

*Leave of Absence**Wednesday, December 08, 1999***SENATE***Wednesday, December 08, 1999*

The Senate met at 1. 30 p.m.

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

Mr. President: Hon. Senators, leave of absence from today's sitting has been granted to Sen. Mahadeo Jagmohan for the period December 7—21, 1999 .

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, with your leave, and the leave of the Senate I would like to seek the deferment of Motions to a later stage in the proceedings and proceed to Bills Second Reading.

*Agreed to.***NATIONAL MUSEUM AND ART GALLERY BILL***Order for second reading read.*

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, I beg to move,

That a Bill for the purpose of establishing a National Museum and Art Gallery and for matters incidental thereto be now read a second time.

Mr. President, the purpose of the Bill is to establish a National Museum and Art Gallery to provide for a new legislative framework for the operation of the existing National Museum of Trinidad and Tobago established under the Royal Victoria Institute Act, Chap. 40:52.

The National Museum and Art Gallery is housed in the Royal Victoria Institute, one of the oldest buildings in Port of Spain. The building was first constructed in 1892 in commemoration of the Jubilee of Queen Victoria and as part of the general British colonial policy to build cultural institutions throughout the Commonwealth. The Royal Victoria Institute was used for research, exhibits, natural history and archaeology and for classes in the arts and craft.

In 1901, the building was enlarged to include a reading room and a recreation room with billiards, chess, drafts, ping pong and other attractions. The institute

also served as a meeting place for groups like the FIELD Naturalists Club, the Literary Association, the Medical Society and the Agricultural Board. It was also a teaching centre and home for monthly meetings and discussions of and lectures on scientific questions in agriculture, botany, zoology and geology. Lawn tennis courts were developed on the grounds in 1905.

In 1913, the Marie Louise Hall of the King Edward VIII Memorial Wing was formally opened. However, on March 12, 1920 the building was destroyed by fire. Only the walls remained and most of the collections were lost. It was rebuilt with the help of the business community and activities resumed in 1923. So the present building was structured in 1923.

In 1945, the colonial government, acknowledging the need for a museum in the colony, decided to expand the exhibitions into a museum. The Royal Victoria Institute Act of 1947 gave the institute its status as a museum.

Mr. President, when one looks at the Act of 1947, it created a board of management and vested in it the property of the Royal Victoria Institute. The board consisted of seven persons including the curator and representing the interests of field naturalists, Government and the tourist industry. The Act of 1947 is a simple one outlining the powers and duties of the board and its use of funds.

There appears to be very little significant development of the museum following our national independence. Following the regional importance of the institute, which was attributed to its being the site for the first Federal Court of the West Indies in 1958, following that, there was very little development taking place in the museum.

At independence in 1962, the collections were removed to the former Governor's mansion where it was intended to place the national museum. That plan did not materialize and the collections were eventually returned to the Royal Victoria Institute building. After independence, museum development appeared to have been accorded low priority. Both the collections and the building had deteriorated to a point where the museum was forced to close its doors to the public in 1980 except the Marie Louise Hall, which was partially restored for exhibitions and concerts. The Trinidad Art Society used that space to host its annual November exhibitions.

In 1980 the Cabinet of the day appointed a museum task force to make recommendations for the improvement of the museum service. The task force was serviced by the National Commission for UNESCO and submitted a report in

January, 1981. The recommendations, however, were not implemented except that there was a change in the museum's curator.

In 1982, financial assistance was obtained from the National Energy Corporation to undertake some restoration to the museum. Under the efforts of the curator, the museum also received some limited assistance from the Organization of American States (OAS), the Smithsonian Institute, from Partners of the Americas and as well, from friends of the museum, and it used these funds in its restoration and rehabilitation drive. That was mainly during the 1980s and early 1990s. The museum lacked as well, professional staff and resources to retain professional services. So there was very little development done from that time.

In 1994, the museum was given control of the building known as Fort San Andres at South Quay to extend its services and establish a museum of the city of Port of Spain which was formally opened as the Port of Spain Museum in June, 1998.

Funding for the general development of museum services has really been inadequate over the years, although from 1996 there has been some improvement in allocation under the Public Sector Investment Programme for renovations and display at both the Frederick Street site and the South Quay site.

Mr. President, that is the history of our museum and largely since independence, we really had very little activity and very little development. The 1999 National Museum and Art Gallery legislation seeks to address the status of the museum as an institution including its ability to raise funds, its ability to employ professional staff and move itself towards modern standards of museum development and professionalism.

Essentially, the Bill addresses three areas of concern which are mechanisms for setting up a body corporate including the functions and powers of the board and the employment of staff; the establishment of a fund and finances of the museum; and matters relating to regulation and responsibilities to the Minister, to Cabinet and to Parliament.

The Bill is divided into five parts and contains 39 clauses. I will now go through the Bill clause by clause and elaborate.

Clause 1 defines the title of the Bill as the National Museum and Art Gallery Bill, 1999.

Clause 2 defines the meanings of terms used in the Bill such as "Board", "Chairman", "Commission", "Director", "Fund", "historical and cultural material", "Minister", "national collection", "natural environment" and so forth.

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“‘Minister’ means the Minister to whom responsibility for heritage is assigned;”

That is Part I.

Part II of the Bill, clause 3 establishes a body known as the National Museum and Art Gallery, while clauses 3(1), 3(2) and 3(3) establish the seal and determine the use of the seal of the museum.

Clause 3(4) requires the use of the seal on all documents.

Clause 3(5) dictates the manner by which service of notice to the museum may be effected, that is by registered post addressed to the secretary.

Clause 4 identifies the membership of the board of the museum to include the chairman and seven other members and the director who shall be an *ex officio* member of the board and all members are to be appointed by the President for a period not exceeding three years.

1.45 p.m.

Mr. President, we will note that the membership of the Museum Board consists of the chairman, a director who is *ex officio* and seven other members and of these seven:

- “(a) one person, with technical or scholarly expertise relevant to the collection and interpretation of historical and cultural material;
- (b) a person with some influence in the business community;
- (c) an attorney-at-law with at least five years experience in public law;
- (d) a person with qualifications or adequate knowledge in natural history;
- (e) two persons with particular experience in the field of culture; and
- (f) two persons each having qualifications or experience relating to the functions, operations and management of the Museum and analogous institutions.”

So these are the persons who constitute the board.

Clause 4(4) to (7) outlines how the board is to function, appointment of the secretary and deputy chairman and so forth.

Clauses 5 and 6 identify the procedures for the employment of a secretary, as well as those for termination of appointments by the President. Clause 5 reads:

“The Board may appoint a suitably qualified person to be the Secretary...as it thinks fit.”

Clause 6 outlines the conditions under which the President may terminate membership on the board. Either a person is guilty of misconduct or becomes bankrupt, *et cetera* or is absent except on leave granted by the board. More or less, the general run of such boards.

Mr. President, clauses 7 and 8 outline procedures for resignation of members, as well as for granting leave of absence by the Minister.

Clause 9 outlines conditions and responsibilities for meetings of the board and that is clause 9(1) to (11) and those are clearly stated.

Clause 10 details with the responsibilities for quarterly reports to the Minister, and clause 11 requires board members to disclose interests under certain circumstances. The functions of the board are outlined in clause 12 and include those of:

- (1) operating a National Art Gallery and Museum;
- (2) establishing a national collections policy;
- (3) conducting research;
- (4) collecting and disseminating information; and
- (5) exhibiting historical and cultural material.

The board is required to make regulations for the implementation of all these functions.

Mr. President, clause 13 details the powers of the board and these powers are extensive. These include the power to acquire; lend or hire; to dispose of materials; to accept gifts; to sell; to erect buildings; purchase or take on hire; to raise money; to act on behalf of the Government of Trinidad and Tobago in certain issues; to insure the national collection; to collect revenue; and operate any business which may further the purposes of the museum or enhance its image. So the powers of the board are fairly extensive.

Clauses 14 and 15 outline procedures for the transfer of material to the museum and disposal of material in the national collection.

Clause 16 permits the Minister to give policy guidelines to the board and that is the end of Part II of the Bill.

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Part III addresses the issue related to staff and this is, of course, a very important issue. Clause 17 permits the board to appoint staff including a director, a curator, a registrar and an accountant and any other staff seen as necessary. The board also fixes duties and qualifications and may hire on contract. Salaries over a certain level must receive the approval of the Minister.

Clause 18 outlines the duties of the director.

Clause 19 is important because it details the three options which are available to current staff of the museum and these options are:

“(a) opt to become a member of staff of the museum on terms and conditions as are no less favourable than those enjoyed...in the Public Service;”

In this regard, leave rights and pension rights are preserved for those members of staff who are now members of the public service.

“(b) opt to be absorbed in the Public Service...”

That is outside of the museum—

“in a position that is the equivalent to the position held at the Institute; or

(c) opt to retire under the Pensions Act.”

These are fairly standard options given in circumstances like this.

Clause 20 gives the Board the authority to provide training or to train members in various areas: administrative, clerical or manipulative staff. In clause 21 the Bill also provides that any public officer or member of a statutory authority may request transfer to the museum, and may be transferred with the approval of the appropriate service commission or statutory body. In the case of this transfer, the pension and leave rights and other rights of the officers are also preserved.

