

*Leave of Absence**Saturday, September 04, 1999***SENATE***Saturday, September 04, 1999*

The Senate met at 10.30 a.m.

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

Mr. President: Hon. Senators, leave of absence has been granted to Sen. Prof. Kenneth Ramchand from today's sitting.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following communications 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: MRS. NIRUPA OUDIT

WHEREAS Senator Professor Kenneth Ramchand 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, in exercise of the power vested in me by section 40 (2) (c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NIRUPA OUDIT, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Professor Kenneth Ramchand.

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 3rd day of September, 1999.”

Senators' Appointment
[MR. PRESIDENT]

Saturday, September 04, 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: MISS CARLENE BELMONTES

WHEREAS Senator Joan Yuille Williams 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 Leader of the Opposition, 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, CARLENE BELMONTES, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Joan Yuille Williams.

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 2nd day of September, 1999.”

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Nirupa Oudit and Carlene Belmontes.

**SELECT COMMITTEE REPORTS
(DEFERMENT)**

Mr. President: Hon. Senators, I seek your leave to defer this item until a later stage of the proceedings. Do I have your consent?

Consent indicated.

ORAL ANSWERS TO QUESTIONS

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I have obtained leave of the Hon. Senator to have questions No. 17 and 18 deferred to another sitting of the Senate.

The following questions stood on the Order Paper in the name of Sen. Diana Mahabir-Wyatt:

Corporal Punishment in Schools

- 17.** Can the Honourable Minister of Education tell this House whether it is the intention of this Government to prohibit corporal punishment in schools in accordance with Article 28:2 of the Convention on the Rights of the Child, which was ratified by this country in 1992?

Plan of Action (Persons with Disabilities)

- 18.** Could the Hon. Minister of Social and Community Development and Minister of Sport and Youth Affairs state:

Have implementation dates for the various provisions contained in the Plan of Action with respect to the policy for persons with disabilities which was approved in 1994 been targeted?

If the answer is in the affirmative, could the Minister give:

- (a) Target dates for implementation of the various provisions;
- (b) The up-to-date position on what targets have been achieved and which are still in the planning stage?

Questions, by leave, deferred.

10.45 a.m.

ARRANGEMENT OF BUSINESS

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I seek leave of this Senate to deal with Bills Second Reading, before Motions.

Agreed to.

Sen. Prof. Spence: Mr. President, may I have your leave to ask a question?

Mr. President: A question on what?

Sen. Prof. Spence: Does the Red House not have a stand-by generator? I was amazed that we did not have the possibility of continuing on Thursday last.

Mr. President: I think the answer to that is clearly no.

CONSTITUTION (AMDT.) (NO. 3) BILL

[Second Day]

*The committee of the whole Senate resumed its deliberations on the Bill.**[Chairman: Mr. Ganace Ramdial]**Senate in Committee.**Section 66 (cont'd)*

Mr. Chairman: Hon. Members, when we adjourned last we were on Sen. Dr. St. Cyr's proposed amendment. We had dealt with (B), had deferred (F) to a later stage, and discussions were taking place under (C), "Municipal Corporations"

Sen. Dr. St. Cyr: Mr. Chairman, I was on the floor when we stopped on Thursday evening. I was arguing two points with respect to the removal of municipal corporations from the purview of these Joint Select Committees.

The first point is that we seem to be concentrating, centralizing power in this proposed Bill, whereas, up to now, the general trend has been to decentralize power as, for example, the Tobago House of Assembly Act. So I am generally concerned that we seem to be concentrating power. I am saying this against the background that the Parliament is substantially controlled by the Cabinet, and the Cabinet is substantially controlled by the Prime Minister, so we are really concentrating power.

My second point is that we seem to be undermining the elected members of the municipal corporations by having the officials in the corporations come directly to answer to the Joint Select Committees. I was bothered that the inclusion of municipal corporations in this Bill is running counter to a fundamental principle in the practice of our democracy. This is why I proposed that we delete municipal corporations from this Bill.

Sen. Kuei Tung: Mr. Chairman, I accept, in principle, everything that the Senator has said with respect to decentralization. It certainly is the policy of this Government to decentralize. But I thought it was a widely accepted convention, at least, a management convention or practice, that decentralization does not mean you must remove scrutiny and control. By control I do not mean necessarily the control of the operations, as much as the control of getting things done, because someone has to ensure that things get done.

I do not think that what we are recommending here is really, in essence, controlling or trying to get it done for ourselves, or recentralization, if I can use that expression. The amendment being moved by the hon Attorney General this

morning, would remove any doubt as to the fact that the parliamentary committee will not interfere. It cannot change decisions or interfere with decisions made by the municipal corporations. It merely gives an opportunity for parliamentary scrutiny.

I think we have to remember that as parliamentarians we have many times been asked by our constituents about things that go on in other areas, and we have no answers. Unless these things can be aired, I think the question of parliamentary scrutiny will not give us an opportunity to have these questions answered. So I do not think we should see it as if we are trying to control, recentralize power from the municipal corporations because, as I said, it is a management principle that while you decentralize, you do not lose sight of the decision-making. You would, at least, want to be aware from an information standpoint, and certainly you would want to scrutinize it, from time to time. That scrutiny, in my view, will be no more than a moral check to make sure that the municipal corporations are complying with the requirements of the law.

I hope the hon. Senator would understand we would want to insist that the municipal corporations remain under the scrutiny of Parliament and not necessarily under the scrutiny of Cabinet and, certainly, it is not our intent to re-control or recentralize, as I said, the whole municipal corporation back to Central Government.

Sen. Prof. Spence: Mr. Chairman, if what the hon. Minister has said is, indeed, the intent and he has referred to the Attorney General's amendment, then the amendment would have to include municipal corporations and not just service commissions. The Attorney General used the amendment as justification for his argument that it would not interfere with the functioning of the municipalities, so he would then have to add to his amendments municipal corporations and service commissions.

Sen. Dr. Mc Kenzie: Mr. Chairman, as you know, I also have a problem with the municipal corporations. My problem is this: the inclusion of elected people to be—I do not want to use the wrong word—scrutinized or whatever it is, brings them into the day-to-day administration of their division. So we are now giving these people a reason not to be independent.

So what we are saying is that politicians have to answer to other politicians. As a consequence if I am accountable as a politician—and I have seen it happening in Tobago and right now I know that the Public Service Association has a big fight with the Ministry of Public Administration over the Chief

Secretary's appointment—if you want to call it that—of administrators in the Tobago House of Assembly (THA). So he and other secretaries in the THA have put themselves in the position to hire, fire, transfer and lock out public servants, because we are saying to you elected people, "We are holding you accountable."

If I am an elected person, and you are going to hold me accountable, then I am going to hold the reins and ensure that the people who are employed with me would be answerable to me. I must have a say in who comes to work with me. I know the hon. Minister of Finance knows that this is one of the problems they have right now with the Assembly. The Chief Secretary made it public on the radio in Tobago, "I have said who must be my administrators because Trinidad wants to tell me who must come to work with me; they will come to break up what I have to do, fought my efforts and, therefore, I have taken the decision to appoint these people temporarily until the Service Commission does something."

Mr. Chairman, my whole problem is really a complex one from experience. That is what is happening right now. If we play this as it is, we are playing right into the hands of people who want to do exactly what the Minister of Finance is saying we do not want to. That is how I see it.

Sen. Montano: Mr. Chairman, I would like to support the statement of the last two Independent Senators. I disagree, fundamentally, that in an open forum the politicians themselves should be held accountable to other politicians in the manner being suggested. I am not suggesting that the corporations not be accountable, but the manner in which it is being suggested is not in concurrence with my thinking at all.

What, in fact, we are going to face is a situation where a sitting government is going to be in a position to call in members of a corporation controlled by the Opposition of the day, and the issues are going to become political footballs. It is not going to be a question of management at all. These hearings are going to be held in public, therefore, what is going to take place, in the absence of knowing how the committees are going to be structured, because we do not have the Standing Orders even in a draft form in front of us—we can only assume, we know what politicians are—is that advantage will be taken to abuse the situation and embarrass the members of the corporations. I do not believe that serves the interest of the country.

11.00 a.m.

We are not talking management practices here. What we are talking is politics and that is not what this Bill really seeks to accomplish. What is at the root of this

Bill, from what the Attorney General has said, is really to achieve a management solution but he is not really accomplishing that. What we are setting up here is a formula for more politics and I cannot see that being in anybody's best interest.

Mr. Maharaj: Mr. Chairman, it seems as though there is some merit in that it could probably increase difficulties because you will have political considerations, because of the system we operate in, where we will have probably a PNM-controlled corporation and you have a committee, so it may be that what we should do is find a way to have the corporations but not the elected people. I have just spoken to the draftsman with a view to calling, perhaps, the public servant, the chief executive officer, but not the elected persons.

Sen. Montano: That is eminently preferable and less offensive but it still offends on the same premise that it offends the sections on the service commissions, that is to say, we are calling in front of politicians, professionals who are engaged in a professional environment and being held to account. Now what is going to take place there is the intentional political embarrassment of certain members of the commissions and/or the services themselves and again, for the same reasons, that cannot be right. What we are already witnessing is the politicization of the services themselves, contrary to all of the history that we held close to us.

That cannot be right. That cannot be the way to solve the management difficulties. When we come to deal further with section (F) what we are really looking at is the empowerment of the Public Accounts and Public Accounts (Enterprises) Committees to really do what should be done here. I will talk about that when we get to that section, but I cannot help but feel that this area really belongs as part of that debate and it really has no place in this at all.

Mr. Maharaj: Mr. Chairman, in responding to the second aspect of the Senator's contribution, I think it has to do with the policy of the Bill and I think the policy of the Bill is that there would be scrutiny. Even in the Public Accounts Committee there are public servants appearing before the committee, so that the whole system of parliamentary committees has to do with scrutiny. However, I take the point that it is something I would like to look into. I have spoken about having the elected people because I think the point that Sen. Dr. Mc Kenzie made is a point really worth considering. But the second aspect of what you have said has to do with policy and, in relation to the whole principle of select committees, if you travel throughout and look at it you will see that public servants always come before select committees. It does not affect their independence or anything like that.

Sen. Montano: Mr. Chairman, I understand what the Attorney General is saying and I understand what the policy of the Bill is. I am not in fundamental disagreement with the policy objective of the Bill. I am in disagreement with how you are going about it. I do not believe that this is the way to achieve it. I am going a bit ahead of myself here in that we already have two agencies, the Public Accounts and the Public Accounts (Enterprises) Committees that were deliberately set up to monitor the financial affairs of state-owned organizations and enterprises.

The Minister himself has admitted that, to a large extent, those committees have failed in their objectives. They have failed largely because the dynamics of the need for the type of scrutiny have, in fact, changed. Therefore, what is really necessary is not so much to set up a parallel committee but to empower the committees that we already have with the authority they need to do the job that they should be doing. The problem there, of course, is that the sections that deal with the Public Accounts and Public Accounts (Enterprises) Committees are entrenched provisions. So what the Attorney General has done effectively is to seek to create that power but outside of the two committees.

Now part of the objection that I have is not so much what he is doing but the fact of the matter is we have no Standing Orders so we do not know how these committees will be run and managed. So that to a large extent what we are talking about is a vacuum of authority. We really do not know what the authority is, how the authority is going to be run and will be vested in the committees. So it becomes difficult to imagine exactly what is going to take place. Keep an eye on the fact that the time that we all have to do these things is limited. Therefore, does it not serve, in fact, to empower the two existing committees with the authority that we are talking about here?

That is what makes more sense because we are now going to have two committees doing almost the same sort of thing and crossing over each other. It seems to me that we need to vest the powers jointly. That is the point, Sir.

Sen. Prof. Spence: Mr. Chairman, we seem to have gone into a discussion of the merits of parliamentary committees so I want to make my position quite clear. I have always supported the idea of having these parliamentary committees. I do not see that their responsibilities would be the same as those of the Public Accounts and Public Accounts (Enterprises) Committees because they have to look at the whole gambit of the activities with respect to financial matters. These committees can be more selective in what they choose.

I want to just give an example of the power of these committees in the United Kingdom Parliament. I once recently on the BBC Overseas Service heard a member of one of these committees complaining or stating publicly that the Ministry of Foreign Affairs was so perturbed by questions she was asking at this committee that they were actually sending her messages privately saying that if she continued to ask the questions they will expose her private life. That shows the power of these committees and the effect they can have on individual ministries. So I have no doubt as to the advantage of having select committees. Their proceedings should be in public unless there are particular circumstances in which they want to have them in private, and they should be broadcast over the television on TIC on a continuous basis. So that is as far as the committee goes.

Now as I said previously I do have some problems with the service commissions. If we can modify the effect along the lines being suggested by the Attorney General to indicate that we do not want to interfere with their constitutional position, then I feel that is an advance. I certainly think that the arguments made by the hon. Minister of Finance would suggest that his amendment should go further than just the service commissions, and I think the Attorney General has accepted that position. So I think we should come up with an amendment that does that but still allows us to investigate on a wide basis all the activities in this country, both central and local government.

Sen. Shabazz: Mr. Chairman, the whole question of the municipal corporations, I think that we feel it should be left out as suggested by Sen. Montano. The reason is that there are two types of corporations. In a situation like ours there is one controlled—regardless of who is the government—by Government and one controlled by Opposition members as obtains now. Those that are controlled by the Government maybe they are accountable to the Government. Those controlled by the Opposition, we run those corporations. Now if you are going to take out the elected members who, in truth and in fact, would be running the corporations and only take those people who are not elected, somehow we seem to have a little problem there and we need to look at that.

In addition to this, we could talk and try to work it out but it is a salient situation as to what is happening now with the corporations and we must take that into consideration. We cannot bypass that. We cannot bypass what is happening in the corporations now, the type of control that Government seems to want. We cannot bypass what is happening now with the Siparia Corporation and say, “Well, it would not happen”, because it is indeed happening. We are not dealing with a theoretical situation here. We have a practical situation as to what is

happening with corporations and we must look at it from that angle too in order to deal with it.

If the Attorney General says that we will take out elected members it seems as though we will be having a certain type of problem and we should look at it. I would agree that, as we are saying on this side, because of the two types of corporations it should be left out completely or, if Government wants scrutiny over the corporations, let them scrutinize the corporations that they control. *[Interruptions]* Well it is just a point. I do not care if you agree. I have my opinion too. You have yours.

