are committed to the service, patriotic people, seeing the country go better, and maybe he should be asked and I think at this point you—

Sen. Daly: I wonder if the Senator would give way on two points. One is to assure him that the cost of sitting and listening to him right now, to me, is quite high. More importantly, I think he needs to be careful what he says about discrimination in the allocation of legal aid, because as I understand it the Director of the Legal Aid Authority, who is an independent lawyer, if he does not have the authority of saying certainly has a great say in that and you may be unwittingly tarnishing the professional reputation of the current director.

Sen. M. Shabazz: The point is accepted but I have brought to the Senate what I have heard. It is not my concern. I am glad that the Senator could correct it and I take it from him that it is not so and that I have gotten it from a source as impeccable as the hon. Senator and I accept what he has said. But I am saying that it is one of the things that we have heard and we need to look at that.

Again, it is good to see that fees, everything is increased. It is good. I think I am coming to the end here, Mr. President, and I am coming to the end saying—another point we need to look at, besides the length of time, the question of how long people stay in the system, even the person who committed the crime, how long it takes that person at times to access the legal aid system, is something we need to look at to see how much we could quicken that system, so that the whole court procedure could be something completely different.

Again I would like to finish where I have started, Mr. President. It is nice to see that for a Government which came into power on the promise that when you do the crime you do the time, a Government whose philosophy is hang them high and trying their best to do that, a Government which really would like to see crime decrease at a time when crime is increasing, really looking and trying to do something good to help the criminals. That is something I need to look at. But again as I have said, this is a Government that indeed double speaks and, well, at this point in time I wish them all the best. I support the Bill.

ADJOURNMENT

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, before I move the adjournment, may I just indicate first, that I would like to thank Senators for allowing us the use of today and we have promised that we will have Private Members' Day at the next sitting.

At the next sitting what I hope to do is to finalize or finish the Legal Aid and Advice (Amdt.) Bill, possibly the Dental Profession (Amdt.) Bill. I say "possibly" because while we did recognize there was some urgency about it, apparently the urgency seems to be dissipating. If it is critical we would want to do it; if it is not—then we would have a Private Members' Day for the rest of the afternoon.

So, Mr. President, I beg to move that the Senate do now adjourn to Tuesday, March 2, 1999, next week Tuesday, at 10.00 a.m.

Mr. President: Hon. Senators, before putting the question I would also like to add to what Sen. Daly mentioned earlier, and that is, while Members of the

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Chamber, in the Parliament, do have a degree of privilege, one should really be careful not to make statements that can impugn the character of people who are not in the Chamber to defend themselves and who perhaps are innocently tarnished, and I warn us to be very careful.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.32 p.m.