Clauses 22 and 23 of the Bill provide for the secondment of officers and for the duties of the museum with respect to pension rights of such staff. Clause 23(2) outlines the conditions of the pension scheme in this regard. The Museum Board is required, therefore, to establish a contributory scheme to grant gratuities, pensions and allowances; to enter into and carry into effect, arrangements with any insurance company or any association or company for securing any employee, *et cetera*, as well as to give donations or subscriptions to charitable

institutions; benevolent funds and other objects calculated to benefit its employees. So the matter of staff and transfer and so forth are dealt with in Part III.

Part IV of the Bill deals with finances of the museum. Clause 24 establishes a Museum Fund to consist of moneys appropriated by Parliament; moneys received related to its operations; moneys borrowed; monetary gifts; moneys collected by way of fees or other revenue earning activities. It is envisaged that the museum can have a gift shop and commercial activities related towards its functions.

1.55 p.m.

Clause 25 details the purposes for which such funds may be used, and some of these are for acquisition of historical and cultural material, for remuneration and allowances of the board and committee members, for salaries, fees and gratuities, for maintenance of property, for attendance at conferences, seminars or training programmes, and for any other expenditure properly authorized by the board.

Clauses 26 to 28 empower the board to make investments, to make financial rules and to maintain a bank account in accordance with the Exchequer and Audit Act with a bank approved by the Minister of Finance. Moneys accruing to the fund are also to be deposited in this bank account according to clause 29. Responsibility for accounting and auditing of accounts is assigned to the board and procedures are detailed in clauses 30 and 31. These procedures are those which are required in all public Government funding. So clauses 30(1) to (4) and 31 detail those requirements.

Clauses 32 to 34 give the museum the power to borrow, to guarantee borrowings of the museum through the Statutory Authorities Act and exempt the museum from taxes and duties. Clause 34 indicates that the museum will be exempt from stamp duty and other fees in respect of any instrument conveying or transferring any land or estate or interest to the museum. It is also exempt from rates and taxes in respect of any lands or buildings owned or administered by it and from value added tax and rents arising therefrom. It is also exempt from customs duties, stamp duties and value added tax on goods imported for its official use.

Part V of the Bill, which is the final—[*Interruption*]

Sen. Montano: I thank the Minister for giving way. Mr. President, I have a question. As the hon. Minister has reached the end of the finance section, I was waiting to hear a bit more from her and I am sure that in view of the fact that a

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corporate entity is now being set up, there would be some kind of a budget projection for the next year. Therefore, she could let us know what the charge on the Treasury is likely to be in the present fiscal year.

Sen. Dr. The Hon. D. Phillips: As you know, Mr. President, the finances for the museum have been within the allocation of the Ministry and this will change, of course, if and when this Act is proclaimed. So what is in the estimates of expenditure for the museum currently, is it that you want to know?

Sen. Montano: Thank you very much. What I really wanted to know was that, given the fact that this is now an enhanced museum facility, it is going to be much larger, the scope of operations is going to be much bigger, and you are also going to, I would assume, actively pursue the acquisition of materials, so that is going to require a much larger budget. I just ask whether, in fact, anybody has made the provision in the present budget for this expanded facility and what is that number.

Sen. Dr. The Hon. D. Phillips: Mr. President, as you know, the national budget cannot predict the future. When I say that, I mean the budget process is carried out one year for the next year. So we do not put into the budget this year for next year, that kind of thing. In fact, this Bill was on the Order Paper for many months and it was not discussed. So when the Bill becomes law then we will be able to put something in the budget for that. At the present time, the museum will function on the finances allocated to the Ministry for the museum.

In respect of Part V of the Bill, clause 35 requires that the Minister be furnished with annual reports from the board which are to be laid before each House of Parliament. The Minister may also request reports on the operations of the board at any time. Clause 36 sets out the areas of operation from which the board may make regulations. These are, regulation of the entry of persons into or onto any relevant place or any part of any relevant place, *et cetera*, and regulating the conduct of persons on or in any relevant place or any part of any relevant place, including making provisions for and related to the removal of persons from any relevant place, *et cetera*.

The board may also make regulations for fees for entering any relevant place, including charges or additional charges that relate to special exhibitions or special events. It may make regulations for anything necessary or convenient for carrying out or giving effect to the Act. It may make regulations for restricting or regulating the making, using, printing, publishing, exhibiting, selling or offering for sale of replicas, photographs, representations or copies of materials in the

ownership or possession of the museum. It may also make regulations for prescribing penalties for offences against the Act. So these powers for regulations are provided in the Bill in clause 36.

Clause 37 covers operations in relation to certain other laws, especially copyright, and therefore the laws of copyright or of preservation and use of archival resources or rights, the rights of members of the public to access official documents of the Government of Trinidad and Tobago, all these laws are to be maintained.

Clause 38 repeals the Royal Victoria Institute Act 1947, and clause 39 vests the property of the Royal Victoria Institute in the new museum. In repealing the Royal Victoria Institute Act, clause 38(2) states that:

“The members of the Board established by the Royal Victoria Institute Act, and operating immediately prior to its repeal shall be deemed at the commencement of this Act, to be the members of the Board of Management of the Museum under this Act...”

So that, of course, we would have a smooth transition and they will continue to have powers, duties and responsibilities prescribed for the board under this Act until the appointment of members of the museum board under section 4.

Clause 38(3) also tries to achieve a smooth transition in relation to all debts, liabilities, legal obligations, actions or proceedings owed to or incurred by or pending with the board established by the Royal Victoria Institute Act. They shall continue as though the Act had not been repealed and shall be deemed to have been incurred or borrowed by the museum, pending with the museum, as the case may be, as though the museum had been the body established under the Act. Again, these are mechanisms for the smooth transition from the old board to the new board.

Clause 39 vests the property of the Royal Victoria Institute in the museum. It states:

“All rights, title or custody to property, real or personal, that was vested or deemed to be vested in the Board established by the Royal Victoria Institute Act shall, at the commencement of this Act, vest in the Museum.”

So in relation to the continuation of the board, in relation to the continuation of the obligations and duties and debts and property, we have a smooth transition.

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Mr. President, these are the provisions of the National Museum and Art Gallery Bill, 1999. Mr. President, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Cynthia Alfred: [*Desk thumping*] Mr. President, it is appropriate that, at this time, there should be established the National Museum and Art Gallery Act and I state here that I have been involved with this institution from the early 1970s when M. P. Alladin was the Director of Culture and I was then in charge of the Division of Culture in Tobago. So there has been a sort of long-standing association with the Royal Victoria Institute, more commonly known to all of us and by all of us as the National Museum. So the fact that the name is now going to be the National Museum and Art Gallery, which was the name used years ago and throughout the years, is good. It is also good that it is now being made into an Act and that this name will be the name.

I want to point out something, however, Mr. President. I would like to believe that this national museum would cover all museums of a national nature throughout Trinidad. I am not saying Tobago. I will explain why later on. In other words, it would not be enough just to have the national museum and art gallery, and the national museum should come first. Like the national library services, this Act should cover all museums presently established and those to be established so that whenever a new museum is to come on stream there would not have to be another Act. So perhaps something could be put in the Preamble to explain this, that this national museum would cover all the museums that would exist in Trinidad. I will come to the Tobago part afterwards.

2.10 p.m.

Also, we know that the Royal Victoria Institute has been associated with other museums throughout the Caribbean and even in the wider world. For instance, it was a member of the Museum Association of the Caribbean (MAC), and especially in the 1980s there was a lot of movement and activity with respect to that particular institution. I do not know how active it is now, but it is something that needs to be borne in mind so that the relationship between Trinidad and Tobago and the Caribbean, in particular, should be re-established in terms of keeping that awareness of the museums, of what we do in Trinidad and what they do outside.

Also, Mr. President, it would be good to have in the Act, specified museums. Now, the term here seems to refer specifically to one museum, but we know that

there are different types of museums. For instance, there are museums that will see just about art. For instance, in Tobago, we had a National Fine Arts Centre and that saw about paintings and drawings. That was that. The reason for “national”, I will not go into that now, but it was established as the National Fine Arts Centre. Then, of course, there is the Tobago Museum. The Tobago Museum is a historical museum, in which we have many artifacts dating way back. There are other things, but that museum specializes in artifacts.

Of course, there are private museums. There is the museum that is run by Mr. George Leacock, the Tobago Parlour—that is private—as well as the Military History and Aviation Museum which is operated by Mr. Gaylord Kelshall. We need to have natural history museums, museums just for costumes, carnival museums. I do not think one has been established as yet, although it has been noted.

I know there is, in the existing Royal Victoria Institute, a section where carnival costumes are displayed. That is all right, but we need to have throughout the country different specialized types of museums so that if one goes to Point Fortin, one would see a museum of a particular type; if one goes to La Brea, one may see a museum there having to do with the pitch; if one goes to wherever, one would see museums set up that are particular to the areas. The Act should be a sort of umbrella Act to take in all museums throughout the country.