Sen. Hamel-Smith: Mr. Chairman, I think Prof. Spence articulated the advantages of having a joint select committee of Parliament very, very well and I think that gives rise to looking in a more long-term and wide-ranging way at the merits of this committee rather than the short-sighted view that is being expressed here. What is being expressed here is a view as it relates to municipal corporations as they exist today. That is, that some of these municipal corporations are, in fact, controlled by the Opposition and many of the contributions are being premised on the basis that this is central government, which does not have control over these municipal corporations, seeking to assert themselves on these municipal corporations.

I think that is a short-sighted approach. What we have to see is the big picture. That may not always be so. This particular Bill is attempting to introduce into life a situation where ministries and other organizations, including municipal corporations, are being told that they are going to be held to scrutiny by a joint select committee of Parliament on certain issues. I see a horrible situation happening here if, in fact, you are talking about ministries exposing themselves to this and these local government bodies being told that because—using Sen. Shabazz' arguments—they are controlled by another political organization, that a joint select committee of Parliament should not scrutinize them. I see the thing as being not compatible at all. I really feel that we need to decide whether we want scrutiny. If we want scrutiny we need to provide the joint select committee with a full vision of what is going on and not exclude local government from—*[Interruption]*

Sen. Mahabir-Wyatt: Mr. Chairman, I agree with Sen. Hamel-Smith. If we stop looking at it from a political point of view and look at it from a citizen's point of view, there is no reason why municipal corporations should not be subject to scrutiny. I do not care whether the Government or the Opposition controls them. If the employees are told to do something that is, according to financial

procedures, not correct, I want to make sure that there is scrutiny of that. Then they can say, "No, I am not going to do it because if I have to go before a joint select committee I am going to have to be the one to explain". I do not think we should be looking at this always from a political party point of view. In this country there are citizens whose rights need to be protected.

Sen. Mohammed: Thank you very much, Mr. Chairman. Mr. Chairman, in an attempt to put some perspective back into the discussions, in terms of what Sen. Hamel-Smith just mentioned about whether or not we are in favour of parliamentary committees, I think for the record we must re-emphasize our position. We are in favour of parliamentary committees in order to bring about scrutiny in the sense that we are talking. However, in terms of what is being proposed here we have fundamental concerns.

11.15 a.m.

With respect to the Local Government authorities, I remember last Thursday the Minister of Finance himself making reference to the fact that accounts are provided and he just brings them to Parliament from the municipal corporations and they are dealing with accounts from some years gone by. Now, we need to get to the root of the problem, and this is why in our contributions we talked about the need to beef up the existing mechanism. If it is that the accounts are tardy in coming, then certainly, we need to examine what would be required, whether they have the appropriate accounting staff at the corporations to prepare the necessary accounts so that they can be presented here in the Parliament. These corporations are accountable to the Ministry of Local Government. When we come here to debate the budget we discuss the allocations for the year.

The other matter is with respect to, for example, the Tobago House of Assembly.

Sen. Daly: That is out.

Sen. Mohammed: Okay. Very well. But in any event we have a position where there is an Auditor General in our system and clearly, there is a need to look into that process and see what we can do to provide the necessary machinery to strengthen the institution in a way that you can have more timely reporting and accounting taking place so that, whether it is through the Public Accounts Committee, or whichever of the committees that exist, you would have greater efficiency in what is being done.

I think, for the records, we need to re-emphasize that we are in favour of parliamentary committees to scrutinize, especially when it comes to ministries,

but the extent to which this legislation has gone, we have some serious concerns about it.

Sen. Daly: Mr. Chairman, I will try to summarize where we are in this discussion, if I may be so bold. First and foremost, it must be readily apparent to all Senators that the complaints that Sen. Prof. Kenny and I have made about the parliamentary timetable, doing things under the gun and under the duress of time are well founded. It is too late to complain about it much more, but in the discussion, it is becoming clearer and clearer that we are trying, under the gun of time, to alter some very delicate political, legal and constitutional relationships. That is apparent to everybody in the room. So let me begin again by saying how foolish it is for us to always find ourselves in this kind of end-of-term business where we have to go to Chaguaramas by “X” time.

Having said that, it is naive to ignore the political element in this, but it is equally important to recognize the legal and constitutional element, as well as what I might call the concerns of the Ministry of Finance. So we are trying here. It is no good trying to elevate one to a higher importance than the other. The political element is important; the legal element is important; the constitutional element is important and the concerns about public expenditure are equally important.

So what we are really trying to do is this: we are trying to say that we want Parliament to have scrutiny of people doing executive work—I use the word “executive” with a common “e”—management work, not judges, management business, running the country. We are trying to have scrutiny on that, but at the same time, we cannot do violence to either the political or constitutional authority of these bodies. That is the dilemma that we are facing.

Maybe, the answer is to explore a bit further what has been suggested about an amendment that makes it plain that it is not the function of any of these parliamentary committees to reverse anything or change anything that any of these bodies has done. If they have done it wrongly, in the sense that they have broken Exchequer and Audit rules or whatever, that has to be shown up in order to avoid it happening again and also in order for it to reflect on the political and management competence of the people involved; that is really the dilemma that we are trying to resolve.

So in other words, if we are to make an encroachment on the political and constitutional authority of these bodies, we must do it in such a way that what they have done cannot be reversed by the work that is carried out by the parliamentary committee. That is what we are wrestling with.

I wrestled with it in my contribution in a more acute form in relation to the judges and we got over that. I mean, it is a lot of words, Sir, but I think that is what we have to try to resolve. We have to have some method of scrutiny that does not set up the parliamentary committees like a kind of court of appeal or court of reversal over some decision that a body has taken. So if they bought a set of pitch without the financial authority to do it, subject to any other activities we may undertake to secure a reversal, it cannot be reversed in the parliamentary committee, they can simply say it was a wrong act.

Mr. Maharaj: Mr. Chairman, I am indebted to Sen. Daly for making it so clear as to where we are and, in anticipation, to some extent, of how the discussions were going, the draftsman came up with a draft and I merely wanted to read it:

“A joint select committee in exercising its powers under subsection (1) may not modify, alter, rescind or in any way interfere with the decisions of any of the bodies referred to in subsection (1)(a).”

Which means that any of the bodies referred to, whether it is a municipal corporation or whatever the body, we cannot interfere with it.

Sen. Mahabir-Wyatt: Repeat that, please.

Mr. Maharaj: A joint select committee in exercising its powers under subsection (1) may not—but if you want “shall not” we can put it—modify, alter, rescind or in any way interfere with the decisions of any bodies referred to in subsection (1)(a). Because that is really the policy of the Bill. It is not to interfere with or modify any decision or anything like that.

Sen. Mahabir-Wyatt: *[Inaudible]*

Sen. Prof. Spence: I rather like the phrase in the Attorney General's original amendment. I would like to see us still capture in that phrase “the validity of the exercise of the functions”.

Mr. Maharaj: We can include “validity—

Sen. Daly: It is possible to combine both safeguards; it is a matter of drafting. In other words, you can use the original amendment and then you may use, reverse, modify, or whatever.

Mr. Maharaj: We can combine both.

Sen. Montano: The Attorney General had agreed to remove the elected officials themselves from—

Mr. Maharaj: I will consider it. I was talking to the draftsman. If we are going this route, I think we can leave the municipal corporation as it is and make it quite clear that you are not changing their decision.

Sen. Dr. St. Cyr: Mr. Chairman, I think we have made substantial progress. I have one difficulty I would like still to grapple with and it is this: if the persons coming before the joint select committee are elected, we have the problem that Sen. Dr. Mc Kenzie alluded to, that we would be causing the elected persons to get involved in executive functions. If, however, the persons we would have come before us are the administrative officers, then what we would have been doing is weakening and/or undermining the influence of the elected persons over the policies of those municipal corporations. I wondered whether we could just address our minds to getting the right balance. In other words, is there a way that prevents us from falling into either of those two traps?

Mr. Maharaj: Mr. Chairman, I do not think I can do better by quoting Sen. Spence. That really goes into the merits or demerits of the committee system. But in the committee system, it is not getting the person involved. An elected person as a councillor, when he comes, does not get involved in executive matters. The purpose of the committee is to scrutinize what has been happening with public funds and, in effect, with public empowerment. So what happens is that he comes to give information to the Parliament and the Parliament represents the people, but he does not get involved in executive functions. He does not become part of the Government or part of the Opposition; he is merely there to give the information. So that, the whole concept of the select committee is for scrutiny and therefore, by him coming, whoever the councillor is, it is not to change his party or anything like that or to get involved in the executive.

Sen. Shabazz: Mr. Chairman, I take it from where Sen. Daly left off. You see, the political consideration must be looked at a little seriously. If we go the way we went with the Tobago House of Assembly, maybe we do not have to have the same rules, but you must have similar rules because corporations control areas in basically the same manner, so if you are going to go that way you need to look at it that way.

If you are going to bring in the elected members, you need to look at how you are going to deal with it. But not only that, when we think of the political consideration we have to look at what is practical, what is happening, and how the

thing must be dealt with. Somebody may say it is all right, bring them to the committee and when they come there you have the same judicial situation that the hon. Senator talked about, somebody from the government or somebody from some side—and I am not talking whether it is the side of government or opposition—could take legal action to stop the functions of the thing and all these different kinds of complications come up.

What we are saying at this point, from the time you touch the municipal corporations in the manner in which you are looking to do here, you are not only changing one aspect of the Constitution here, but you are looking for a series of other changes that will come out of it, and if we are not careful, we are going to be dealing with it as it comes up. And that is the position that we take on this side.

Mr. Maharaj: In order for us to go forward, in light of the amendment which the Government intends to propose, I would read it because it has been further amended.

“A joint select committee in exercising its powers under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1)(a) nor modify, alter, rescind or in any way interfere with the decisions of any such body.”

In light of that proposed amendment, I suggest we go ahead and include the municipal corporations.

Sen. Prof. Spence: I think we just lost what I thought was a very good phrase in the original thing and that is, “...by the Constitution”.

Mr. Maharaj: You want me to specifically mention the service commission?

Sen. Daly: No. Can I, through you Mr. Chairman? I think we have to be careful. The municipal corporations are not featured in the Constitution as far as I know.

Mr. Maharaj: “A joint select committee in exercising its powers under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1)(a) nor modify, alter, rescind or in any way interfere with the decisions of any such body.”

The municipal corporations’ powers are not vested in the Constitution.

Sen. Daly: How soon could we get that?

Mr. Maharaj: Is it all right to have it photocopied?

11.30 a.m.

Sen. Rev. Teelucksingh: Mr. Chairman, we need to define the approach the Parliament will take towards these reports. We must do this. What are we going to do with them? Are they for public comment? Would they be laid in Parliament for negative or affirmative resolution? We need to do that either in this Bill or somewhere else. It is very important. *[Desk thumping]*

Mr. Maharaj: In the Standing Orders in the United Kingdom which we have been looking at, there is a situation where the Government must respond within a certain time. After it is laid the Government responds within a certain time and lays that response in the Parliament.

Sen. Rev. Teelucksingh: But do you think it is a wise idea now, if you really want to get this going to draft a clause to attach to this?

Mr. Maharaj: I am prepared to do that if you want to put it in the Bill.

Sen. Rev. Teelucksingh: Well work on it.

Mr. Maharaj: I want to give you the assurance that the Standing Orders have to come back here for this Bill to work, so that it will give us more time. I will give you the assurance that that is the policy. The policy is that it is not merely laid in the Parliament. It has to be considered by the Government and, the Government has to respond and say what it is doing in respect of that. When I gave my contribution I gave an instance of what the response was like.

Sen. Rev. Teelucksingh: I have always been worried about the accountability of the Municipal Corporations. I cannot understand—and it shows that something has to be wrong with our system. I think it is the hon. Minister of Finance who made this point in his contribution: that sometimes after 14 years—now could you imagine billions of dollars being disbursed to Corporations—the Auditor General's Report comes here. Now something has to be wrong with our system, that we have allowed this.

Mr. Maharaj: This would give you contemporaneous power if I may use that expression in order to be able to scrutinize.

Sen. Montano: Mr. Chairman, that is very much the point that I have been trying to make from the beginning of this whole debate and it is this. We already have two institutions set up that are the creatures of the Constitution that are supposed to be the watchdogs for the people.

Now, I have no fundamental disagreement with what we are trying to do here. I have said so, but in the absence of knowing what the structure of the Committee and Standing Orders would be, it is extremely difficult for us to give our consent to this and I beg the question—in fact, the question begs itself—why is it that the organizations that we already have entrenched in the Constitution are not being given the powers that we are talking about here? It seems to me that is what is necessary. It is not that I disagree necessarily with what we are talking about, it is the question of how we are going about it?

I understand that under the Constitution as it reads the Public Accounts Committee and the Public Accounts (Enterprises) Committee can only act once a report has been laid in Parliament. But I do not see why we cannot give them the authority and the powers to investigate on an immediate basis the issues that you are talking about here. So there would be one committee. What we are going to face, or what we could very well face, depending on who is the Government of the day at the time that the Standing Orders are finally settled, is that you set up a committee that is completely controlled and dominated by the Government. So that in fact, the Government is never really investigated because the issues that the minority Opposition Members might call for are vetoed by the majority, so that the issues that really concern the people are effectively vetoed by the majority. That is the issue here. So in the absence of the Standing Orders, we really do not know what we are dealing with. We really do not know.

The Government has made no representation at this point to tell us what the likely structure of the Committee will be, who will likely be the Chairman, how many members are there and who is going to control it. So we really do not know that we can actually accomplish this.

If in fact, we allow this and the committees are set up in such a way that they are dominated and controlled by the Government of the day, it does not matter which Government, then in fact, in terms of the Municipal Corporations that we are talking about, the only corporations that are likely to take heed are going to be those that are controlled by the Opposition of the day. In fact, it is the Government side that really needs the scrutiny. That is the issue. So that in the absence of the Standing Orders, we really do not know what we are dealing with and it begs the question, why are the existing committees that we have not being given the authority that we are talking about, to be restructured in such a way that the minority members have the authority? [*Desk thumping*]

Mr. Chairman: Has everyone received a copy of the proposed amendment?
Sen. Dr. St. Cyr.