I have had discussions with some members of the National Museum and I understand that they are coming up with a feasible plan. The museum is regarded by most people—and indeed most museums, especially of that type—as a place with “dead” things. I want to let the national population know that a museum is far from housing “dead” things. These things have history and they must be regarded in this light, but the onus is on the new board in their public relations to let the general public know that a museum is not just a place to walk in and look around at these “dead” things, but rather that a museum could be, and should be, an educational institution where one brings school children in and talks to them about matters concerning museums. A museum should be a place of conservation, preservation, a place of outreach. So, a museum really should be a living institution and not the sort of “dead” institution that so many people think it is.

Of course, the principal function of a museum is having exhibitions. Over the years there have been many exhibitions at that particular museum; and private persons, artists and so forth, have had exhibitions there. I have attended a few and they have been good. We have very good artists in Trinidad and Tobago and the

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museum, as it is now, is one of the places where they would have exhibitions, and so forth.

As I talk about exhibitions, I would like to mention that I went to Fort San Andres, the museum that is called the "Museum of the City of Port of Spain". I remember when that museum was put in place. I remember it was in the 1980s and the then director was Dr. Claire Broadbridge. She was the Director of the National Museum, as we know it, and she was very anxious to have that Fort San Andres restored to, perhaps, what it is now. She solicited funds and so forth, and all of us were actively involved. The Museum Association of the Caribbean was very involved, because there was a time when there was a big conference here involving persons from the Caribbean and outside of the Caribbean, and we took a trip down to Fort San Andres. At that time, it was not anything much. It was in the process of being made into something.

When I went there today, I was pleased at certain things. I was pleased to see that the building is well kept. Generally, it is well kept, except for the front outside which faces Independence Square. That area could do with some flowers and so forth. The canons look beautiful. They are well preserved. I do not know who is looking after them, but they are really well kept. The building on the whole is in pretty good condition, but that front area is littered, and that is not good enough.

I asked one of the security guards if I could go and look around and he said that I could not go upstairs because an exhibition was about to be put in place. So, I explained who I was and why I wanted to look around. He took me upstairs and I could not go in, but I peeped around and I saw an exhibition that is about to be put up. Because they are not charging, I do not think there is any harm in mentioning this exhibition. I understand that it is going on until December 21, 1999 and it is called Generation Lion. From what I have seen, it promises to be a good exhibition.

What disturbed me a bit is that the guard said the museum is not open every day. It is only when there are special exhibitions. I think that is too beautiful a place to have only when there are special exhibitions, so I would suggest that with the new Act and the new board coming into place, moneys will be spent to have a permanent collection there so that the public could go in all the time.

Of course, according to the Bill, it says that one has to pay a fee and I agree, because too many things in this country we give away. In the Tobago Museum we charge a fee and the moneys that are collected are quite substantial, because there

are many tourists who come in all the time, and local people as well. Therefore, I think that consideration should be given to a permanent collection so that people could come all the time and, of course, when there is a special collection, that would just fall into place.

On the question of funding, my colleague here, Sen. Montano asked the question about funding and no institution can really operate without adequate funds. It is our hope that when the board will have been put in place, adequate funding will be given, not only for the Royal Victoria Institute as we know it now, but Fort San Andres, as well as other places, because I see in the Bill that buildings can be built to house artifacts, and so forth. These things will need money, and I do know that when the plan will have been brought to the Minister, all this will be taken into consideration so that there will be enough moneys to spend on the museums for the museums to be how they really should be.

There are just one or two clauses in the Bill on which I would like to comment. The first is on page 6, clause 12(1) which says:

“The functions of the Board shall be to—

- (a) operate a National Art Gallery and Museum in accordance with this Act.”

I mention this, Mr. President, because of the changing around of the words to be “operate a national museum and art gallery”.

Then, on page 7, clause 13(2)(g), it says:

“erect buildings and structures and carry out related works;”

I want to make mention of this. I just mentioned it in passing, but it is very important that the museum, as part of its expanding programme, erect buildings and structures to carry out the work. So, in other words, as I mentioned, perhaps down at La Brea, they could put up a structure to have something to do with the Pitch Lake and so forth. These must be done so that we really would have the type of museums we are supposed to have.

Mr. President, at page 8, clause 13(j) says:

“The Board shall—

- (j) act on behalf of the Government of Trinidad and Tobago or of an Authority of Trinidad and Tobago in the administration of a trust relating to historical and cultural material;”

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The word “trust” struck me because we must bear in mind that there is a National Trust. So, perhaps this could be looked at again to see that there is no conflict between what the board of the museum is asked to do and the responsibilities of the trust.

There is mention made in clause 15 that:

“(2) The Board shall not grant approval for the sale or other disposal of material in the national collection except in accordance with the Regulations made under this Act.

(3) No item shall be acquired for the national collection...”

I mention these because I know that over the years, people have come from outside into this county—certainly they have come in Tobago and I do not doubt that they have also come to Trinidad. They know about our heritage and some of the valuable artifacts we have. They know where they are located and they come in surreptitiously, collect these artifacts and go out of the country.

So, the Board has to be very much aware of what exists in the country and when they know what exists, then they should make the necessary arrangements to have proper security so that until such time as the board is able to do anything, nobody should be able to come in, take what we have, take it out and sell it at exorbitant prices. Some do not sell; they just keep it as part of their private collection. That is just as bad. I mention this so that the board will bear this in mind.

2.25 p.m.

Clause 17(2) says:

“The Minister may by Order, alter the salaries limit specified in subsection (1)(b).”

Mr. President, I hope that whenever there is going to be alteration it will be upward and not downward. I say let me mention it just in case.

There are one or two things in clauses 19 and 20 that need to turn around a bit but perhaps I would leave it until the committee stage. The same thing would happen in clause 27.

So, Mr. President, by and large, we support this Bill. It is good and timely. Mr. President, through you, I just want to ask a question: Would the name Royal Victoria Institute still remain? I presume it would remain. *[Interruption]*

Sen. Dr. Phillips: Mr. President, when the Bill becomes law, it would require the name to be the National Museum and Art Gallery.

Sen. C. Alfred: Mr. President, I think this should be looked at. Do you remember the Royal Victoria Institute being one of the oldest buildings which was established since 18-something? So perhaps one could look at that to see whether the name would be kept as the Royal Victoria Institute and perhaps have another building for the museum. That is a consideration. But I think the hon. Minister should look into the question of whether the name should be kept as the Royal Victoria Institute. You see, it has become a sort of landmark in the country.

Having said all that, I would like to say, once again, that we will support the Bill. We think it augurs well for the future, provided of course, especially if it gets the funding it deserves. I know the present director is a good person to have and since he has become director I have seen improvement in the general face and even the display of the artifacts.

Therefore, all they need now is, when the board is put in place—Mr. President, if I may just sound one bit of warning—I know about boards; there are some boards that are very constructive; and there are some boards where the members believe that their sole purpose of being members of a board is to destroy what exists and put a stumbling block in the way of advancement. So all I would ask, according to the terms here, when you are about to choose the board, look for people who would want to see improvement in the museum structure in Trinidad and Tobago, not persons who would boast that they are members of the board and they end up either doing nothing or doing anything and everything to frustrate the workings of those who really want to see the operations of the board. This is just a little warning.

So, Mr. President, I thank you for affording me the opportunity of making this contribution.

Sen. Prof. Julian Kenny: Mr. President, I have no difficulty at all in supporting the Bill. However, my interpretation of this is essentially creating or manipulating an existing institution to allow it to earn admission fees and to continue in its ways. I was actually hoping that the hon. Minister might have—instead of telling us the history of the Royal Victoria Institute building—articulated the vision of this particular administration for the development of a national museum system. I have had a long association with the Royal Victoria Institute. I would just like to give one little anecdote to illustrate the problem that citizens have with the museum.

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Many years ago, before leaving Trinidad and Tobago in 1961, I personally prepared a series of 16 x 20 exhibition prints; I think there were 26 of them. I went through great trouble to process my work for archival permanence, it is not just ordinary photography—and I donated this collection as I have donated other things to the Royal Victoria Institute. Some years ago when the previous administration appointed me to the Board of the Royal Victoria Institute I went in there and had a tour of the institution and much to my horror I found that the archivally processed prints which were properly dry mounted so they would last 300 or 400 years, some of them had been trimmed. Not only that, what really hurt me was that I found the prints were actually stuck unto a display board with ordinary thumb tacks which were rusting. I did not take it personally. To me, it was a reflection of the attitudes which have persisted. It is not the hon. Minister's fault or anything—we cannot blame anyone—it is something which has evolved over the years.

The Royal Victoria Institute really and essentially, was a curiosity shop with lots of bric-a-brac; a bit of natural history; a bit of technology; a bit of archaeology; and it continues to be that today, although the previous curator, previous boards have in fact done, I think quite good work in trying to make something of it. It has been a concern of mine that we do not have a policy regarding this aspect of our heritage. Certainly, I get the impression that we appear to be preoccupied or more concerned with entertainment than we are with heritage.

I would like to make a few points here. I think that the country has to have a national museum system. There is something in place but I do not get the impression that there is a great deal of co-ordination. Obviously, it cannot be like the United States, Germany, Britain where there are specialist museums of the size in Victoria and Albert Museum or the British museum in Bloomsbury, or the large military museum in London or some of the museums that you get elsewhere, such as the anthropological museum in Mexico. We, obviously cannot do this but I think that our small size helps us to try to form a vision. I suggest that our museum system really ought to be looking at having a centre where our history is recorded; having a centre where our art is recorded; having a centre where our literature is recorded; and having a centre where our science and technology is recorded. This would, of course, include natural history, archaeology and technology.

The Royal Victoria Institute, at times, mirrored this, but you never saw the depth of it. And I regret to suggest that you cannot make the Royal Victoria

Institute building with fee-paying and so forth—you cannot make it into all these things. It is either you take it and make it an archaeological museum or you make it a historical museum or you make it an art gallery. You cannot take this comparatively small building and make it everything. If you do this, I think you run the risk of saying we have done the museum and there is not an issue of long term, what do we do?

The second point I would like to make is that classically, museums were centres of not only a collection or assembly of artifacts of one kind or another, but museums have, internationally, been centres of research. There has been a bit of research, a little spasmodic thing, over the years at the Royal Victoria Institute, but there has not been any notable research in recent times. I am not criticizing the Royal Victoria Institute or its staff and curators, but it is very difficult under those conditions when you are trying to serve a multitude of interests; it is almost impossible. It is essentially today still a curiosity shop and schoolchildren go on tours or tourists come to town and walk through it. You have seen some of the nation's art there but, in fact, you can see—no, you cannot see except you are invited—you get a much broader, to my view, display of the nation's art if you go to Whitehall and you go through all the rooms.

2.35 p.m.

So here we are trying to do something and we will never be able to do it unless we take the thing seriously and ask, “What do we need of a national museum system?” I am not one to advise, I know that if one suggested one particular site where you would develop natural history, I obviously would be in a position to make constructive comment. But I am still worried that we take this risk, we are solving a problem and there is no vision beyond this.

I pointed out that the museums worldwide are involved in research. Here we have in this country considerable Amerindian artifacts. We have in this country people digging up artifacts and they are appearing on television before the curator of the national museum, who sees it as the rest of us see it, on television. Immediately there is an emergency. I must commend the Government for acting with alacrity in securing the material and the site and the agreement of the people involved.

Here we have a resource that is part of our heritage and we have an archaeological committee which is physically at the St. Augustine campus purely by accident. We also have Banwari Man lying in another part of the University of the West Indies, and it is just fortuitous that I happened to be head of the

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Department of Zoology and I happened to know the people in Texaco, the Historical Society, there was no way of curating Banwari Man. I said, “Okay, fine, we are really a zoology museum but we will curate until such time as the national museum is in a position to take in all the major archeological finds. So you have material which is dispersed in different sites.

It is a matter of concern. The basic issue is: As a nation, are we prepared to spend some serious money on establishing a system in which the choice is either a large central thing, which probably would work in Trinidad or a dispersed system? We already have a nucleus of a dispersed system in a separate museum at Fort San Andres, and a military museum at Chaguaramas. We also have the zoological museum at the University of the West Indies, which holds collections of materials that go back to the Imperial College of Tropical Agriculture days, to the early professors of zoology collecting corals and specimens of insects and so forth. That is all in the museum, they are curated. The museum there is not used much for teaching, it is really a national reference collection. There is also the National Herbarium with collections that go back to 1840.

So we have, dispersed through our country, units of different kinds coming under different administrations. My view is, if we can have a national budget of \$14 billion, I see no reason why we should not have a major upgrade. I think the Royal Victoria Institute building is—*[Interruption]*

Sen. Prof. Spence: I wonder, Sen. Prof. Kenny, since you are talking about finance whether you could attract the attention of the Minister of Finance.

Sen. Prof. J. Kenny: Thank you, Sen. Prof. Spence; I do not know how I can attract the attention of the Minister of Finance but I can use examples. If we can justify spending \$60 million on what is to me—I am being polite—nothing more than entertainment of a very ethereal kind, can we not spend \$10 million on something that we are going to build now, which is going to go down in history long after beauty contests are forgotten?

For example, hon. Minister, you know I am working with various people on building a national heritage site, Nelson Island. We have been working very hard; we have had problems getting our report typed, but we are almost complete. Here we have a building that is twice as old as the Royal Victoria Institute and has had an immense history in the people of this country. To me, it does not cost \$10 million to do that, in fact, you could probably do quite a good job over a two-year period for, perhaps, \$2 million or \$3 million.

My question then with the national museum system is: Do we think in terms of modifying the legislation which regulated the Royal Victoria Institute and its work so that it can keep some of its earnings, accept grants and so forth, and then say, “Oh, we have done a fine job”? Or do we bite the bullet and say, “This is important to us as a nation; this is as important as entertainment”?

Mr. President, only last week the hon. Minister of Agriculture, Land and Marine Resources confirmed that over \$900,000 was being spent to make one cage for one elephant in a space that is less than the size of this Chamber. So the question is: As a nation, should we not be investing more substantial sums of money in our heritage comparable even with what we spend in entertainment, instead of doing this which would achieve something, but will lull us into a sense that we are actually running a museum system?

Mr. President, I make it quite clear, technically, this Bill is okay. This will allow the museum a certain degree of freedom and development, but unless the Government of Trinidad and Tobago takes the central issue of our heritage and makes a serious commitment to providing the capital which is necessary and the personnel—when you go to the Royal Victoria Institute there is a curator. I do not know if there is an assistant curator, but a museum requires a curator who is the administrative head. He may have his own skills, it may be archaeology, but you ought to have a series of assistant curators in art or natural history who will do research as researchers and their research can then be converted into expositions of one kind, which sensitizes our citizens as to what is their heritage.

If we really want to preserve our heritage, to keep it what it is rather than have it polluted by the influences that come from other places, then we must be able to project this; that it is not only “wine and jam and jump up at carnival” with respect to Sen. Daly, I know he is—it is more than this. It is more than entertainment. Perhaps, overworking it, the essence of what I am saying is: one, I will support the legislation, but two, I think the bigger, the more important issue is the articulation of a national policy for serious expansion and development of a national museum system.

Thank you, Mr. President.

Sen. Diana Mahabir-Wyatt: Mr. President, I have very few comments that I would like to make on this Bill, but I am inspired by Sen. Prof. Kenny to support what he said.

I notice that in the preamble to this Bill it starts off by saying:

“WHEREAS the Royal Victoria Institute has existed to...”

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And I emphasize “the finest artistic expression of” *et cetera*. The second paragraph reads:

“And whereas the artistic work housed in the Royal Victoria Institute as well as other property owned by the Institute should be an incentive to national pride, and an impetus to excellence amongst our citizens...”

It goes on to talk about the importance of the institute involving itself in the cultural life of the nation. These are three out of four of the sentences in the preamble and this is a national art gallery first, and museum second.

The majority of the Bill really refers to a museum. We need an art gallery. The talent we have in this country in relation to the visual arts is as great as the talent we have in sports, cricket, the Dwight Yorkes of this world, both in Trinidad and Tobago. We have some astonishingly gifted artists who are known here and abroad for their work, and we really do not have the sort of facilities that we need to have for a national art gallery to show off the work we have got.

I am sure that the Royal Victoria Institute has paintings or works of visual art stacked away, that they cannot show because there is no space. I really think that we need to have a separate institution just for the plastic arts. I feel very strongly that this is something which we should be working towards, because if we really want to showcase the talents of Trinidad and Tobago that is one of the specific areas that should be showcased.

Apropos the same point when it comes to clause 4 where it says that the board of the museum consists of a chairman, a director and seven other members; that is nine members. Out of all these nine members there are two persons with particular experience in the field of culture, which is very broad. Culture can be anything; it can be music, dance, a way of expression, it can be Paul Keens Douglas, it can be all sorts of things. But there is nobody here specifically for the visual arts. There is nobody here specifically for painting, drawing, etching, and sculpting, which is, if one reads the preamble, the emphasis for which we have established the national art gallery and museum.

I would like to move, when we get to the committee stage, an amendment to clause 4 to include persons who have specific interest in the visual arts, because I think that is the purpose for which the institution was set up.

I also notice, and this is a peculiar omission and, perhaps, the Minister could help me with this, there is no member on the board from the National Trust. I do not know whether somebody from this board serves on the National Trust. I do

not remember anybody from the institute being on the board of the National Trust, but it does seem to me that since both are involved in the preservation of our natural culture, there should be, at least at board level, a relationship.

2.50 p.m.

One other point I would like to make, and I am very glad that Sen. Prof. Spence has taught me patience because year after year, after year, Sen. Prof. Spence says the same thing about agriculture every budget and every year it is ignored, and every year he comes back and says the same thing. I have learned to admire persistence as a virtue on its own because I have realized that big movements in culture do not get effected through violence. Big destructive things do, but big cultural progressive movements are really achieved through slow, steady persistence year in and year out, and not giving up what you believe in, and going on.

So once again, for perhaps the 400th time, I would like to bring up the point that it is counter-productive in legislation in Trinidad and Tobago to put actual dollar amounts. I am talking about clause 17(1)(b) which fixes the salary of the director, curator, registrar, accountant and so forth. It says:

The Board may—

- (b) fix the duties, qualifications and term and conditions of service of persons to be appointed...

That should be terms and conditions, not term and conditions.