Sen. Dr. St. Cyr: Mr. Chairman, thank you very much. As I said, we have made substantial progress and the sense I get is, that the persons who would most likely be asked to come to these Joint Select Committees would be executive persons rather than elected persons. But just to clear my mind that I would not need to ask for a division on this, I would like to ask please. We seem to have given way very readily to the deletion of the Tobago House of Assembly, while we spend a great deal of time battling with the Municipal Corporations and to the extent that they both represent a regional and/or other sectional devolution. Why is it that the Tobago House of Assembly was so easily conceded and the Municipal Corporations, in other words, when there was a Tobago County Council?

Sen. Mc Kenzie: It is a Municipal Corporation.

Mr. Maharaj: If I may say it is not a Tobago County Council because the Tobago situation is different from the Municipal Corporation. It has been recognized by this Parliament that there should be greater autonomy to Tobago and the Bill which has been passed. What I mentioned is that there are discussions going on and within the next two or three months, the Bill would be amended and we would be coming back to Parliament and some of these issues would be discussed at that time.

So what I said is, that in the light of the fact that these have been discussed, it would not be right in my view and in the light of what has been raised it did not occur to us to proceed in that light and those matters would obviously be dealt with and would come back.

The Tobago House of Assembly is in a different category, if I may say so; that does not mean that it does not have to account, but as to the form *et cetera* and what are the procedures, those matters are still being discussed. I do not want to give one that impression and if I gave that impression I am very sorry that I easily conceded because it is Tobago and I am not conceding for the municipal corporations.

11.40 a.m.

Sen. St. Cyr: Yes, but I do not suppose that you would know the answer to this. I was about to ask: is it likely in both the Municipal Corporations and the Tobago House of Assembly that it would be the executive officers who are likely to appear?

Mr. Maharaj: It would seem so to me.

Sen. Kuei Tung: Mr. Chairman, I myself had been subjected to a Public Accounts Committee investigation, in the sense that a transaction which was done by the Government in the Ministry of Finance was subject to it.

I have never appeared before the committee, but I am told under the Standing Orders that I could if I want to, so I think it is really at the discretion of the politician whether he wants to subject himself to any inquiry of Parliament or not, but generally speaking, the way these committees would work, in my view, is merely to ask questions of the public servants and ask them to supply copies of records and so forth for the committee's scrutiny. Really, in a sense, it is not as if you are bringing the politician and putting him before the parliamentary committee. I think that is how it actually operates. As I said, I have had practical experience and certainly, I elected not to appear before the committee.

Sen. St. Cyr: Mr. Chairman, I am glad it is the Minister himself who opened this because there are some very interesting issues here. You see, the first one is that we know how the PAC is structured. Its business is conducted in camera and that matter which was an ongoing matter not yet reported on by the Auditor General was referred to the PAC by the Parliament. So far as I can recall, I do not know what has happened to the report. I do not think it is being debated and when I saw some of the files that were brought to us which were quite voluminous, I thought myself that I would really have liked the Minister to come in person, but I also thought that, were I the Minister, I would not come and the Minister has just told me that he is probably far wiser than myself in that he did not come.

I am saying these things because these are very subtle and complex issues with which we are grappling here and I am still wondering whether I am sufficiently persuaded not to see how we would divide on an issue like this.

Sen. Alfred: Mr. Chairman, bearing in mind what Sen. Montano said about the Standing Orders and the Attorney General said that this piece of legislation cannot come into effect until the Standing Orders are properly addressed, what then is the haste in having this addressed now, seeing that there are so many persons divided on the whole issue? Why can it not wait until such time as we get the Standing Orders and do all of them in a total way and not in this piecemeal way we are going about it, because I believe most persons are not totally satisfied, and even at the end of it I do not think all of us may be satisfied and we may have to come to a decision that we may not want to. In the absence of having a total situation, it still seems to me that we would be making decisions that may not be in the best interest of everyone.

Sen. Shabazz: Mr. Chairman, Sen. Hamel-Smith and Sen. Mahabir-Wyatt have said that it is not simply a party consideration or anything like that. We agree. I do not think anybody on this side is saying they do not agree to scrutiny. I made a point just now and it seems as though it was not serious so I want to make it again.

If all the corporations are controlled by the Government, because there are politicians or political persons in the corporation, they would be carrying out the mandate of the Government of the day, so you can scrutinize them. That is fine. But when there are corporations that are not really carrying out the mandate of the Government, an Opposition corporation that does not have to do the Government's bidding—that is the point Sen. Hamel-Smith was making—does the ministry control the corporation or is it an autonomous body on its own?

If we agree that it is, then the scrutiny must not come from that angle because they have the right to do things in a certain way and if they are going to scrutinize the corporations that they control fine, and if they are going to scrutinize the corporations that they do not control, somehow I think that the politician should not be involved in that scrutiny. Whatever is written here should say that, and say it clearly.

Sen. Daly: Mr. Chairman, the next bridge that we are trying to cross is the relationship of this legislation we are discussing with regard to the Standing Orders of the Parliament. It seems to be generally assumed that those Standing Orders are going to be revised, but I imagine an impulsive government—not any government we have at the moment—might seek to implement this legislation without the revision of the Standing Orders, so another modification that we may have to consider is making the coming into effect of the legislation tie in with the revision of the Standing Orders that are contemplated. I do not know how we do that as a matter of drafting, but if you can say that an Act does not come into effect until it is proclaimed, or it does not come into effect until "x, y or z", maybe the coming into effect of this Act should be tied, in some drafting way, to the new Standing Order.

Mr. Maharaj: Mr. Chairman, that is the intention that I have—to ask the draftsman to put something to that effect.

Mr. Chairman: I think we have had very, very exhaustive discussions on this matter.

Sen. Dr. St. Cyr, in the light of the proposed amendment which has been circulated, do you wish that (C) be put to the vote or would you withdraw?

Sen. Dr. St. Cyr: I think Sir, it would be good to see how we divide so I would ask for a vote please.

Sen. Daly: [*Inaudible*]...on this other amendment.

Mr. Chairman: I would not deal with it now. We have (E), (F) and I do not know whether Sen. Dr. St. Cyr wants to pursue (E) and (F) in light of the proposed amendment because, to me, that covers it.

Sen. Dr. St. Cyr: Mr. Chairman, (E) would raise similar issues to (C) but I think (F) would raise some additional issues.

Mr. Chairman: Well, we had in fact, begun discussions on (F) and we had deferred it for a later stage. Perhaps now might be the time to reconsider in light of the proposed amendment.

Mr. Maharaj: In the light of what has been said about service commissions to propose the amendment as circulated, perhaps you could deal with the amendment at this stage.

Mr. Chairman: The typewritten one is not being pursued.

Mr. Maharaj: No. The typewritten one is subsumed in this manuscript version so I withdraw the proposed amendment on the typewritten copy.

Sen. Prof. Spence: May I be assured that the changes we are making here do not negate Sen. Daly's amendment which would still be acceptable?

Mr. Chairman: We would be coming to that in a while.

Mr. Maharaj: Let me make it clear that this proposed amendment does not in any way take away from the fact that the Government has agreed to accept Sen. Daly's amendment in respect of the Judicial and Legal Service Commission.

Sen. Shabazz: Mr. Chairman, if this amendment does not intend to modify, alter or rescind or in any way interfere with the decision of any such body, what would it really be doing?

Mr. Chairman: Have we agreed on (F)?

Sen. Dr. St. Cyr: I am very sorry, Sir, on (F) I would like to make one comment. My difficulty with (F) fundamentally, is that we are changing a basic plank in the democratic system that we are practising—mainly the insulation of the public services from political interference or influence—and I think that in the recent past we have taken two steps along that route. One I think surfaced in the media where, in response to a report that ministerial permission had to be given

for certain appointments to be made, there was a reaction from one of the service commissions.

My information is that the civil service regulations have recently been modified so that whereas, hitherto, civil servants were forbidden from taking active part in party politics, that is now no longer the case and quite senior public servants now serve as chairmen of party groups. I am saying we have taken that step and what I see here is that by including the service commissions here, we are going further in that direction and I think we should explicitly say we are doing this and debate the merits and demerits of the non-politicized civil service as distinct from one—and perhaps what we may need to do is draw the line at a certain level and say, explicitly, appointments above a certain level would be at the behest of the political directorate and those under a certain level—but what I am bothered about is that, without explicitly putting it on the table, we are taking a step to vary one of the fundamental pillars of the democratic system that we had been practising over the last 35 or so years and that is why I felt fundamentally that the service commissions should not be in there.

Mr. Maharaj: Mr. Chairman, in response to Sen. Prof. Spence, I think that in light of the fact of what we have said, and that we propose to amend the Bill in order to ensure that the committee would not interfere with the functions, we have given an undertaking with respect to Sen. Daly's amendment, that it would seem to us those fears should not be there.

11.55 a.m.

I would want to suggest that if we deal with Sen. Daly's amendment and the amendment which I intend to propose and we get those amendments in first, it may be that the hon. Senators would look at the Bill in a different way.

Sen. Rev. Teelucksingh: Just a comment on the concern of Sen. Dr. St. Cyr and the response of the Attorney General: these fears would always be there. Unless—this is the question, which I am going to ask you—we try to make our Constitution relevant to our needs, he will always have this. I agree with him: we are deviating from the Constitution. We want to do this, the PNM government did it in the last administration, and you accused them of wanting to destroy the commissions. We recognize, as a nation, that there is need for this change. These fears would always be there, even after this Bill is passed with these precious amendments.

Mr. Chairman, I want to ask the hon. Attorney General if at all, about three of us in the course of the debate, express those fears in different ways—is this government thinking about constitutional review? Sen. Prof. Kenny talked about comprehensive review. I do not think that we should be afraid of a general election and say: “Okay if we set up a constitutional review commission now, whatever government there is, there are going to be changes.” There should be a national commission to review the Constitution. How is your government thinking about this? I am not talking about the next 14 months. It will take a long time. Has your government ever considered this? Mr. Chairman, I am asking the Attorney General this through you. Will it take several months?

Mr. Maharaj: Mr. Chairman, there are so many reports on the Constitution. Obviously any government would consider that, and the government is considering. But the question is—we have a Bill before us—is this Bill going to increase the fears? This is the point which has been raised. What I have a difficulty with—with the greatest respect, Sen. Rev. Teelucksingh—is that, here it is in black and white, you have a situation where the people, through the Parliament, are going to scrutinize, which will give people in the society—
[*Interruption*]

Mr. Chairman: Senator, please!

Mr. Maharaj:—which will give the people in the society more ways of participating in what is happening, seeing what is happening. But yet it is being said that this is to increase fears. I have a difficulty with that. If anybody reads—on the select committees—what they have done, they have, in effect, made people participate more in the Parliament.

Governments recognize this, but governments do not want to do it. Governments in the Caribbean have not done it. Several Commonwealth governments have not done it, because it makes the government more accountable with a rule that we have now. It can make governments hide. Here it is that we have to give the people more power, to give the parliamentarians more power but we are afraid! Afraid for the people to get more power to which they have been entitled for years. There are some people who are trying to block the rights of other people. [*Desk thumping*]

Sen. Mohammed: Mr. Chairman, I wonder if the Hon. Attorney General would agree that when it comes to these fundamental issues if it is that there are fears about them—and we are talking here about the people—these matters should be taken to the people and let the people discuss it. If you get the necessary

mandate you will have the appropriate majority to make the fundamental changes that you are talking about.

Mr. Chairman: I think we have gone off the issue.

Sen. Kuei Tung: Mr. Chairman, may I—

Mr. Chairman: I think Sen. Prof. Spence wanted to say something.

Sen. Prof. Spence: Mr. Chairman, I just wanted to say sorry, this will be the third time I am reiterating my position. The Attorney General knows that from the beginning, I felt we should discuss the service commissions separately but that it should be included in the Bill. I think that we have gone a long way towards modifying the original proposals that go towards the direction of making the Bill more acceptable.

Let me just say my own position: I do not think I could alter my position in respect of what I feel about how the service commissions should have been addressed. Nevertheless, I would say, having been able to achieve certain modifications to the original Bill, then I would be prepared to go on with this. If I am forced to vote on whether service commissions should be included or not, I would have to vote against their inclusion, because that has been my position from the beginning. Nevertheless, I am persuaded that we have gone a long way towards making the modifications, which I think would make the Bill more acceptable.

My own position is I am glad that I have been able to put on record my position in my contribution. But subsequently I would be prepared to accept the modifications of the Bill.

Sen. Dr. St. Cyr: Mr. Chairman, the very impassioned plea for the will of the people to come through, I share. But I also know that some of the strongest demagogues we have had in the western historical experience have had almost full backing of the people. So, there are occasions when good government requires us to restrain the hand of a very popular move which might not be for the long term good of the society.

I do not want to name names, but perhaps if I either spoke German or Spanish, one may get an indication of the sort of things that I am referring to. In the debate on Thursday, Sir, a very distinguished Bank Bencher opposite referred to the question of people—could you not appoint these people, could you not dismiss those and so forth. I really think that we need to insulate the popularly elected government from those direct influences which need not be for the long term

good of the nation. It is not that we do not want the will of the people to be reflected, and the business of the nation to be properly accounted for. I think sometimes we need to—I would not say build in—what I would say is maintain some of these sobering checks that we already have in the system. I do, very much, worry.

I have heard no response in the debate pertaining to my concern about the politicization of the public service over the last few years. Perhaps somebody should say either that it is happening or that it is not happening. All I said was that, if we are moving in that direction we should put it explicitly on the table: say that we are doing it, trace the consequences and make the necessary provisions for moving in that direction.

Thank you, Sir.

12.05 p.m.

Sen. Daly: Sir, I am sorry for this Constitution—*[Interruption]*—you do not want me to speak? It is not a problem.

Mr. Chairman: Yes, Sen. Daly—

Sen. Daly: No, I do not want to say anything else. *[Crosstalk]*

Sen. Kuei Tung: Mr. Chairman, I want to make a suggestion. We may get stuck on Sen. Dr. St. Cyr's Motion if we end up trying to deal with it, because it has very fundamental and far-reaching implications for our Bill. We seem to have had some compromise in other areas. May I suggest that we come to yours last, Sir, with all due respect? If we can get ahead and make substantial progress in other areas, by the time we get to yours we will be able to look at it in a fairly different light.