“save that salaries in excess of ninety-six thousand dollars per annum shall be subject to the Minister’s approval;”

Ninety-six thousand dollars per annum, Mr. President, with the greatest respect, is TT \$8,000 per month. You are looking for somebody who has a masters degree or a Ph.D. at minimum, for which you want to pay \$8,000. And if you look at the much publicized list of salaries that Telecommunication Services of Trinidad and Tobago (TSTT) and Communication Workers Union (CWU) have been arguing about in the newspapers, you will realize that a fairly junior employee at the telephone company is paid \$8,000 per month, so he is like a junior supervisor. A cleaner gets \$4,000, and a superintendent of cleaner gets about \$8,000, without a Ph.D. or a masters degree. The point is that in another year, this sum of \$96,000, is going to be slightly outdated, in another five years, it is going to be very outdated, and the Royal Victoria Institute Act, Chap. 40:52, has not been amended from the time it was passed until now. Can anybody remember when it was passed? Was it 1830-something?

Hon. Senator: 1847.

Sen. D. Mahabir-Wyatt: Well, the value of money between 1847, 1947, and now is vastly different and if we have to wait for another 50 years for this Act to be amended, and if it is a good Act, there is no reason it has to be amended, but if we keep putting dollar amounts, it means that every time somebody has to get an annual raise in salary, the board cannot raise the salary, because it is \$8,000 a month, it has to go to the Minister. After all, the Minister does have other things to do and this should probably be the province of the board of directors.

Once again, could I just ask whoever it is that drafts legislation to please consider as a principle not to put a dollar amount when it comes to salaries in legislation. That would probably not be looked at again for another five, ten or fifteen years.

There is one last point which I hope the Minister would address and it has to do with clause 19(1)(a). There is a problem here that we have had in similar circumstances going back some 10 or 15 years, and this has to do with when an institution, or state corporation, or a body corporation is set up which takes over some staff which existed previously in the public service. As we know, there had been difficulties with the health authorities, there have been difficulties with almost any place where this exists.

One of the problems here—and it is a general problem—but I think it should be addressed because in this particular specific case, you are talking about a very small institution with a very small staff and this puts the onus of decision on people who are from the public service who are at present working in the institute to stay or to leave. It puts the onus on the employee. If the director of the institute should find that an employee is not qualified, is not performing, and is not suitable for employment in a very specialized, cultural institution, the director does not have any say according to these provisions, as to whether or not the person stays or goes back to the public service. The option is on the part of the member of staff and while I accept entirely that the member of staff must have a voice in this, I think that the director and/or manager of the institute should also have a voice in it, because we would judge that director very harshly in years to come when we get the annual report which is demanded under clause 35(1) when things are not going right. But to a certain extent the calibre of project efficiency in performance management lies also the calibre of selection of employees, and a manager should have the right to have a say about the level and standard of professionalism of the employees for which he is going to be responsible for managing.

Thank you.

Sen. Muhammad Shabazz: Mr. President, as has already been said on this side, we really have no problems with a Bill that will do what this Bill says it wants to do: to present to this nation a National Museum and Art Gallery.

Mr. President, the matter which has been articulated here before by one of the Senators is that a museum and art gallery really is like a building. Setting up a board is like setting up people, but there must be a policy and a vision as to what this building is to do and what the board is supposed to do as far as that vision and that policy are concerned.

In listening to the Minister, we have heard that the museum building was erected in 1892, this is one hundred and something years after. Apparently it was burnt at some time and built again. The truth is—and I will speak about this Government and its vision and policy—the fact that we do not have a bigger and better museum in Trinidad and Tobago with the type of culture, and all these different things we have in this country, it is a sad indictment, not only on governments, but on the people of Trinidad and Tobago. We cannot solely blame governments for what has happened with our museum. Where are all our brilliant minds? Where are the people who are fighting and standing up to make sure we get the type of museum and all other things we deserve to have in this country? It is sad.

I believe a museum is important, because when I go to the National Museum—and I go probably every three or four years—I really do not see much development. One, they do not have the space to put the type of things that a museum needs to have. We need a bigger building. Where is this Government's policy? I thought the Minister would have told us they would put down a building at some point, build a bigger place and have a museum that Trinidad and Tobago could really be proud of. I heard nothing like that. As a matter of fact, somebody asked the Minister about the budget and she seemed to have been lost. What the Minister said is that we cannot talk that until next year. She should have come here with this plan and vision knowing how much money you are going to have and how much money is going to be spent to bring about this museum.

It is like a library. When you put a library in the country, yes, you should have all the books in the library, but you still have a vision and want to know how to direct your people. What type of knowledge you want them to have, even though you want them to have all, there must still be that vision. I think the presentation of this Bill lacks the vision. There are so many things we could talk about.

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In Trinidad and Tobago, I am certain there must be a revolution, and a serious revolution, a revolution which I refer to as a cultural revolution. This is a Government that brings bills like Tourism Bill and when you are talking about that you must have a certain type of direction and vision and I want them to understand that most of the things they bring are without a vision and without direction. They are not pointing us anywhere, they are saying we are going to do it, they are going to put down a bill and it is really like public relations and a whole “vaps” to do something to please the nation.

My vision of culture, Sir, which I have taken from the dictionary, and it is not only what we say from what the dictionary has explained, it is the total of the inherited ideas, beliefs, values and knowledge which constitute the shared basis of social action. It is the total range of activities and ideas of a people, a particular civilization at a particular period; the artistic and social pursuits, expressions and taste values by a society of class, a wide range.

What era of our history have we recorded so far? We could talk about the early days. One goes to the museum and sees artifacts, archaeological things and, as Sen. Alfred said, a museum should not only be about “dead” things, we need a living museum. We need a museum that will tell us things which are happening. We could have a museum which tells of the Amerindians, we need to see things about the history of the different people. One could probably get some idea of what African culture looks like, you may be able to get some East Indian and very little at this time. What about the other people who make up our nation? The Chinese, the Syrians. You tell somebody that you belong to a cosmopolitan country and you cannot show them the direction that caused this country to be cosmopolitan, hear a number of different things about the peoples of this country and how they came about, where we are at, what was the type of work we did. There is nothing like that and there is no vision.

The Minister seems not to have a vision where we are going and what would happen with culture. It may not solely be the Minister’s responsibility, this is why I believe it has been said that when the board is brought in, let it be comprised of persons who understand culture, give them the funds, give them the free hand to run the museum and be accountable to you.

In clause 6 of this Bill, we have seen that the board has the right to remove everybody except the director. It says:

“The President may terminate the appointment of a member other than the Director where that member—

(a) is guilty of misconduct...”

3.05 p.m.

Well the board has the right to remove that director. But we see here again, where the board would not appoint the curator and other people like this. It must be with the approval of the Minister. Why does the board does not have that right? The Minister at that point in time may not know anything specifically about museums, so give the board the right to appoint the people who are important and necessary to work with them. Give the board the right, give the board a free hand, and allow it to spend the money and account for it. Give the people who have the knowledge and the ability to run the museum and matters like this, the freedom to do it.

What we keep seeing is, that most times when coming to situations like this, most boards and the things that they are setting up—sure it is argued here that the Minister should have some say—most times, particularly, in something as specialized as the museum, give them the right to run the board in a way that they know best and just be accountable to the Minister or the Government.

Mr. President, there are a number of other matters that we can talk about. As far as we are concerned, the Government should really be the facilitator. I think that the great minds in our country should be the people ensuring that these things happen and it is important that they happen. I went to the aviation museum recently and there were many important things to see. We need to expose our children and the nation to places like these. We need to have places where we can take the school children to see things. We need all these things in this country.

The crime rate is linked to this in a serious way. It is linked to what happens in the country and what children are exposed to. The point was made here heavily this week. If there is nothing to expose children to, they will find something to do and most likely, things that you would not approve. You should find ways to expose them. The Pan Museum—there is the steelpan, the only instrument exposed in this century. What has happened to it? Where is the museum? The people are now fighting for their land down at Chaguaramas and there are only problems upon problems in culture at this point in time in our country. No one knows where we are going now.

Mr. President, the blame could probably be heaped on past governments. I understand that, because I feel that, maybe, there should have been a cultural revolution long before now. The past governments should have done more and

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built more places for culture in this country. Having said that, it is necessary that this Government has a policy on culture, at least, for the next year in the history of this country. They need to have some sort of policy on culture. With the coming of the next government, we are going to make sure—if I happen to be one of the people here, we on this side—that we work towards a serious cultural policy in Trinidad and Tobago. It is important and necessary. [*Desk thumping*]

From the year 2000 to 2001, we are going to have a real cultural revolution in Trinidad and Tobago. [*Desk thumping*] We need to expose the things that we are proud about. Give the pan people the land that was already given to them. Let them develop it so that we could go there and see what has happened with this great instrument, the only instrument invented in this century and how we are going to expose it. We have things that might sound simple, such as the strike squad football team, things that we are proud of. Not only expose it for our sake but also to give people the opportunity to come into our country and expose them to the things that we are really proud of.

Mr. President, today I saw a number of tourists walking through town. It was really sad to see on Independence Square, some of the vagrants approaching them and how they were dealing with them. This is a Government who probably talked about moving the vagrants off the streets of Port of Spain—after we built the Promenade and beautified Port of Spain, the Government came with nothing more and the tourists could hardly walk through Port of Spain and the Government seems not to care.