If we seek to address yours first, it would seem to jettison all that may come after it. Would you mind, Sir? Can I propose that we deal with the others that are more acceptable to everyone and see if that would have some influence on yours when we get to it? If we deal with yours it may very well, as I said, change the whole complexion of what we have to do later on, whereas, if we deal with the others they will have a bearing on yours, ultimately. *[Interruption]*

So if we deal with the Attorney General's *[Interruption]* and some of the others proposed by Sen. Daly and Sen. Prof. Spence, we may find that by the time we come to Sen. Dr. St. Cyr's that we will then be making a more educated judgement, I should say, on his amendment.

Sen. Dr. St. Cyr: Except that what you propose is not in the tradition of a game of cricket which we West Indians know so well: you put your fastest bowlers and your best batsmen on first, so my inclination would be that we should hammer this point through, and let the fallout come afterwards. [*Crosstalk*]

Sen. Prof. Spence: Mr. Chairman, I want to try to arrive at a compromise— [*Interruption*] [*Crosstalk*]

Mr. Chairman: Please, please.

Mr. Chairman: We are still on service commissions.

Sen. Prof. Spence: Mr. Chairman, [*Inaudible*] Thirdly, I want to suggest that we ask the Government to undertake to raise the matter of the service commissions, which is a separate discussion. [*Inaudible*] [*Crosstalk*]

Sen. Montano: Mr. Chairman, I support the position of Sen. Dr. St. Cyr. I would like to speak on this issue, but I do not know if to do so now or if you want to defer it.

Mr. Chairman: On the service commissions?

Sen. Montano: It should be dealt with now; I want to support that.

Mr. Chairman: We had deferred on the last occasion and we came back to it. There is no problem in deferring again, and going on with the others on which there might be consensus. [*Crosstalk*]

Hon. Members, I think we need to come back to this. We have one or two other matters that I feel can be dealt with fairly easily, and we will come back to the so-called contentious issues and deal with them separately.

I am still on Sen. Dr. St. Cyr's proposed amendments:

“(b) delete proposed section 66A(1)(b).”

This seems to relate to (e).”

Sen. Dr. St. Cyr: Mr. Chairman, would you like me to comment briefly on (e), Sir?

Mr. Chairman: Please.

Sen. Dr. St. Cyr: Very briefly on (e), Sir— [*Interruption*]

Mr. Chairman: On (b).

Sen. Dr. St. Cyr: I thought that we had agreed—

Mr. Chairman: We had dealt with (b), (c), (e) and (f), not fully but we have touched on all of them. We are now on (B) of your proposed amendment.

Sen. Dr. St. Cyr: That is to delete the proposed section 66A(1)(b)?

Mr. Chairman: Yes, and I said that it seems to relate to (e) on your proposed amendment.

Sen. Dr. St. Cyr: Mr. Chairman, the second and third deletions, that is, “delete proposed section 66A(1)(b) and delete proposed section 66B” are consequential. In other words, if we delete what is proposed under big “A”, then these other two would not be necessary. So really once we have dealt with the first part—

Mr. Chairman: We are deferring Sen. Dr. St. Cyr’s proposed amendment until later. Let us move on to a proposed amendment by Sen. Prof. Spence.

Clause 3.

Question proposed, that clause 3 be amended as follows:

“Insert after section 66A(1)(e) the following:

- (f) a committee appointed for the purpose set out in paragraph A shall be chaired by a Senator appointed under section 40(2)(c) of the Constitution of the Republic of Trinidad and Tobago.”

Do you want to elaborate, Prof. Spence?

Sen. Prof. Spence: [*Inaudible*]

Mr. Maharaj: Mr. Chairman, I want to put on record that Sen. Prof. Spence has spoken to me about this and I indicated to him that it is a matter which the Government will look at, but it will be considered, in any event, by this Chamber in the Standing Orders in light of the amendment we are going to pass.

This is really a matter for Standing Orders, but on the floor of the House I indicated that I was in favour of it and that, obviously, the Government will look at it. It would seem that in looking at this, we cannot only look at precedents from abroad, because we have our particular situations in Trinidad and Tobago. It may be that this is the answer to remove some of the partisan feelings in a select committee that operates in Trinidad and Tobago. I wish to give the Senator that assurance.

Mr. Chairman: Sen. Prof. Spence, in light of that situation, do you wish to withdraw?

Sen. Prof. Spence: Yes.

Amendment withdrawn.

Mr. Chairman: There is a proposed amendment by Sen. Daly as follows:

“Add a new section to be numbered 66C—

- (1) the provisions of subsections (1) and (2) shall not apply to the Judicial and Legal Service Commission;
- (2) The Judicial and Legal Service Commission shall submit to the Prime Minister, before October 1 in each year, commencing in the year 2000, a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith, and the Prime Minister shall cause the report to be laid as soon as possible thereafter in each House.”

Mr. Maharaj: Mr. Chairman, we accept this but I remember that we had discussed the question of substituting “President” instead of “Prime Minister” and we are prepared to do that. So we delete the word “Prime Minister” and insert the word “President”.

We had talked about putting a time-frame instead of “as soon as possible”. So it would read, “The President shall cause the report to be laid,”—I am thinking in terms of “within 30 days”.

Sen. Daly: I think it is a breeding question. I think we have to assume. I do not think that it is good breeding to tell the Head of State that he must do something within 30 days. I think we have to leave it to his good sense. [*Crosstalk*]

Mr. Maharaj: The President in these matters—

Sen. Daly: We know, we know—[*Laughter*]

Mr. Maharaj: I think if we put “shall cause the report to be laid within a period of time.” If I may just say this, I totally agree that we should put a time-frame. [*Crosstalk*]

Sen. Dr. St. Cyr: Mr. Chairman, I did say in the debate that I really was bothered that the Judicial arm was reporting to, accounting to—and so morally being brought under the Executive. I do not think that it makes any difference if you say the Prime Minister or the President, because the President’s functions are in the Constitution as set out, essentially, in the Cabinet. I just want to record my

strong views that the relationship between the Executive and the Legislature, not being sufficiently disentangled, concerns me, but I certainly think it would be a disaster that the Judiciary should be entangled with the Executive.

12.20 p.m.

Mr. Maharaj: Mr. Chairman, may I just say that I think I shall leave it on record. It is not the Judiciary reporting to the Executive, really, it is a report being prepared and sent for laying in Parliament.

Sen. Shabazz: Mr. Chairman, I just want to state from this end, and for whatever it is worth, that when we start giving the President time and making these kinds of provisions, I think we are walking a certain road where we need to be careful. However it may be taken, I want to record that.

Mr. Chairman: Let me read the proposed amendment again and put it to the vote.

“Add a new section to be numbered 66(C)

- ‘66(C) (1). The provisions of subsections (1) and (2) shall not apply to the Judicial and Legal Service Commission.
- (2) The Judicial and Legal Service Commission shall submit to the President, before October 1 in each year, commencing in the year 2000, a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith, and the President shall cause the report to be laid within sixty days thereafter in each House’.”

Question, on amendment, put and agreed to.

Mr. Chairman: We now move on to a further proposed amendment by Sen. Prof. Spence.

Sen. Prof. Spence: Mr. Chairman, I propose a new section 66(D) as follows:

“Add a new section numbered 66(D) to read as follows:

Each organisation listed (A) to (E) in 66(1) (a) shall submit to the Prime Minister before July 01 in each year a report on its functioning in the previous year and the Prime Minister shall cause a report to be laid as soon as possible thereafter in each House’.”

Mr. Chairman, may I suggest that too should be modified to read “President”, the same wording as the other amendment.

Mr. Maharaj: Can we just remind Sen. Prof. Spence that these bodies would not be the commission because we have dealt with the commission.

Sen. Prof. Spence: Where?

Mr. Maharaj: (A) to (E). Also, do you want to say, “to the President” or “to the Prime Minister”? Because these are—

Sen. Prof. Spence: Whichever is appropriate.

Mr. Maharaj: I would think that in this one it may be the Prime Minister. So it should read:

“...and cause it to be laid within...”

a certain time too.

Sen. Prof. Spence: The only thing is we still have questions [*Inaudible*] the Executive [*Inaudible*] I want the report to come here.

Mr. Maharaj: I think it should be the Prime Minister and we can put:

“...cause the report to be laid within the same 60 days...”

Sen. Hamel-Smith: What about using the October 1 date instead of July?

Mr. Maharaj: No, because of the Budget. You want October 1?

Sen. Prof. Spence: The reason I said July was that I felt, one, we could have [*Inaudible*] not to have it than [*Inaudible*]

Mr. Maharaj: Yes, I agree. And instead of “organisation” can we put “each body”?

Sen. Prof. Spence: Yes. Mr. Chairman, are we going back to the (E)? I had an amendment under (E) which I think was about to be considered by the Attorney General.

Mr. Maharaj: Yes, but do you want us to vote on this one first before we put the next one?

Sen. Prof. Spence: Yes, all right, go ahead.

Mr. Maharaj: Because I have that here for you.

Mr. Chairman: Any other comments before I put it to the vote? I shall read the proposed amendment:

“Add a new section 66(D) to read as follows:

‘A body listed (A) to (D) in 66(1)(a) shall submit to the President before July 01 in each year a report on its functioning in the previous year and the Prime Minister shall cause the report to be laid within sixty days thereafter in each House’.”

Sen. Dr. Mc Kenzie: Mr. Chairman, before we take the vote what will the report constitute, its functioning? Already we have, for example, the Tobago House of Assembly sending a report. Is it strictly going to be financial? Are we going to give them guidelines, headings, and subtitles? What? If we get a half page report stating: “We functioned with all members” and so forth. “We did not get enough money for the year.” Are we going to have some sort of guidelines? This is what I wanted to find out from Sen. Prof. Spence. I think the word, “functioning”, is really very broad, vague and—[*Interruption*]

Sen. Prof. Spence: I do not really think it is possible to prevail [*Inaudible*] in this Bill. First of all [*Inaudible*] What I would hope is [*Inaudible*] the first report that they get, if it is not satisfactory, [*Inaudible*] they would then [*Inaudible*]

Sen. Daly: I have a little difficulty here. Whether or not the service commissions other than the Judicial and Legal Service Commission should report, does that not depend on whether or not they are in the Bill or out of the Bill?

Sen. Prof. Spence: Well, I had excluded them from this provision here. My proposed amendment does not include the service commissions.

Mr. Chairman: The service commissions are not included in Prof. Spence's proposed amendment.

Mr. Maharaj: It is just the Government ministries.

Sen. Daly: Okay, sorry, Sir, sorry, Sir.

Mr. Chairman: Government ministries, municipal corporations, statutory authorities and enterprises owned by the state, *et cetera*.

Sen. Hamel-Smith: Mr. Chairman, just for good drafting I wonder whether we should replace the words, “on its functioning” to be consistent with the previous clause that we looked at drafted by Sen. Daly, which basically says, “the exercise of its functions and powers” rather than “on its functioning”, to be consistent?

Mr. Chairman: To report on its—on what?

Sen. Hamel-Smith: Follow the same wording as Sen. Daly's previous amendment.

Mr. Chairman: Go ahead, because I do not know whether that is right now. Could you read it for me?

Mr. Maharaj: "...report on the exercise of its functions and powers"—
[*Interruption*]

Sen. Hamel-Smith: "and powers in the previous year..."

Mr. Chairman: Let me reread the proposed amendment before putting it to the vote. Does anybody have anything else to say? Because it is going to the vote on this occasion.

Sen. Kuei Tung: Mr. Chairman, it says, "a report on the exercise of the function and powers in the previous year describing the procedures followed and any criteria adopted by it in connection therewith". Do you have all of that?

Mr. Chairman: No, I just have, "a report on the exercise of its functions and powers in the previous year".

Sen. Kuei Tung: Mr. Chairman, it says, "describing the procedures followed and any criteria adopted by it in connection therewith".

Mr. Chairman: Is that what you intended, Sen. Hamel-Smith?

Sen. Hamel-Smith: Mr. Chairman, I was suggesting that you follow the words from the wording of Sen. Daly's draft.

Mr. Chairman: Let me see if I have it right. The proposed amendment is:

"Add a new section numbered 66 (D) to read as follows.

'A body listed (A) to (D), in 66(1) (a) shall submit to the Prime Minister before July 01 in each year a report on the exercise of its functions and powers in the previous year describing the procedures followed and any criteria adopted by it in connection therewith and the Prime Minister shall cause the report to be laid within sixty days thereafter in each House'."

Question put and agreed to.

Mr. Chairman: Now that we have disposed of all the proposed amendments, except those by Sen. Dr. St. Cyr, I think we can—

Sen. Prof. Spence: Mr. Chairman, I just have a short amendment and if we can do the short amendment I shall be grateful.

Mr. Maharaj: Yes, we could do his short amendment. It is to amend clause 3 to insert the words, “not being later than three months”.

Mr. Chairman: We did that. That was done. We completed that.

Sen. Prof. Spence: No, I wanted to add a phrase under (E).

Mr. Chairman: Which?

Sen. Prof. Spence: In 66(A) (1) (E) it should state, “enterprises owned or controlled by or on behalf of the state”.

Mr. Chairman: Senator, we have to revert to Sen. Dr. St Cyr's proposed amendments with which he is concerned with this clause, so at that stage while we are discussing his amendment we can propose what you want to propose to (E).

Sen. Prof. Spence: Could I just state it now so that they may be thought about while we are having a break?

Mr. Chairman: Sure.

Sen. Prof. Spence: Mr. Chairman, I propose an amendment to read as follows, after the word, “state” to add the following words:

“...or which receive funding from the state of more than 50 per cent of its budget.”

Mr. Chairman: So we should consider under (E):

“...enterprises owned or controlled by or on behalf of the state or which receive funding from the state of more than 50 per cent of its budget.”

The committee will now suspend for one hour for lunch. We shall resume at 1.35 p.m.

12.34 p.m.: *Sitting suspended.*

1.35 p.m.: *Sitting resumed.*

New Clause 4.

Mr. Chairman: The Attorney General has just circulated a new proposed amendment which I think everybody would have received by now.

Mr. Maharaj: Mr. Chairman, this is in response to a request made and it is to give effect to what is the intention of the Government in order to have Standing Orders to implement this Bill. I beg to move that it be adopted as follows:

Insert after clause 3 the following new clause:

Commencement This Act shall come into force when Standing Orders are made to give effect to section 66A.

New clause 4 read the first time.

Question proposed, That new clause be read a second time.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 4 added to the Bill.

Clause 3 recommitted.

Mr. Chairman: Shall we now revert to Sen. Dr. St. Cyr's proposed amendments. Perhaps we can discuss (A), (B), and (C) together. I think it would make it much simpler because one is interrelated with the other except that—*[Interruption]* We are really on (F), service commissions, but we have (B) and (C) to deal with, and I am suggesting that we deal with all together. Because somehow or the other, all seem to intertwine when the discussions are taking place.

Mr. Maharaj: Mr. Chairman, I wondered whether, subject to how Members feel, there was one other amendment which I was proposing and it is probably not going to be as long as the other one, although it is to be inserted after section 66A. It says:

Insert after subclause (1) the following new subsection:

- (2) A Joint Select Committee in exercising its powers under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1)(a) nor modify, alter, rescind or in any way interfere with the decisions of any such body.

I was wondering whether, in special circumstances of this matter, which could have a bearing on the other sections, that we do this proposed amendment first, if there is no objection.

Mr. Chairman: I have no problem with it, providing Senators all agree. Do we agree to do the proposed amendment?

Assent indicated.

Mr. Maharaj: Mr. Chairman, I proposed this amendment in order to make it absolutely clear in expressed terms what are the intention and policy behind this Bill, and Senators raised the question as to whether this is what it meant, and this is in order to satisfy those demands. So I beg to move that it be amended in terms of this draft.

Question on amendment [Mr. R. L. Maharaj] put and agreed to.

Mr. Chairman: The floor is open for further discussions.

Mr. Maharaj: There is an amendment from Sen. Prof. Spence.

Sen. Prof. Spence: In relation to clause 3(E), the body that deals with:

“(E) Enterprises owned or controlled by or on behalf of the State; and”

I would like to add after “State” and before the “semi-colon”:

“or which received funding from the State of more than 50 per cent of its budget”.

I do not see if Parliament is providing large sums of money to individual organizations, even though they may be private organizations, why we should not have the power to discuss their use of these funds.

Mr. Chairman: Hon. Senators, there is a proposed amendment by Sen. Prof. Spence to—it is now—(D). As I indicated earlier on, we can deal with that in dealing with Sen. Dr. St. Cyr’s proposed amendment because if, in fact, that went to the committee and is not approved, then Prof. Spence’s proposed amendment falls by the wayside.

Sen. Dr. Mc Kenzie: Mr. Chairman, I think Prof. Spence’s new amendment needs some sort of ceiling. Because to say 50 per cent of their budget, and I give you \$50,000, I am putting you in the same range as somebody who has given \$2 million. If you get my point, 50 per cent of his budget, some—

Sen. Prof. Spence: A minimum, a base line. I would ask the Minister of Finance if he would like to comment on this. Sen. Mc Kenzie is suggesting that there should be a ground floor above which one would—

Sen. Dr. Mc Kenzie: Mr. Chairman, it does not mean that I agree with it, you know. What I am saying is that I find it is—it does not mean that I agree with the amendment.

Sen. Daly: I have trouble with that. If I may make a small contribution. It is very uncertain, 50 per cent of the budget: how are we going to define “budget”? Is the budget alterable by what expenses you allocate? I find it is a very elastic kind of concept. How do you know at any one time that an enterprise is one which 50 per cent of its budget is being provided to the state? Has it a given date? I find it is very vague.

Sen. Prof. Spence: I think one could address that by suggesting “of its expenditure for the previous year”.

Mr. Hamel-Smith: Just to make the point, Mr. Chairman, so it is clear what we are voting on. The way the amendment is being suggested, quite a wide range of NGOs would be caught up in an amendment of that kind. I just want to draw the Senate’s attention to that. I think that would be an undesirable situation.

Sen. Mahabir-Wyatt: Mr. Chairman, NGOs which receive funding from the Government—particularly under the Community Development allocation, that long list—are already expected, quarterly, to submit figures to the Ministry of Community Development before they can get the next tranche; so in a sense they are already reporting. This does not say what kind of reports, but those quarterly reports are already being done, for NGOs anyway.

Sen. Daly: It is really like adding another category. It is widening the portfolio of the committee which, for the reasons we discussed, has few members to do a lot of work. So, I do not know.

Sen. Prof. Spence: Mr. Chairman, all they need to do if they do not want this is not to take the Government funding. This is taxpayers’ money. I think it is not just the question of reporting to the Ministry of Finance about the fact that they keep audited accounts.

1.50 p.m.

Let me give an example. Taxpayers’ funds go to those of the zoological society. I feel very strongly that the zoological society spending \$1 million for an elephant’s cage is really a travesty when one thinks of the problems the Minister of Finance has in providing social welfare funding or money for some of the other NGOs. I do not think that one could just agree that organizations should be given money for them to do what they like with it.

If one wants to put a ceiling of “above \$1 million”, I have no problem with that, but perhaps it is silly to really include these small sums. So, if one says, “which receive funding in excess of \$1 million from the state” and it is more than 50 per cent of their expenditure on the previous year.

Sen. Daly: That is an example of a decision of which, I hope, the validity would be enquired into. If the zoological society choose to spend its money in a certain way, I do not see that parliamentary committees are going into the merits of how they spend it. That is exactly what we have been afraid of.

Sen. Mc Kenzie: Mr. Chairman, my next concern is how are we going to classify the enterprise? Would the Non Governmental Organization be considered an enterprise?

Sen. Kuei Tung: Mr. Chairman, I certainly support Sen. Prof. Spence’s suggestion and I think we owe it to him to try to help him to do it. I do not know if there is any Non Governmental Organization who would rely upon Government for more than 50 per cent of its income and will not be prepared to subject itself to some kind of scrutiny.

In any case, the decision by our Cabinet has been that Non Governmental Organizations which receive moneys from us must supply us with audited statements. We do that because we want to make sure that the money is being spent properly. I would think that it would be as a matter of course, for us to submit these same statements back to Parliament. A Parliamentary committee may decide that it really does not want anything to do with very small sums involved and, therefore, I would imagine that the parliamentary committee would decide what it wants to see and what it does not want to see based upon its own workload and so forth.

There are also non-governmental bodies—and I do not want to start calling names—which receive substantial sums from Government and, they do not think that they owe it to anyone to account for it. I mean, large sums and I do not even want to start talking about carnival or anything like that. These bodies receive very, very, large sums and more than 50 per cent of their income is derived from Government subventions and they think that they owe it to no one.

So that I think we should try to find a way to say it, because if these people know that they are subject to parliamentary scrutiny, we are going to get a bit more responsibility in their actions. As I said, I certainly support Sen. Prof. Spence’s attempt to bring these people in under scrutiny of Parliament too.

Sen. Mahabir-Wyatt: I agree.

Sen. Kuei Tung: Incidentally, one other comment on the question of budget. Sen. Prof. Spence, I do not think that we could use the expression “budget” because what I would do is, develop a budget where I only really need 10 per cent of the money from Government but I know, in fact, that in reality, when I looked at my accounts, I really received 80 per cent of my income from budget. I can tell the Senate, I budgeted but I did not make it. *[Laughter]*. So “budget” may be a bit too vague.

I agree with Sen. Daly that we may want to say “where 50 per cent of its income in the previous year or in any year”. So it may have problems moving in and out because if that 50 per cent changes, you are back to the same problem. One year it could be subject to scrutiny and the following year it is not, because the other income happens to be 51 per cent non- government. So I would prefer to use a higher percentage to be quite frank. I think 50 per cent is a bit low in that sense. I do not want, necessarily, to bring every organization that is bordering around 50 or 51 per cent for them to start with. I may say: “where at around 75 per cent of its income or two-thirds of its income”. That would move away from those who are at that kind of border line and where it is, basically, relying upon Government for its entire income. I think two-thirds is a much safer number in this sense.

Sen. Daly: Put a figure on organizations.

Sen. Kuei Tung: Well, you see, if one puts a figure—I may put for argument sake \$10 million and it may sound like a nice figure today, but there are organizations that would receive much less than that and which although, it is a very high percentage of its total income, it is really relying upon public funds for its purpose.

Sen. Mahabir-Wyatt: With all the greatest of respect to Sen. Daly’s point, there are organizations that receive certain investments and it is a substantial amount of their income, but the money does not go where it is supposed to be going. I think they should be, because it is public funds. It is the people’s money and I think you should have to account for what you do with the people’s money if you are asked to. I would not put a figure amount. I am always against that idea of putting a figure amount because it means something now and 10 years down the line, when we finally get around to doing some amendments, it is going to be nothing. *[Interruption]*

Mr. Chairman: Then the entire wording of the proposed amendment has to be changed. So would you propose?

Sen. Prof. Spence: The concept that I had raised, the Minister of Finance is reluctant to touch the subvention organization. I mentioned the Zoological Society and the University of the West Indies is another. Is it \$100 million or \$200 million of taxpayers' money? And Parliament must not ask questions about it.

Sen. Mahabir-Wyatt: Exactly.

Mr. Maharaj: What percentage do we want?

Mr. Chairman: Two-thirds.

Mr. Maharaj:—"or which receives funding from the state of more than two-thirds of its total income in any one year" *[Interruption]*

Mr. Speaker: Clause 3 section (66)A (1) new (E) amended as follows:

"The enterprises owned or controlled by or on behalf of the state or which receive funding from the state of more than two-thirds of its total income in any one year"

Question on amendment put and agreed to.

Mr. Chairman: We will now come to Sen. St. Cyr's proposed amendments.

Sen. Dr. St. Cyr: Mr. Chairman, I think it is my responsibility as a Member of this Senate to raise what weighs extra heavily on me today. This is a Constitutional Amendment Bill. It touches—as our quite exhaustive discussion shows—a number of fundamental aspects of our democratic practice. I am not satisfied that the full implications of these amendments have been thought through. I remain troubled that we might be making some quite substantial changes, some of which can be disastrous and so I think we should discharge our responsibility, as a legislature, by calling for a division.

Mr. Chairman: Senator, that is in connection with all A, B and C of your proposed amendment? We really have not discussed B and C in any detail yet.

2.00 p.m.

Sen. Dr. St. Cyr: Mr. Chairman, B and C are consequential. In other words, if we do what is proposed in 66A(1)(a), then to make the Bill cohesive we need to do B and C so really the decision is on the proposed deletions in (A).

Sen. Prof. Spence: Mr. Chairman, may I propose that we vote on each of these “(B), (C), (E) and (F) separately?”

Mr. Chairman: Yes, that is what I intend to do. Let me put the question now on each.

Sen. Dr. St. Cyr: Mr. Chairman, I beg to move that clause 3 be amended as follows:

A. In proposed section 66A(1)(a) delete the following:

(C) Municipal Corporations;

The Senate divided: Ayes 10 Noes 19

AYES

Mohammed, Miss N.

Montano, D.

Jagmohan, M.

Shabazz, M.

Alfred, Miss C.

Belmontes, Miss C.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

NOES

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Cuffy Dowlal, Mrs. C.

Tota-Maharaj, Mrs. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Teemul, Mrs. E.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Oudit, Mrs. N.

Marshall, P.

Question on amendment negatived.

Mr. Chairman: We now move on to (E):

(A) In proposed section 66A (1) (a)

(E) Enterprises owned or controlled by or on behalf of the State;

The Senate divided: Ayes 9 Noes 20

AYES

Mohammed, Miss N.

Montano, D.

Jagmohan, M.

Shabazz, M.

Alfred, Miss C.

Belmontes, Miss C.

St. Cyr, Dr. E.

Mc Kenzie Dr. E.

Marshall, P.

NOES

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Cuffy Dowlat, Mrs. C.

Tota-Maharaj, Mrs. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Teemul, Mrs. E.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

Kenny, Prof. J.

Oudit, Mrs. N.

Question on amendment negatived.

Mr. Chairman: We move on to (F) "Service Commissions".

The Senate divided: Ayes 11 Noes 18

AYES

Mohammed, Miss N.

Montano, D.

Jagmohan, M.

Shabazz, M.

Alfred, Miss C.

Belmontes, Miss C.

St. Cyr, Dr. E.

Mc Kenzie Dr. E.

Marshall, P.

Kenny, Prof. J.

Teelucksingh, Rev. D.

NOES

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Cuffy Dowlath, Mrs. C.

Tota-Maharaj, Mrs. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Teemul, Mrs. E.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

Oudit, Mrs. N.

Question on amendment negatived.

Mr. Chairman: Question is that clause 3 be amended. Now the proposed B.

B. Delete proposed section 66A(1)(b)

C. Delete proposed section 66B.

Sen. Dr. St. Cyr: Mr. Chairman, B and C no longer apply so I withdraw the proposed sections B and C in clause 3.

Mr. Chairman: Just give me a few minutes to put this in order so I can now propose the final question.

2.15 p.m.

Sen. Prof. Spence: Mr. Chairman, could I just make a comment while we are waiting to sort it out? I think there is a rather important point that escaped me previously, that is the name of these committees. If we call them joint select committees, they immediately fall into the Standing Orders regulations covering joint select committees.

Sen. Mahabir-Wyatt: Which we already have.

Sen. Prof. Spence: It is a pity that we call them joint select committees because there are certain Standing Orders that govern joint select committees. If we had a different nomenclature then you could have Standing Orders just to cover these committees, otherwise the alteration of a Standing Order is going to be very complicated.

Sen. Mahabir-Wyatt: Section 71(1) of the Standing Orders deals with joint select committees. So we already have Standing Orders for joint select committees. We also have Standing Order 72 for joint parliamentary committees. What we are looking at now: I quote 73(3)

“The Committees shall examine the estimates, expenditure, administration and policy of the Ministries, Government departments, State Enterprises falling under the Headings set out in (1) above...”

These already exist, it is just that we do not use them. I think that Sen. Prof. Spence’s point is a good one, because we are working on amending these Standing Orders, but those two names are already taken up in the existing Standing Orders. Do we want these new bodies that we are setting up to be what the old ones contemplated or a new name?

Mr. Maharaj: I think the intention was that firstly, we recognize that there are some Standing Orders, secondly we also recognize that the Act makes provision that you can make Standing Orders. We are also saying that before the Act comes into force, the Standing Orders would have to be made. When we—[*Interruption*]

Sen. Mahabir-Wyatt: Joint select committee is a name that we are using. We should not use that name.