The Government is now talking about putting police patrols in the road; that whole matter with soldiers in order to solve crime and when after four years that was their duty. We are saying that crime would be solved—and this point was made very clear from both the Independent and Opposition Benches within this last week—when you do things that would prevent it. Rather than buy more jeeps just to put money in someone's pocket; rather than doing things and building things just to put letters, find a way to do things that will prevent crime. This Government had an ideal opportunity over the last four years. People were really looking for them to come up with ideas to close that whole matter and make sure that crime would have been solved and people would have been put on a different level and platform in this country. The whole cultural matter is worse than it has ever been.

Mr. President, today I walked out the area of Laventille and Morvant—and when we are talking about what is happening, even the culture of work has changed in this country. The Unemployment Relief Programme which is something the Government could exhibit to people in this nation to see what has been happening, to see how this country was built and to see how it was developed; today, nothing is happening. People want food to eat and it is getting worse and worse all the time. It is a good thing we only have one more year of it. *[Interruption]*. Yes, well I must do this sometime.

Mr. President, someone spoke recently about the amount of money being spent. I have a question coming up about the aviation museum down at Chaguaramas. What did the Government do with it? The amount of money that was spent to build it, that \$77,000.00, should have been used to do something better and more specific: to build a museum or a place. They now have to break it down again. That is the kind of thing that is happening. Why we cannot use the moneys of this country to do things to point a vision and to have people looking in a certain direction in order to develop the country and to make it a far better place than it is.

With these few words, I would really like to say the Government should have a policy and vision as to where it is going with our culture, the museum, heritage and all these things. Build places, one with a vision as far as the type of building or buildings that you are going to put up, when and where you are going to put them up and that is to start with. Let us say we are going to house something here and when we are going to do it. Whether we are going to do it in the next two years or in the next year we are going to start but let us hear when. That is the first matter.

Secondly, what is the policy? What is it we intend to put into these places? How is it that we intend to develop this culture and what is the vision? I am saying again, culture, not only meaning entertainment. How are we going to develop it? The personnel that we are going to put, how are we going to arrive at that? What type of finances are we going to give within a period of time? Just as we can say we intend to spend \$400 million or \$600 million on stadia in this country—how are we going to do it? How many millions are we going to spend on developing our museum system? We need to know that and when the Government says that it is going to spend \$4 million or \$6 million, it should reach \$11 million. So we want to know that.

Mr. President, we want to know that just as there was a policy to develop the Prime Minister's office at Whitehall with a big cost overrun, let us control it for

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the museum and matters like that. So we want to know your policy, vision and cost. How much money you are going to spend and when you are going to do it, and we want the Government to discuss that with us. We also want a reason why this vision would help stop crime and do all these other things. Even though the Government may laugh at what we are saying, we will do that and we will get the opportunity to do it soon, to change and revolutionize this country in such a way that it would give hope to people and we would be able to expose the things that we are proud about.

3.15 p.m.

Again I say that for all the things I am blaming them, I am not blaming them for the infrastructure not being there. I think that other governments in some way must take some blame. However, with the energy with which they came, they are so visionless. They lack all sorts of energies for the development of this country in a serious way. All they have done and done very well is present the Bill, articulated it from a parliamentary point of view and came here and sat and talked, but they have done nothing more than that. [*Desk thumping*]

A sad indictment on them, Sir, is what is happening with the library in Port of Spain, a shame, [*Desk thumping*] and if they are going to build museums and build other places like they are doing the library, we must be sad and hopeless in this country. It is hopelessness, again, that causes the youths not to have any direction, not to have any belief in you, not to feel that you would implement the things that you say and, as a matter of fact, you have now brought the nation to this.

I take this opportunity to get to them. They may say what they want afterwards. They may say I am not an achiever, that I have done nothing, and they may use all these terms afterwards when people say things against them. I say here and we say here, we must be brave enough to stand up and tell them these things, regardless of what they may say afterwards.

Mr. President, I leave by telling them that this Bill really, even when it is passed, does nothing for the museum, in bringing together for display all these cultural and positive things that we have in this country. It does nothing for giving hope to people. It is just a piece of paper saying that we have agreed. We need more than that from this Government at this point in time. The Parliament needs it and the nation needs it. Thank you, Mr. President. [*Desk thumping*]

Sen. Prof. Kenneth Ramchand: Mr. President, the Minister's account of the Royal Victoria Institute and the sad story of how nothing has been done really invites us to look at the whole large question of museum development and the whole national heritage. Although she has come here with a Bill that is specifically, it seems, aimed at fine-tuning the operations of the Royal Victoria Institute, although that is what it seems to me is the purpose of the Bill, there is enough said in the Bill and there is enough said in the Minister's introduction to encourage us to speak more broadly. I hope she would not take it amiss that every speaker so far has seen the need to go beyond streamlining just the Royal Victoria Institute.

The first thing that I would like to point out is that it might be very difficult for us to maintain an institution called, "National Art Gallery and Museum". You have to separate your national art gallery from your museum, unless you take the whole island and say that is the national art gallery and museum. You cannot find a site or a building or a compound that would be capable of being the national art gallery and museum and, if you did, it would be a monolith located in one place to be used mainly by one geographical section of the population. There are other reasons for separating the national art gallery from the museum.

The national art gallery, as Sen. Mahabir-Wyatt points out, would be a place that would recognize and stimulate the visual arts in this country. We have a long history of visual artists and there are many art galleries in Port of Spain. At the moment they are commercial enterprises but I am sure they do not make much money. They probably get something from the sale of art. They are doing a wonderful job, however, presenting a place for artists to bring their work to put on exhibition and to make some money. The national art gallery would have to be both a building and a committee that would be intent upon building up a national collection.

So that all the great works of Trinidadians—if I want to see Cazabon I will go there; if I want to see M. P. Alladin I will go there; if I want to see Guyadeen I will go there; if I want to see Sybil Atteck I will go there; if I want to see Amy Leong Pang I will see her there. There must be a national gallery which is building up a permanent collection and a permanent exhibition of the great visual art of this country.

I do not want to neglect sculpture or woodwork and I do not want to neglect something that is peculiar to our country and that is—I do not think there is a name for it. You might have to call it carnival art, but—the art that goes into the creation of the bands and the costumes and the devices that go along with the bands; they overlap. It is visual, it is physics, it is chemistry, it is all kinds of things, Mr. President. We need a museum or a national art gallery that would

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recognize that the multifaceted art that emerges at carnival time in the costumes and all the other designs and the colours and the shapes and so forth, have to be recognized—as no other country would be able to recognize because they do not have it—as part of something that would be on permanent exhibition in a national art gallery. I am not making a new point because everybody has been talking about how all these wonderful costumes are discarded year after year. They may be selectively preserved, sometimes they are preserved on film, but I think that every year you have this outpouring which just goes down the drain.

So, Mr. President, the national art gallery is almost something separate from the national museum and I do not see that if you have a national art gallery with headquarters, let us say, in Port of Spain or wherever, you cannot have other art galleries related to the national art gallery in other locations. In fact, the point will become clearer when I start to talk about the museums. Before I go into the museums I must say that our art gallery and museum policy, because of our size and our peculiar history of the meeting and interacting of cultures upon one another, will have to be different from the policies in the so-called established countries where you have a more or less static and class-ridden view of things and where things are quite separate from one another.

This is a country where a man starts to paint and he tells you, “Boy, I does carve too”. We are all utility artists. Everybody does a little of everything else. Even a man who was laying tiles for me, he told me, “Well, doc, you know, I am a mason too and if you have any galvanize to change, I doing that too”, and he really is good. He is not boasting. Because of the kind of society we are, one is not a specialist in one thing. I could hold my own with social scientists and historians and with literary critics. I am not restricted to literary criticism, so it is true even in the academic—[*Interruption*] Indeed, yes.

So, Mr. President, that is a function of the way in which this country was developed, that in almost every aspect of our life people are multifaceted and in our art that leads to very rich results and so forth. That multifaceted thing needs to be recognized along with size. So you cannot say, “Well, okay, here is a national gallery in Cedros, here is a museum in Cedros, here is a community centre in Cedros, here is a school in Cedros, here is a library in Cedros”. If you do that you are just going to run out of buildings. Therefore, even if you have that, there would have to be some kind of co-ordination so that the community centre may very well be in the same location as the national art gallery in the Cedros area, and it may be in the same location as the museum in the Cedros area.

So we would have to design the kind of building that would accommodate, if we go regional, three or four different kinds of expressions at the same time. This is because somebody who is interested in the Arawaks of Cedros might also be interested in the growth of the coconut industry in Cedros and that is all in his sensibility and his consciousness as a united thing, so you cannot send him to five different buildings. So our kind of society may well require a different notion, and we would have to recognize different kinds of museums, for instance. So when we are talking about a national museum we are really talking about a body coordinating national museums.

I can see a museum of oil or petroleum located somewhere in the Pointe-a-Pierre or Point Fortin or La Brea area. Instead of selling Lake Asphalt, maybe we should set up a museum right down there that would be the great petroleum museum which would have close to it a national heritage site, probably owned by the Americans but still on our land. As the Minister once said, they cannot put the Pitch Lake on their backs and carry it away but I feel if they own it, it is tantamount to that. Still, Mr. President, we need to have museums spread throughout the country performing different functions.

I can just reel off some kinds of museums, and the kinds of combinations I am talking about—I despair of going anywhere with the Biswas House, which the Government bought under pressure. Nothing is being done about it. I think they are vexed with me about the textbook issue. They are looking for a new chairman to chair The Friends. They are looking for a new somebody to run the Biswas House, I do not know, but everything is in limbo. I despair of that. But if you go down to Chaguanas you see the Lion House. [*Interruption*] Somebody is vexed with me. I am not “taking basket”.

I am just trying to find some excuse for or reason why a Government would buy a building, the Biswas House, after promising, “Yes, we would buy it”. They bought it under pressure and we formed a committee. Why would you buy it and then do nothing with it? It would be vandalized. It will rot and the next thing that would happen is it is going to end up as a Kentucky Fried Chicken outlet. Watch it. [*Interruption*] Royal Castle.

So, Mr. President, there is this place in Chaguanas called the Lion House. It was the place where the Toolsies or the Capildeos lived. It is the place that is immortalized in the same novel, *A House for Mr. Biswas*. It is a place in the heart of the sugar belt. Do we have a museum of sugar in this country? If the role of sugar in the evolution of this country and of the Caribbean is recognized, would you feel, well, there ought to be a museum of sugar? If you are looking for a

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place for a museum of sugar, could you have a finer place than the Lion House, which is associated with one of our greatest writers and one of our greatest writing families? So you are killing about 11 birds with the one stone, when you designate that building a national heritage site and you think of using it to establish a museum of sugar. Look at where it is!

Mr. President, we have been fighting to put in a report—I think we have put it in now—about Nelson Island. There are wonderful plans for a Hall of the Peoples there to present Nelson Island as sitting at the gateway, the place through which everybody who was coming to this country passed, all the ethnicities who came here. There are buildings on that island older than the Royal Victoria Institute that need to be treated in appropriate ways. We have got these plans going and, as Sen. Prof. Kenny has pointed out, even when there was a faint promise of money, it was less money than the money used to build the elephant cage.

3.30 p.m.

We heard a whisper that there might be \$800,000 for it and now we hear a whisper that we have to cut down the budget. Just \$800,000 to develop a major national heritage site associated with all the peoples who came to this island; associated specifically with the landing of Indian indentured immigrants; associated with a number of Cazabon paintings and so forth. This \$800,000 is what is allocated in the first instance, and then we hear we have to cut the budget.

Anyway, Mr. President, there is another kind of museum one would want to develop, I refer, of course, to our Amerindian ancestors. There is a tiny museum in Cleaver Woods. It is not great. It is a start, but we need to go full-bloodedly into a Carib and Arawak museum where we would gather artifacts, books, pamphlets, drawings and paintings and pull together all the literary references to our Amerindian ancestors where we would note the kinds of foods they ate, what kind of herbs they used for sickness and so forth. We do not have anything of the sort, but that would be another kind of museum we would want to develop along with recognizing the locations, the sites where digs can be made or have been made.

Mr. President, I am going to go into it in detail because I think this point needs to be driven home. We need a folk museum. We need a music museum. If one traces the evolution of the music of Trinidad and Tobago, we need a music museum. Every time my American students come down here, I have to scramble and hustle to get people in the Ministry of Culture to remount or reshow a

wonderful exhibition on the evolution of the pan that they did. Now, it is a shame that that has no permanent place in a national museum. [*Desk thumping*]

A museum of music would include the pan. It would include all kinds of recordings of calypso. I am happy that the Smithsonian is doing it, but whenever I want CDs of old calypsoes, of drumming in Haiti, of the folk music in St. Lucia, the Smithsonian is producing them.

Sen. Shabazz: Eddie Grant in Barbados.

Sen. Prof. K. Ramchand: What Eddie Grant is doing is a kind of superficial raking off of the hard work that the researchers at the Smithsonian are doing. But we need museums, as Sen. Prof. Kenny was suggesting, that are also related to research into the culture of the place.

Mr. President, although I recognize that the present Bill is seeking to tighten up to work the Royal Victoria Institute better—although I am going to support it—I am just sounding the note that everybody else has been sounding, that we do need to think about a coordinated system of museums. When I look at the arrangements for the board, I am asking myself, if one has a board running the Royal Victoria Institute, as Sen. Mahabir-Wyatt was asking, how do they relate to the National Trust?

I do not just want a member of this board on the National Trust. I think that we have to recognize that the museum and art gallery policy is connected with the cultural policy, and the cultural policy is connected to the broad social policy of creating a society here, and that a body like the National Trust should have in its portfolio the coordination of this whole system of libraries and national galleries.

Our heritage is not something dead and static that we put on display or charge tourists to come and see or give little children lectures about. Our national heritage is something that we want to feed into the psyche and sensibility of the population. That national heritage is fed into the sensibility of the people of the country by the creation of those museums that will show how alive all these things still are; how much a part of what we are, those things seemingly of the past are, and the connection between the artefacts of the past and the art and artefacts of the present.

So, it seems to me, Mr. President, that although I am going to support this legislation, I am very worried about whether we would not be spending money twice. I feel we should have a very strong National Trust which will also have responsibilities for museum development, and out of that, one may have a small

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committee working on the Royal Victoria Institute, a subcommittee working on the petroleum museum and so forth, but all this has to be done under the monitoring vision and the creativity of a National Trust which is thinking about the whole country including Tobago. How do we coordinate all these things?

Mr. President, I want to give one more set of examples. In countries such as ours, and even in the larger countries, it has been found that before governments take on the responsibility, there are private collectors who gather paintings, manuscripts and so forth.

Since I retired, I have been going through my papers. I find that for every book published by a West Indian author, I have bought two, and I have one virgin book sitting on the shelves. It is not an investment. When people come to borrow them, I tell them no. If the University of the West Indies ever gets serious when I die, this unused collection is going to them, or if there is ever a national library, it could go there.

There are private collectors doing that all over the place. There are people waiting to make donations to the National Library and National Museum of material that they know are part of the national heritage. Going through this stuff, I am getting fed up. I cannot keep it in my house. I have to air-condition a place to keep these books all the time. I have to fumigate them all the time, dust them all the time. Going through all the boxes of correspondence, I see letters from C. L. R. James, Wilson Harris, V. S. Naipaul; letters from all the writers just sitting there. I am not a national library. I am holding this thing until such time as the state or the university can say to us, "We are prepared to preserve and put these things on display", and then it would flow.

The museums, Mr. President, would have to make connections not only with individual collectors, but with other collectors and preservers that we have in Trinidad, thank God. I am not a great friend of the corporate institutions, but one of the things they do to salve their conscience is that they do spend money on some very worthwhile enterprises. We have butterfly collections, fossil collections and collections of paintings that corporate bodies have built up which are just waiting there, and I am sure some kind of connection can be set up between the National Trust and these bodies to enhance our museums.

So, Mr. President, I would like to see a coordinated museum and national gallery system taking into account the national archives, the national library, all the corporate collections, all the private collections, and I would like to see all this orchestrated by a powerful National Trust or cultural council. I want to insist that

this work of gathering in the collections cannot be a just an administrative act. One does not just gather. One helps to create, and our national museums and galleries, nearly all of them, or at least from the point of view of the trust, they should also be regarded as research institutions which are discovering more and more of the lost heritage and also giving the stimulus to young artists to create more.

Mr. President, with that, I close. I say that I am supporting the legislation, but I really wish that the Minister and the Government would consider this as only a starting point towards the evolution of a more comprehensive and profound museum and art gallery policy. *[Desk thumping]*

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, I would like to thank all who contributed to the Bill presented. First, let me say that the name of the Bill is the National Museum and Art Gallery Bill. There may have been some persons who have gotten the name on their documents wrong-sided, but it is National Museum and Art Gallery. That is just by way of correcting that error.

Out of the contributions that were made on the presentation of this Bill, one of the themes that ran through the contributions was the whole issue of the lack of policy and vision in the Bill. Let me deal with that because a number of persons made those comments. Mr. President, perhaps the person who was most articulate and vicious in that criticism is our Sen. Shabazz. I noted that after Sen. Shabazz made his contribution, he sat down and he laughed. I sit opposite Sen. Shabazz and I see him laughing after many contributions as if—this is what it seems to me—he has been on the stage and he has made his gallery. Like a little boy in a classroom who has been wicked, he sits down and he laughs and enjoys himself.

It must be a laugh, you see, because Sen. Shabazz talked about how sad it was not having a policy and not having a bigger and better museum in Trinidad and Tobago after all these years since 18—whenever when the first institution was created. Sen. Shabazz, however, did not tell us—and indeed, this is why I went through the policy—the history, because since we gained our independence in 1956 until now, there has been no policy, no development.

In fact, in 1980, the museum closed down when the PNM government was in office. I did not place any emphasis on that when I was presenting my history, but since it was raised by Sen. Shabazz in that way, I want to make the point that the government, particularly the PNM government which was in office for so many years, did nothing about the museum and allowed the museum to deteriorate and

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close down. Even, for example, when a task force was put in place in 1980 and recommendations were made, nothing was changed, no recommendation was implemented. To come now and say that we must say when, where and what we will do, that I find is really very strange. That for 40 years nothing was done and now Sen. Shabazz tells us that I must say when, where and what we will do and so forth.