Mr. Maharaj: But when we are doing the Standing Orders, could we not look at all that, and determine what you want or what you do not want?

Sen. Mahabir-Wyatt: Yes, I agree, but the point is, as long as you use that name, that name already exists within these Standing Orders. They already fall under the Standing Orders.

Sen. Kuei Tung: I imagine you can change the Standing Orders to introduce a new joint select committee to do this.

Sen. Prof. Spence: It would mean that joint select committees on Bills would have to be called something else. If you put this into law—if you take out this name and put it into law for this Bill and for these committees, and you want to distinguish between these and joint select committees on Bills, for example, you would have to alter the nomenclature for joint select committees on Bills. You could have avoided that problem by calling these something else.

Mr. Chairman: Hon. Senators, I am now proposing the amendments for the final count.

Question proposed, That clause 3 be amended as follows:

- (1) “In proposed section 66(1)(A) delete the word “so soon thereafter” and substitute the words “such time” and insert after the word “resolved” the words “not being later than three months thereafter.”
- (2) “In proposed section 66(1)(A) delete the following: “Tobago House of Assembly.”
- (3) “In proposed section 66(1)(A) renumber subsequent clauses and insert after subsection (1) the following new subsection:
 - (2) a Joint Select Committee in exercising its powers under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1)(a) nor modify, alter, rescind or in any way interfere with the decisions of any such body.”

- (4) Add a new section to be numbered 66(C).
- (1) “The provisions of subsections (1) and (2) shall not apply to the Judicial and Legal Service Commission.
- (2) The Judicial and Legal Service Commission shall submit to the President, before October 01 in each year, commencing in the year 2000, a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith, and the President cause the report to be laid within 60 days thereafter in each House.
- (5) Add a new section numbered 66(D) to read as follows:
- “A body listed (A)—(D) in 66A(1)(A) shall submit to the Prime Minister, before July 01, in each year, a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith and the Prime Minister shall cause the report to be laid within 60 days thereafter in each House.”

Mr. Maharaj: You had left out one of Sen. Prof. Spence’s amendments.

2.25 p.m.

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

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

Senate resumed.

Bill reported, with amendment.

Question put, That the Bill be now read the third time.

The Senate divided: Ayes 18 Noes 11

AYES

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Constitution (Amdt.) Bill

Saturday, September 04, 1999

Cuffy Dowlat, Mrs. C.

Tota-Maharaj, Mrs. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Teemul, Mrs. E.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Oudit, Mrs. N.

NOES

Mohammed, Miss. N.

Montano, D.

Jagmohan, M.

Shabazz, M.

Alfred, Miss C.

Belmontes, Miss C.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Marshall, P.

Question agreed to.

Bill accordingly read the third time and passed.

DOMESTIC VIOLENCE (AMDT.) BILL
(House of Representatives Amendments)

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

That the House of Representatives amendments to the Domestic Violence (Amdt.) Bill listed in the appendix be now considered.

Question proposed.

Question put and agreed to.

Clause 3.

House of Representatives amendment read as follows:

“In the definition of ‘sexual abuse’ insert the following words after the word ‘listed’ appearing in the penultimate line under the Sexual Offences Act.”

Mr. Maharaj: May I say, very briefly, that this was merely to ensure that it was an offence under the Sexual Offences Act.

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

Question put and agreed to.

2. 40 p.m.

Clause 16.

House of Representatives amendment read as follows:

“Insert a new paragraph (c) to read as follows:

‘where it relates to real property, it shall be filed in the Land Registry by the applicant as a *lis pendens*’.”

Mr. Maharaj: Mr. President, what this does is that in relation to an order which has been made in respect of property in favour of the victim, that order would be registered as a *lis pendens* in the Land Registry so that there could be no dealings with respect to the property, and people would have notice in respect of it.

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

Question proposed.

Question put and agreed to.

Clause 23.

House of Representatives amendment read as follows:

- “A. Delete subsections (1) and (2) and substitute as follows:
- ‘(1) For the avoidance of doubt, a police officer may act in accordance with the provisions of the Criminal Law Act where he has reasonable cause to believe that a person is engaging in or attempting to engage in conduct which amounts to physical violence and failure to act immediately may result in serious physical injury or death’.
- B. Renumber subclauses (3) to (7) as subclauses (2) to (6) respectively.
- C. In subclause (2), as renumbered, delete the word ‘(2)’ and substitute the word ‘(1)’.
- D. In subclause (3), as renumbered, delete the word ‘(2)’ and substitute the word ‘(1)’.
- E. In subclause (4), as renumbered, delete the word ‘(4)’ and substitute the word ‘(3)’.
- F. In subclauses (5) and (6), as renumbered, delete the word ‘(2)’ and substitute the word ‘(1)’.

New Clause

Insert the following clause after 23:

23A

Duty of
police
Officer
to assist
victims

- 23A. Where a police officer has entered on to premises in furtherance of sections 22 and 23(1) he shall—
- (a) give assistance to a person who has victims suffered injury;
- (b) ensure the welfare and safety of a child who may be on the premises; and
- (c) prevent any further breach of the law’.”

Mr. Maharaj: Mr. President, it is unfortunate that, in this particular clause as it relates to the powers of the police, the Government had to amend this clause because it did not have the support of the Opposition in the House. The Opposition knew that the Government needed a specific majority and if the Government did not accede to this clause the Bill would not have been passed in the House of Representatives.

I want to put on record in this Senate the Opposition had supported this amendment, had voted with it and it shows how partisan politics can affect the public interest. *[Interruption]* Mr. President, one would have thought that if the Opposition—and it is the same Opposition—who supported this clause in order to protect victims, women who are beaten and injured by men, if they wanted the police to go into the homes to protect women, the Opposition would have supported that. This amendment is, as you would recall, Mr. President, that under this clause the police would have had the power to enter premises without a warrant where the police had reasonable grounds to believe and having been invited into the house seeing that people were in danger.

The objection to this clause was that although you had, in law, power given to the police to enter a home—because under the Criminal Law Act which had been passed years ago the police is empowered to enter premises without a warrant if the police believe that an arrestable offence is being committed. An arrestable offence is one which attracts imprisonment of five years and more. We came to this Senate in order to give the police that same power to enter premises where domestic violence was being committed and, Mr. President, the Opposition supported that. Government went to get that approved in the other place and we have to come here with this watered-down clause.

I say watered-down, making no apology, Mr. President, because it is watered-down. It is watered-down because what the Opposition wanted and what they got was that the police would not be able to enter if domestic violence is being committed upon women. The police would only be able to enter where there is reasonable cause that a person is engaging or attempting to engage in conduct which amounts to physical violence and failure to act immediately may result in serious physical injury or death.

So there are several assault and battery offences, which do not incur a penalty of five years, and there are several forms of domestic violence for which the police would not be able to enter. Mr. President, the only consoling factor is that the Government is determined to improve this section. In order for the Bill to go through Senators should support the Bill as it is. However, I give a commitment

on behalf of the Government that we are going to come back in the new session with some means whereby we would try to redress this injustice which has been done to the victims of domestic violence.

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

Question proposed.

Sen. Mahabir-Wyatt: Mr. President, I do not have any problem with the other amendments but I must say that I was bitterly and deeply disappointed when I learned of the amendments which had taken place [*Desk thumping*] to clause 23. I really do not think that people understood, and I still do not think that people understand, the implications of this. There is battering that takes place that causes internal injuries to women. There is battering that takes place that causes all kinds of mental, emotional and physical trauma that does not mean that it is an arrestable offence. In other words, it is not an offence for which one is put in jail for five years because it does not show up. There is no wound that shows on your body.

My breath was really taken away when I understood what the arguments for changing this were, because they minimized the suffering of thousands of women who are battered into senselessness every Friday night in this country. The arguments that were used by certain men to get this amendment through were totally against the pleas of all the women's groups who work in the field of domestic violence, the community police who explained very clearly what they needed and battered women themselves. While I am not going to call for a—well I would like to call for a division on this one because I really want to get the rest of the Act through because it is a very good Act.

However, I realize what I am doing is trying to balance the practical against the desirable. Insofar as this subsection is concerned, my only consolation is that the Attorney General has just said he will undertake—and so far I have to admit that he has honoured his undertakings. [*Desk thumping*]. But believe me, I am going to be watching this one right from the first day of the new session and I will be nagging right from the first day of the new session because I do not understand how grown men and women can subject women to what they are being subjected to and minimize the sufferings that they are undergoing. So I will be nagging the Attorney General every chance I can get. Thank you, Mr. President.

Sen. Shabazz: Mr. President, I want just to be very short and brief on this matter. It came from the other place and there was an agreement to

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pass the Bill. All other things were agreed on. We understood the Attorney General getting up and saying, "Let us go with the other place". It was agreed on downstairs. They all agreed to it. Whether they took a weakened position, whatever it may be, we have a democracy and the democracy works in a certain way. I think I must point out that for him to present it in the manner he did was in bad taste. [*Desk thumping*] I think it should be pointed out that it was poor because the House agreed on it.

He could have taken a position downstairs. He did not have to double and take two choices as he normally takes; one minute he is one thing and the next minute he is not. He is human rights here and not the other places. He should have known and he should have stood up—[*Interruption*] Yes, because it is—[*Interruption*]

Mr. President: Sen. Shabazz, please address this Bill?

Sen. Shabazz: Yes, Mr. President, and I feel that if it has been taken that way it was a democratic choice. The Parliament agreed and I felt that it should have been dealt with differently up here. [*Desk thumping*]

Sen. Daly: Well, Mr. President, not wishing to prolong the agony, I would just say this on this issue. This is a clause that caused great anxiety to many of us. I had great anxiety in agreeing to it in the form in which we passed it. I respect the fact that—I genuinely believe this thing about the police powers is something on which one can have two views without any hard talking on either side and that is why I am joining the debate. I am joining the debate to sing the praises of the democracy we have. I genuinely believe that this is a clause on which one can have two quite different views without any hard talking on either side.

If things happen in the course of the Bill, any Bill, going back and forth between the two Houses, just as the Constitution (Amdt.) Bill which we debated goes back and forth between the two Houses, then we have to understand two things about that process. One is that it means that the process works. The other thing that has to be understood is that if people vote in a certain way then they have to stand the consequences and, therefore, it is equally open.

I may take a calmer point of view about this particular piece of legislation because I was troubled by the choices I have to make. I think it also has to be understood that part of the democratic process is not only taking two views but also that when one takes a stand one has to stand the consequences and one of the consequences is criticism. So I think we have to calm this whole thing down and understand that this clause has been part of a very carefully structured democratic process laid down in our Constitution which we should be loath to amend in a

hurry. The two consequences of this debate are that the process has worked and those who have taken a stand one way or the other must take political criticism if it is necessary.

2.55 p.m.

Sen. Dr. St. Cyr: Mr. President, when the original bill was in this House, I took a very strong position on clause 23. I found myself on a limb which was quite exposed. I made it clear that I totally abhorred domestic violence and, whatever was necessary to be done to stop it, I was in support of, except that what was presented to us, I had grave doubts whether it could address the problem as envisaged. Certainly, in exchange for something doubtful, I was loath to concede a very fundamental principle, the right of a state agency, namely the police, to encroach a covenant institution; the family and the home. That division having gone all against one, I thought, well that was it; but perhaps, I do not know, wiser counsel has prevailed.

Perhaps we have really taken the correct position here, and it is to the credit of the democratic practice here that there is still freedom of speech and there are still rights to hold points of view, to articulate them, to stand by them and take the consequences that go with them, and we must really hold firmly to these traditions.

So I was hoping I could stand today and congratulate the Government on having a cautious look on a step that might have been in a direction that was over a precipice. I, too, was not at all favourably disposed by the manner in which the presentation was made by the hon. Attorney General. So if we have done anything here by saying, let us pause and consider whether we should take that step now, I think the nation has won a victory.

With that comment, I would still say that I would congratulate the Government for having accepted the result of the democratic process and to bring this amendment here that I support.

I thank you very much, Sir. [*Desk thumping*]

Mr. Maharaj Mr. President it is very heartening to see that we are very happy that the democratic process has worked. I do not think what I said had anything to do with doubts about the democratic process. What it had to do with, which I thought that Opposition and Independent Senators and Government Members would recognize, was that a political party came into this Senate and took a position on a fundamental issue and went in another place and took another

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position. I am not criticizing them for it. What I am saying is that if the Opposition has taken that position, they must have taken that position because they believed that was in the interest of the society, and they have taken two different positions.

I am not saying that they are not entitled to do that. What I am saying, is by taking that position, it is the Government's view—because the Government is entitled to have a view also, not only Opposition and Independent Senators—is that by the Opposition frustrating the passage of this Bill, the Opposition would be responsible for the lives of the several persons in this country who would probably die because of domestic violence. That is what I am saying. I make no apology for it! [*Desk thumping*]

Because, Mr. President, the Opposition knows the figures, they saw that there were instances where because the police could not go into the homes, people died. Mr. President, by watered-down amendment, several women in this country would get beaten and they would have no redress. People would get killed! And I must come into this Senate and exercise democracy by praising the Opposition? By not saying anything about the Opposition?

The democratic process in this country and in this Senate, not only gives people the entitlement to vote for or against, which we respect, but gives the Government the right to tell the Opposition that they have frustrated a very good Bill and they should be ashamed of themselves.

Mr. President, thank you very much.

Question put.

Mr. Maharaj: Mr. President, can I have a division, we need to have a specified majority.

The Committee divided:

Ayes 26

Noes 2

AYES

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Cuffy Dowlat, Mrs. C.

Tota-Maharaj, Mrs. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Teemul, Mrs. E.

Montano, D.

Jagmohan, M.

Shabazz, M.

Alfred, Miss C.

Belmontes, Miss C.

Spence, Prof. J.

Teelucksingh, Rev. D.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Marshall, P.

NOES

Mahabir-Wyatt, Mrs. D.

Oudit, Mrs. N.

Amendment agreed to.

Clause 24.

Senate amendment read as follows:

Delete and substitute as follows:

24. Where an Order is in force and a police officer believes on reasonable grounds that a person has committed or is committing a breach of the Order he may detain and arrest that person without a warrant.

Mr. Maharaj: Mr. President, this is another one of the clauses which was amended, but the Government is happy with this amendment, it does not in any way adversely affect the position of the Bill.

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

Question proposed.

Mr. Maharaj: Mr. President, can I have a division, we need to have a specified majority. May I explain that I am taking this out of an abundance of caution, since it is arresting without a warrant, I think that we would need a division.

Question put.

The Committee voted:

Ayes 28

Noes 0

AYES

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Cuffy Dowlat, Mrs. C.

Tota-Maharaj, Mrs. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Teemul, Mrs. E.

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Montano, D.

Jagmohan, M.

Shabazz, M.

Alfred, Miss C.

Belmontes, Miss C.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Marshall, P.

Oudit, Mrs. N.

Amendment agreed to.

3.10 p.m.

SPECIAL SELECT COMMITTEE REPORTS

Presentation

**Trinidad and Tobago Association of Professional
Psychologists (Inc'n) Bill**

Sen. Nizam Baksh: Mr. President, I beg to present the following report of the Special Select Committee appointed to consider and report on a private Bill for the incorporation of the Trinidad and Tobago Association of Professional Psychologists and for related matters.

United Islamic Organisations (Inc'n) Bill

The Parliamentary Secretary in the Ministry of Agriculture, Land and Marine Resources (Sen. Vimala Tota-Maharaj): Mr. President, I beg to present the report of the Special Select Committee appointed to consider and report on a

private Bill for the incorporation of the United Islamic Organisations of Trinidad and Tobago and for matters incidental thereto.

Standing Orders Committee

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, I beg to present the report of the Special Select Committee appointed to consider and report on the Standing Orders Committee.

JOINT SELECT COMMITTEE REPORTS

Presentation

Human Reproductive and Genetic Technologies Bill

And

Human Tissue Transplant Bill

The Parliamentary Secretary in the Ministry of Housing and Settlements (Sen. Carol Cuffy Dowlat): Mr. President, I beg to present the following reports:

1. Report of the Joint Select Committee of Parliament appointed to consider and report on the bills entitled "An Act Respecting Human Reproductive Technologies and Commercial Transactions relating to Human Reproduction" and "An Act to make Provision for the Removal of Human Tissue for Transplantation and Blood for Transfusion and for matters connected therewith".

Planning and Development of Land (No. 2) Bill

2. Report of the Joint Select Committee on the Planning and Development of Land (No. 2) Bill, 1998.

Management Structure Reform (Parliament)

3. Report of the Joint Select Committee on the Working Paper on the Reform of the Management Structure of the Parliament of the Republic of Trinidad and Tobago.

FINANCE (VARIATION OF APPROPRIATION) BILL

Bill to vary the appropriation of the sum the issue of which was authorized by the Appropriation Act, 1998. [*The Minister of Finance*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate.

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I beg to move that we now deal with Motions Nos. 4 to 7 instead of Motion No. 3.

Agreed to.

JOINT SELECT COMMITTEE REPORTS

Adoption

**Human Reproductive and Genetic Technologies Bill
And
Human Tissue Transplant Bill**

The Parliamentary Secretary in the Ministry of Housing and Settlements (Sen. Carol Cuffy Dowlat): Mr. President, I beg to move the following Motion:

“Be it resolved that the Senate adopt the Report of the Joint Select Committee appointed to consider and report on the Bills entitled “An Act Respecting Human Reproductive Technologies and Commercial Transactions relating to Human Reproduction” and “An Act to make Provision for the Removal of Human Tissue for Transplantation and Blood for Transfusion and for matters connected therewith.”

Mr. Vice-President, on Tuesday March 16, 1999, the following resolution was agreed to by the Senate:-

“Be it resolved that six members of the Senate be appointed to serve with an equal number from the House of Representatives on a Joint Select Committee of Parliament to consider and report on the bills entitled: “An Act Respecting Human Reproductive Technologies and Commercial Transactions relating to Human Reproduction” and “An Act to make Provision for the Removal of Human Tissue for Transplantation and Blood for Transfusion and for matters connected therewith”.

The resolution being agreed to, the Senate appointed the following Members to serve on the Joint Select Committee:

Brig. Joseph Theodore

Ms. Carol Cuffy Dowlat

Mr. Andrew Gabriel

Mr. Danny Montano

Prof. John Spence

Prof. Julian Kenny

On Friday, March 19, 1999, a similar resolution was agreed to by the House of Representatives and on the said date the following six members of the House of Representatives were appointed to serve on the committee:

Dr. Hamza Rafeeq
Dr. Reeza Mohammed
Mr. Chandresh Sharma
Dr. Fuad Khan
Dr. Keith Rowley
Mr. Hedwige Bereaux

At the meeting held on April 14, 1999, Dr. Hamza Rafeeq was nominated and unanimously elected Chairman of the committee.

The committee agreed that in keeping with the established practice, the quorum would be six members including the Chair, with at least two members from either House.

The committee discussed its terms of reference as specified in the resolution agreed to by both Houses of Parliament. The committee agreed that the two Bills be considered separately.

The committee held seven meetings as follows:-

Wednesday, April, 14, 1999
Wednesday, May 5, 1999
Friday, May 28, 1999
Wednesday, June 9, 1999
Wednesday, June 23, 1999
Friday, July 2, 1999,
Monday, August 9, 1999

Mrs. Grace Nidhan, Parliamentary Clerk I, served as Secretary to the committee.

At the first meeting held on April 14, 1999, the committee agreed that:-

- (i) Technical staff from the Ministry of Health be invited to attend the meetings to assist the committee in its deliberations. The meetings were attended by Dr. Rawle Edwards, Ag Chief Medical Officer and Ms. Bhabie Roopchand, Manager, Legal Services; and

- (ii) A representative from the Chief Parliamentary Counsel department be invited to attend the meetings in order to assist your committee with its deliberations. The meetings were attended by Mr. Douglas Premaratne, Assistant Chief Parliamentary Counsel and Mr. Nakool Maharaj, Legal Officer.

The Committee had four paid advertisements placed in the daily newspapers requesting written memoranda from the public expressing their views and, or making recommendations on the Bill. These notices were published during the period May 18 to 26, 1999 with June 1, 1999 being the deadline date for the submission of written memoranda.

The committee also agreed that written memoranda be requested from the following:-

Trinidad and Tobago Medical Association
 Ophthalmology Society of Trinidad and Tobago
 Surgical Society of Trinidad and Tobago
 Paediatric Society of Trinidad and Tobago
 Association of Anaesthetists of Trinidad and Tobago
 Urological Anaesthetists of Trinidad and Tobago
 Society for Inherited Blood Disorders
 Friends of the Blood Bank
 John Hayes Kidney Foundation
 Diabetic Association of Trinidad and Tobago
 Glaucoma Association of Trinidad and Tobago
 Lions Club of Trinidad and Tobago
 Inter Religious Organisation
 UWI Faculty of Medical Sciences
 Family Planning Association
 Renal Transplant Unit of the Eric Williams Sciences Complex
 Gynaecological and Obstetrics Society of Trinidad and Tobago
 General Practitioners Association of Trinidad and Tobago
 Medical Board of Trinidad and Tobago
 Law Association of Trinidad and Tobago

3.20 p.m.

However, written memoranda were received from the following eight organizations:

Trinidad and Tobago Medical Association

Ophthalmology Society of Trinidad and Tobago

Society for Inherited Blood Disorders

John Hayes Kidney Foundation

Glaucoma Association of Trinidad and Tobago

Family Planning Association

Renal Transplant Unit of the Eric Williams Sciences Complex

General Practitioners Association of Trinidad and Tobago

The committee examined the Human Tissue Transplant Bill clause by clause together with the written memoranda which were received from the eight organizations listed above and has agreed that certain amendments should be made to this Bill. The committee recommends that a redrafted Bill, as at the Appendix, should be introduced into Parliament in the next session.

The committee also recommends that in view of the work that has already been done, this Bill should be re-introduced in the new session and referred to a new committee which should be authorized to consider as part of its records all the work that has been done by your committee to date on this Bill.

The committee wishes to express its gratitude to all those who assisted it by sharing their expertise with the committee.

Thank you.

Sen. Prof. Spence: Will the hon. Senator state the names of those who signed the document?

Sen. C. Cuffy Dowlat: The copy of the report from which I am reading has not been signed.

Mr. President, the original copy of the report has been signed by Dr. Hamza Rafeeq, Brig. Joseph Theodore, Mr. Andrew Gabriel, Ms. Carol Cuffy Dowlat, Prof. Julian Kenny and Mr. Danny Montano.

Question proposed.

Sen. Prof. John Spence: Mr. President, I would like to explain why I did not sign this report. First of all, I think the practice of presenting reports that are not signed by all Members of the Committee is a very unsatisfactory one. Apparently, perhaps a quarter of the Members of the Committee have signed the report.

My reason for not signing is that this committee had very poor attendance and it was able to carry out its work because those of us who attended, attended very regularly. I asked that in reporting to the Senate, we reported on the attendance of its Members because we cannot conduct our parliamentary affairs in this way. We set up committees and very few of the Members attend. It puts an extra strain on those persons who accept the responsibility and attend and I think we ought as a committee to report to the whole Senate precisely what is the situation and that is why I did not sign that report. I agree with all the other provisions, and recommendations of the report, but I did not agree with the fact that this is excluded and I had explicitly asked for it at our last meeting.

Really, we ought in these cases, in which we are select committees reporting to the Senate to have a final meeting which approves a final report.

Thank you.

Sen. Carol Cuffy Dowlat: Mr. President, before I beg to move, may I suggest that while I agree with the comments made by the hon. Senator, the Standing Order is silent on the number of meetings Members must attend. Maybe when the committee sits at the first meeting a recommendation to that effect and other terms of reference can be agreed to and an attendance record be kept. I do not think on this occasion this report should be prevented from going forward.

Mr. President, I beg to move.

Question put and agreed to.

Report adopted.

Planning and Development of Land (No. 2) Bill

The Parliamentary Secretary in the Ministry of Housing and Settlements (Sen. Carol Cuffy Dowlat): Mr. President, I beg to move that the Senate adopt the report of the Joint Select Committee on the Planning and Development of Land (No. 2) Bill, 1998.

Mr. President, at a sitting of the Senate held on Friday December 04, 1998 the Senate agreed to the following resolution:

“Be it Resolved that a Joint Select Committee of Parliament be appointed to consider and report on a Bill entitled: ‘An Act to provide for the

orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings, to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid;”

Be it Further Resolved that the evidence taken by the Select Committee of the Senate in the previous session be referred to the Joint Select Committee of Parliament;

Be it Further Resolved that six Members of the Senate be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee.”

Mr. President, at this sitting the Senate appointed the following Members to serve on the Joint Select Committee:

Ms. Carol Cuffy Dowlat

Mrs. Vimala Tota-Maharaj

Mrs. Agnes Williams

Mrs. Nafeesa Mohammed

Prof. John Spence

Prof. Julian Kenny

The House of Representatives agreed to a similar resolution and at a sitting of the House held on Friday December 04, 1998, the following Members were appointed to serve on the Joint Select Committee:

Mrs. Kamla Persad-Bissessar

Dr. Adesh Nanan

Dr. Vincent Lasse

Mr. Chandresh Sharma

Mr. Colm Imbert

Mr. Jarrette Narine

At a meeting held on Wednesday January 20, 1999, Mrs. Kamla Persad-Bissessar was unanimously elected Chairman of the Committee. The quorum of the Committee was set at six Members including the Chair, with at least three Members from either House.

The terms of reference of the committee were to consider and report on the Bill entitled an Act to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings, to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid.

The committee discussed its terms of reference and agreed on the undermentioned strategies in order to fulfil its mandate:

- (i) have copies of the verbatim notes of the previous committee copied and circulated to all Members
- (ii) circulate copies of both the Majority and Minority Reports from the previous session to all Committee Members
- (iii) distribute copies of the proceedings of private meetings held at the Trinidad Hilton to Members of the Committee
- (iv) circulate a summary of all proceedings of the previous committee to all Members.

The committee held a total of two meetings. The first was on Wednesday January 20, 1999 and the second on Wednesday March 10, 1999.

At the second meeting, Sen. Prof. Kenny submitted a report in which he outlined reasons for concluding that the Bill required a special majority.

After discussions on the matter the committee agreed to request a legal opinion from the Solicitor General.

Among issues raised by Sen. Prof. Kenny included the lack of standardization of language and definition of language brought to Parliament. He made specific reference to the National Trust of Trinidad and Tobago Act, 1991, the Environmental Management Act, 1995 and the proposed National Parks and other Protected Areas Bill, 1999.

The following professional bodies and ministries were requested to submit their written comments on the Bill:

The Trinidad and Tobago Society of Planners
Board of Engineering of Trinidad and Tobago
The Association of Local Government Bodies
The Association of Architects
The Institute of Surveyors of Trinidad and Tobago
The Tobago House of Assembly
The Ministry of Planning and Development
The Ministry of Housing and Settlements

A copy of the Bill and the proposed amendments were forwarded to these bodies. Written submissions were received from Trinidad and Tobago Society of Planners and Board of Engineering of Trinidad and Tobago.

The committee considered it necessary to present this report at this time and to inform this honourable Senate that it will be unable to conclude its deliberations before the end of the current session.

The committee therefore recommends that a new committee be appointed in the next session to continue consideration of this matter and that this Senate authorize that committee to consider as part of its records all the work that has been done to date.

Mr. President, I beg to move.

Question proposed.

Sen. Prof. John Spence: Again, Mr. President, I must protest against the way that these select committees are operating. It had been agreed and I had been assured by the Chairman that we would have a final meeting in order to approve the report that we had submitted to the Senate, instead of which, five minutes before this session starts today I am presented with a copy of the final report and this is very unsatisfactory.

In addition to that, this is the second time that this Bill has lapsed. I myself was subjected to criticism by the hon. Minister of Housing and Settlements suggesting that I had been party to the delay of this Bill, but in fact, the thing did not work because no meetings were ever called and I strongly protest against the

way in which we are proceeding with the select committees. All the work that we have put into this for the second time has been wasted and this is why we have no time to do other things in Parliament, we put in work on bills and then they lapse because we have not completed them.

Again, I protest. I say very strongly that we must have a final meeting, the same thing happened with the Tobago House of Assembly Bill. We did not have a final meeting and on that occasion I put in a Minority Report. Of course, this time I did not have time to write a Minority Report because this was handed to me five minutes before the sitting of the Senate. Very unsatisfactory!

Sen. Carol Cuffy Dowlat: Mr. President, the comments by the hon. Senator are noted and we hope that this Bill and the work of this committee would be preserved and all the time and labour that had been spent by all the Members of this committee would not have been wasted.

Question put and agreed to.

Report adopted.

Management Structure Reform (Parliament)

The Parliamentary Secretary in the Ministry of Housing and Settlements (Sen. Carol Cuffy Dowlat): Mr. President, I beg to move that the Senate adopt the report of the Joint Select Committee on the Working Paper on the Reform of the Management Structure of the Parliament of the Republic of Trinidad and Tobago.

Mr. President, at a sitting held on Friday November 20, 1998, the House of Representatives agreed to the following resolution:

Whereas the Working Paper on the Reform of the Management Structure of Parliament of Trinidad and Tobago was laid in the House of Representatives on Friday June 12, 1998 and in the Senate on Thursday June 16, 1998;

And Whereas both Houses of Parliament agreed that a Joint Select Committee be established to consider the said Working Paper and to report to Parliament thereon, and appointed such a Joint Select Committee by resolutions passed by the House of Representatives on Friday June 26, 1998 and the Senate on Tuesday June 30, 1998, respectively;

And Whereas that Joint Select Committee reported to this House on Thursday September 24, 1998, that it was unable to complete its deliberations and recommends that continued consideration of the matter be undertaken in the next session of Parliament;

Be it Resolved that a Joint Select Committee be established to consider the Working Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago; and that this Joint Select Committee be authorized to adopt as part of its records all the work done by the Joint Select Committee appointed to consider the matter in the last session.

The House of Representatives proceeded to appoint the following Members to serve on the Joint Select Committee:

Mr. Ramesh Lawrence Maharaj

Mrs. Kamla Persad-Bissessar

Dr. Rupert Griffith

Mr. Chandresh Sharma

Mrs. Camille Robinson-Regis

Mr. Martin Joseph

3.35 p.m.

On Tuesday, November 24, 1998, the Senate agreed to a similar resolution and appointed the following six members to serve on the Joint Select Committee:

Mr. Wade Mark

Brig. Joseph Theodore

Ms. Carol Cuffy Dowlat

Mrs. Nafeesa Mohammed

Prof. John Spence

Mrs. Diana Mahabir-Wyatt

At its first meeting held on Friday December 04, 1998, your committee unanimously elected Mr. Ramesh Lawrence Maharaj to be Chairman of the committee. Your committee also agreed that six (6) members would constitute a quorum, three from each House including the Chairman.

Your committee discussed its terms of reference as specified in the resolution and considered the work and records of the previous committee (1997/1998 session).

Mr. Neil Jaggassar, Parliamentary Clerk II, served as secretary to your committee. Your committee received written memoranda from the following persons:

| | | |
|---------------------|---|--------------------------------------------|
| Mr. Hugh Clarke | - | Executive Officer, Office of the Ombudsman |
| Ms. Sandra Marchack | - | Chief Personnel Officer |
| Ms. Jeanne Roseman | - | Director of Personnel Administration |
| Mr. Kenneth Lalla | - | Chairman, Public Service Commission |

Your committee held a total of four (4) meetings as follows:

Friday December 04, 1998

Friday December 11, 1998

Saturday February 06, 1999

Saturday March 20, 1999

At the meeting held on Saturday February 06,1999, Mrs. Nicole Chapman-Valere, Senior Legal Research Officer and Mrs. Debbie-Ann Bassaw, Legal Research Officer of the Law Commission made oral presentations to your Committee. At the said meeting, your committee also interviewed the following Officers from the Parliament Department:

Mrs. Jacqueline Sampson-Jacent - Clerk of the House

Ms. Caroline Kangalee - Librarian II

Your committee has received a wealth of information and recommendations and its work is at an advanced stage. Your committee considered it necessary to present this report at this time and to inform this honourable House that it will be unable to conclude its deliberations before the end of the current session.

In view of the advanced stage of its work, your committee wishes to recommend that this House appoint a new committee to examine this matter in the next session, and that the House authorize that new committee to consider as part of its records all the work that has been done by your committee to date.

Mr. President, I beg to move.

Question put and agreed to.

Report adopted.

SPECIAL SELECT COMMITTEE REPORTS**Standing Orders Committee
Adoption**

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, I beg to move, that this Senate adopt the report of the Special Select Committee appointed to consider and report on the Standing Orders Committee.

At a sitting of the Senate held on Tuesday, October 20, 1998, the following members were appointed to serve on the Standing Orders Committee: -

| | | |
|--------------------------|---|----------|
| Mr. Ganace Ramdial | - | Chairman |
| Dr. Daphne Phillips | - | Member |
| Mr. Nathaniel Moore | - | Member |
| Mrs. Nafeesa Mohammed | - | Member |
| Mrs. Diana Mahabir-Wyatt | - | Member |

The committee held two meetings on the following dates:

Tuesday, July 06, 1999; and

Tuesday, August 17, 1999

The committee considered amendments to the entire Standing Orders.

The committee wishes to report that it will be unable to complete its deliberations in the 1998/1999 session. Your committee, therefore, recommends that a new committee be appointed in the next session to continue consideration of this matter.

Mr. President, I beg to move.

Question put and agreed to.

Report adopted.

ARRANGEMENT OF BUSINESS

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, may I seek leave of the Senate to deal with Motions No. 3 and 4 under Private Business.

Agreed to.

SPECIAL SELECT COMMITTEE REPORTS
Adoption

**Trinidad and Tobago Association of Professional
Psychologists (Inc'n) Bill**

Sen. Nizam Baksh: Mr. President, I beg to move, that this Senate adopt the report of the Special Select Committee appointed to consider and report on a private bill for the Incorporation of the Trinidad and Tobago Association of Professional Psychologists and for related matters.

Mr. President, at a sitting of the Senate held on Tuesday, April 27, 1999, Sen. The Hon. Wade Mark presented a petition on behalf of the members of the Trinidad and Tobago Association of Professional Psychologists of 36 Ranjit Kumar Street, St. James (hereinafter referred to as "The Promoters") seeking leave of the Senate for the promoters to proceed with the introduction of a Private Bill for the incorporation of their organization.

Leave was granted and in accordance with the requirements of Senate Standing Order 76(5)(a), (b) and (c), the promoters lodged the documents with the Clerk of the Senate.

The requirements of Standing Order 76(2)(b), (i) and (ii) were satisfied when notice was given to the public of the intended introduction in the Senate of a Private Bill entitled "An Act for the Incorporation of the Trinidad and Tobago Association of Professional Psychologists and for related matters". This was done by way of notices appearing in the Trinidad and Tobago *Gazette* and the *Trinidad Guardian* newspaper on July 08, 15 and 22, 1999. No objection to the Bill was received.

At a sitting of the Senate on Tuesday, August 10, 1999, Senate Bill No. 30 of 1999 entitled "The Trinidad and Tobago Association of Professional Psychologists (Incorporation) Bill, 1999" was introduced and read a first time.

At a sitting of the Senate held on Friday, August 27, 1999 the Bill mentioned in paragraphs 3 and 5 was read a second time as required by Standing Order 76(8) of the Senate, and the Honourable Ganace Ramdial, President, appointed a special select committee comprising the following Senators:

| | | |
|---------------------------|---|----------|
| Mr. Nizam Baksh | - | Chairman |
| Mrs. Agnes Williams | - | Member |
| Mrs. Joan Yuille-Williams | - | Member |

Professor Kenneth Ramchand - Member

Mr. Neil Jaggassar, Clerk of Committees was appointed to serve as secretary to the committee.

With respect to the terms of reference, the committee's mandate was to consider and report on a Private Bill entitled "An Act for the Incorporation of the Trinidad and Tobago Association of Professional Psychologists and for related matters."

With respect to the recommendations, your committee was unable to hold any meetings in this session and therefore wishes to report that it was unable to complete its deliberations before the end of the current session. Your committee recommends that a new committee be appointed in the next session to consider this matter.

Mr. President, I beg to move.

Seconded by Sen. Agnes Williams.

Question put and agreed to.

Report adopted.

3.45 p.m.

United Islamic Organisations (Inc'n) Bill

Sen. Vimala Tota-Maharaj: I beg to move, that this Senate adopt the report of the Special Select Committee appointed to consider and report on a private bill for the incorporation of the United Islamic Organisations of Trinidad and Tobago and for matters incidental thereto.

The Committee was first appointed by the Senate on Tuesday, July 21, 1998. At a sitting of the Senate held on Tuesday, September 22, 1998, Sen. V. Tota-Maharaj, Chairman of the Committee, presented a report informing the Senate that the committee was unable to complete its deliberations before the end of the 1997/1998 session, and recommended that a new committee be appointed to continue consideration of the matter in the next session of Parliament.

The committee also reported that there were objections to the name and certain clauses of the Bill made by the following organisations:

- (i) The Tackyeeyatul Islamic Association of Trinidad and Tobago (TIA);

- (ii) The Anjuman Sunnat-ul-Jamaat (ASJA); and
- (iii) The Trinidad Muslim League Inc. (TML).

On Tuesday, November 24, 1998, Senate Bill No. 8 of 1998 entitled “The Islamic Organisations of Trinidad and Tobago (UIO) (Inc.) Bill, 1998” was introduced and read a first time. The Bill was read a second time on Tuesday, December 1, 1998, and the undermentioned Members were appointed to consider and report on the Bill:

| | |
|--------------------------|----------|
| Sen. Vimala Tota-Maharaj | Chairman |
| Sen. Nathaniel Moore | Member |
| Mr. Mahadeo Jagmohan | Member |
| Sen. Dr. Eric St. Cyr | Member |

Terms of Reference and secretarial assistance: the committee’s terms of reference were:

“to consider and report on a Private Bill entitled “An Act for the Incorporation of the United Islamic Organisations of Trinidad and Tobago and for matters incidental thereto’.”

Mr. Neil Jaggassar, Clerk of Committees, provided secretarial assistance for the Committee.

The Committee held three meetings as follows: Tuesday, March 9, 1999; Tuesday, March 23, 1999; and Tuesday, August 10, 1999. At the first meeting held on Tuesday, March 9, 1999, the promoter submitted a redraft of their original Bill. The committee circulated their redrafted Bill to the objectors and summoned them to a meeting on Tuesday, March 23, 1999.

The committee received correspondence from Omar Garib, General Secretary of the Trinidad Muslim League Incorporated, to the effect that their organisation had no objection, to the redrafted Bill.

At the meeting held on Tuesday 23, March, 1999, the promoters were represented by attorney-at-law, Miss Kimberly Erriah, from the firm of Ashmead Ali and Company. The objectors were represented by:

| | |
|---------------------|------------------------------|
| Mr. A. Ghany | President, TIA |
| Mr. Zainool Khan | Member of the Executive, TIA |
| Mr. Rafeek Mohammed | Honorary Secretary, TIA |

Mr. Kamal Hosein

General Secretary, ASJA

Mr. Nizam Khan

Executive Member, ASJA

At the said meeting the members representing the TIA and ASJA again outlined their objections to the Bill and were vehemently against the use of the name “The United Islamic Organisations”. There was also strong objection to the addresses given for some of the groups in the preamble of the redrafted Bill and the promoters purported memorandum of understanding. The objectors also outlined their other main objections in writing.

At the meeting held on Tuesday, August 10, 1999, the Committee considered the bill clause by clause and in the context of the objections raised. The committee was concerned that the name “The United Islamic Organisations” could be misleading.

The committee prepared several amendments to the Bill including a Schedule to the Bill, but felt it necessary to receive legal advice on the proposed amendments and is still awaiting a reply. However, because of the imminent prorogation of Parliament, the Committee considers it necessary to submit this report.

The Committee, therefore, recommends that the Senate appoint a new committee in the next session to conclude the consideration of this matter and that the committee be authorised to adopt all the work and records of the previous committee.

Mr. President, I beg to move.

Seconded by Sen. Mahadeo Jagmohan.

Sen. Dr. McKenzie: Mr. President, concerning clause 13 of the report, I was wondering whether it would have been more explicit to state from whom they are awaiting the legal reply, whether from the Solicitor General’s Department, a private lawyer or which section?

Sen. V. Tota-Maharaj: Mr. President, we are awaiting a reply from the Solicitor General’s office.

Question put and agreed to.

Report adopted.

ADJOURNMENT

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, before moving the adjournment, let me begin first by saying on behalf of the

Adjournment

Saturday, September 04, 1999

Government, our sincerest thanks to Members of the Opposition, the Independents and members of staff for assisting us in making sure we completed our work today. We regret any inconvenience that today's sitting may have caused to your own personal life, and we do hope that you enjoy the rest of your weekend.

In reference to the point made by Sen. Prof. Spence, as part of the work being done with respect to the renovation of this place, we will ensure that a generator is included as part of it. Hopefully, in the future, we will not be inconvenienced nor traumatized by the event that took place last Thursday. We would hope that we could offer—*[Interruption]*

Sen. Prof. Spence: Mr. President, in the meanwhile could we adopt the suggestion made by Sen. Brig. Theodore, that we have some of the battery operated lights put in?

Sen. The Hon. B. Kuei Tung: Yes, we will look at that as an interim measure. Finally—*[Interruption]*

Sen. Dr. Mc Kenzie: Mr. President, I will also like to add a little to what the hon. Minister of Finance said, to say how much we felt comforted by the security people who were in the Chamber on Thursday night. *[Desk thumping]*

Sen. The Hon. B. Kuei Tung: We certainly endorse those sentiments, and we thank the security for their very prompt and caring manner.

Let me indicate the order of business for the next sitting. We would want to do Motion No. 3, Land Acquisition, then the Finance Supplementation and Variation of Appropriation Bill, 1998/1999.

Mr. President, I beg to move that the Senate do now adjourn to Tuesday 7, September, 1999 at 10.30 a.m. While I had earlier indicated that we would meet at 1.30 p.m. that day, I have been asked by the staff if we could meet a little earlier, because they would need to continue the work, after we have finished, in terms of preparing this building for the Commonwealth Parliamentary Association conference, so I hope that I have not inconvenienced anyone another time.

Mr. President: I also will like to say thanks to all Members for giving us of their Saturday so that we could have completed this very important Bill, and to say how sorry I am for the inconvenience we suffered on Thursday night.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.57 p.m.