3.45 p.m.

In relation to Sen. Montano's contribution about funding, Mr. President, we come in this honourable Senate and the other honourable House every year and we know how the budget is made. We cannot make the budget on a project that is not existing. We cannot make the budget on the basis of a Bill which is on the Order Paper and we do not know when it will be debated and what would be the outcome. We make the budget on the basis of sound projects that are in place, so when you ask me how or what is going to be the funding and if I have funding, how can I have funding for a project and an institution that does not exist? One that we are now creating in a certain form, if this Bill is passed in both Houses, to give it the power to do certain things which, of course, would require money, but this is not how the budget is made. So these questions that have been raised about the funding particularly by Sen. Montano and Sen. Shabazz, I do not even know what the funding will be. It is nonsense! This is not the way in which budgets are made.

So I say very clearly, once we get this passed in both Houses—whenever that would be—then we would have some item on the budget, when we know what the powers of the board would be and what the museum would entail. In criticizing me for not having a policy, Sen. Shabazz read his policy from a dictionary; his policy of culture comes from a dictionary

Mr. President, this Government in its first four years of office has a policy on the visual and performing arts for this country. Let me just explain. We have a policy and they were in office and there was culture all around. Whenever we talk about culture in this place the Opposition feels that they are the experts on culture and we do not know anything about culture; for me, I am an alien in terms of culture. We created a visual and performing arts policy and in that policy we have all the arts including the plastic arts and the literary arts.

Our Cabinet has approved a cultural council for Trinidad and Tobago to take that policy and review it and implement it and present to us a plan for

implementation. We have provided that. That is there; that is public knowledge. So this nonsense about having no policy, the Minister having no vision, there is not enough space and having something—

Sen. Prof. Spence: Mr. President, I wonder if the hon. Minister would be so kind as to place a copy of the policy document in the library so we can access it?

Sen. Dr. The Hon. D. Phillip: Sure. In fact, I think I have a copy right here. *[Laughter]* Okay, we shall do so because it has been approved by our Cabinet.

Mr. President, with respect to public relations and “vaps”. Again, Sen. Shabazz said from the year 2001 that he is going to have a real cultural policy which they did not do all the time. All the experts are on culture, they have no policy and it is the present Government who put it in place. On this matter of policy, all the Bills that we produce are based on policy. That is how we know what the content will be. The Bill is based on our policy. We do not say in the Bill that our policy is “x”, “y” and “z” but the provisions of the Bill are the guidelines which tell us what the underlying policy is—I shall articulate that policy just now. The Bill does have a policy which would be articulated because it is clear that the policy is not understood by some of the hon. Senators who spoke.

Mr. President, in relation to the various kinds of ways in which we have and will preserve our culture, I want to deal right now with the criticisms before I deal with substantive points. In August, 1999 we created something called a carnival institute and that institute is for the preservation, the archiving, training and development in carnival arts; and those carnival arts of course include pan music, calypso and mas. That exists as an institution. It has a budget. If one would look in the estimates for 1999/2000 there is \$1 million, I think, in the recurrent expenditure for that museum. *[Desk thumping]* That exists as an institution and so pan is involved in that area.

Sen. Prof. Ramchand spoke about Biswas House; we bought Biswas House and nothing has been done. The Government of Trinidad and Tobago bought that house because of the vision we had and the importance of this particular contributor to our culture. The issue is that in talking with the friends of Biswas House, they recommended to us that we allow them to control this building and so we got the approval of Cabinet to do so, but as an organization they had to have legal standing. So we put it to the Solicitor General to work with them, do whatever was necessary to be a legal entity so that they can accept funds and so forth, to work towards the improvement, restoration and preservation of that house. That is still going on. Indeed, we are getting some difficulty from the

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friends themselves to put themselves into a legal entity. So to say that we bought this House and nothing is being done as if there is nothing going on, I think there is some degree of misrepresentation.

Mr. President, in terms of the Nelson Island Project, that is a project for which we could have gotten funding because it was approved. So we could have put it in the budget. We assessed the work that needed to be done. Firstly, the preparation of a plan for what needs to be done would take some months before it is approved. In fact, the report has not yet been received and so we have nothing to present yet, but there is an allocation of \$800,000 for that plan to start in this current year.

3.55 p.m.

It is no disrespect to the importance of that work, but that is what is allocated given the assessment of how much work can be done in the present year. So I do not want it to be thought that this project is not being done.

Mr. President, let me go to some of the issues that were raised. The issue—and I think it was very common—that what we should have is not just one institution, building or place called the National Museum and Art Gallery, but first we should have a system of museums and, secondly, that we should probably separate the national museum from the art gallery. This point was made by a number of Senators.

Firstly, let me say that we are already working with a system. The vision—and this is why I answered Sen. Alfred—that the Royal Victoria Institute is not the museum. The national museum is the entity with which we are working. In the last four years, and not before—and I am talking again to Sen. Shabazz—we have been working with the Toco Museum, the Siparia Museum and the Mayaro facility, at which we are still looking. All these came into being in the last four years; they did not exist before.

The private museums like the military museum are private. We also have a relationship working with that museum. The idea is, indeed, to create a national museum system. How it would be categorized, if on the basis—as Sen. Kenny pointed out, we have history, art and literature at different places—that is to be decided. But certainly, we have in Trinidad and Tobago, our own peculiarity as well. We have community museums which have different kinds of presentations and emphases, so a museum system is very much on the card. We have already begun to create it. This legislation would legitimize and extend it.

As you may notice, the museum board will have the power to acquire, to incorporate and to buy; all that is listed here in clause 12: to acquire or accept historical material, to lend, hire out and so forth, to erect buildings and structures, whatever. What we are saying is that the museum is not going to be that facility on Frederick Street. The national museum is an entity which is composed of a number of buildings and sites in different places. So, certainly, we do not think that just one little building on Frederick Street is our national museum. As I said, we are already working toward a system.

Whether there will be a separation of art galleries from the national museum itself, that is also to be worked out through decisions of the board. Indeed, already we have been creating art galleries in different places. So I want to make that very clear: the national museum is not going to be the Royal Victoria Institute. It is intended to be a system in which we collect and preserve various parts of our culture.

The whole issue of the connection with the National Trust, we sat in this House and in the other place and debated that Bill. We had it in committee, there were arguments, discussions, debates, queries and so forth. One of the things we decided—which is now in the National Trust (Amdt.) (No. 2) Bill of Trinidad and Tobago which was passed in the other place so now it is law—is that because of the overlap in various institutions and agencies that are doing different things, including the museum, there will be various memoranda of understanding and various other collaborative agreements between the National Trust and other agencies, so that we have a smooth thing going.

The National Trust Act has already been passed so we cannot say that the National Trust will now control our museums. We are saying that there is already provision for memoranda of understanding between these agencies, so there would be collaboration and co-operation about who does what. Sen. Alfred, the name “trust”, therefore, in clause 13(j) of the Bill will take that into account. There will be agreements between these bodies.

Concerning the other matter about the importance of an art gallery, the visual aspect which Sen. Mahabir-Wyatt talked about, we are very much aware of that.

Mr. President, concerning the issue of the policy in the Bill, what we are doing with this Bill is one, we are giving some autonomy to this institution we call the National Museum and Art Gallery. As has been its history, in being just an appendage to some ministry or division, it has not gotten proper attention. We are giving it autonomy. [*Interruption*]

Mr. President: Madam Minister, I am not too sure, I do not know whether you are responding to any specific issues raised by previous speakers. If not you cannot restart the presentation and speak now of any omissions that you may have made in your original presentation.

Sen. Dr. The Hon. D. Phillips: Thank you, Mr. President. I am responding to points raised by speakers previously. I am talking here about the policy in the Bill. One, autonomy I am saying and, two, the capacity for having adequate professional staff to guide its direction, the capacity for having a board with members who are well-prepared to gear it into a particular direction, the whole importance of funding and of having a fund which is fairly autonomous to carry out the very many kinds of functions that the board has to carry out.

Of course, as well in this policy is the concentration on this aspect of heritage in the context of a national museum and art gallery, the emphasis on this need to conserve our heritage in these various areas, and the putting into being of an agency which would have that responsibility and autonomy to guide in those directions. So the Bill addresses this policy which is articulated within the various clauses.

The issue of money value which Sen. Mahabir-Wyatt identified in clause 17(1)(b), I think we could possibly deal with that at the committee stage and some more clarification on that would be raised. The issue of various types of museums, I hope I have already dealt with that. In terms of where we already have museums in different parts of the country we are integrating them into a whole and where we can, indeed, create new ones and work on those issues.

Concerning the issue of Fort San Andres, most of what was said about that was pretty positive. Of course, with funding and the autonomy which we hope to create, that too would be further developed. The need for research which Sen. Prof. Kenny spoke about, that is very well accounted for in clause 12(1)(c) as one of the functions and responsibilities of the museum, to engage in research which is, indeed, part of our policy.

The Banwarie Man would be covered, I think, in the National Trust (Amdt.) (No. 2) Bill. Regarding the issue that no member of the board is identified on the National Trust, we must note that when this legislation was drafted, the National Trust (Amdt.) (No. 2) Bill did not exist; it was not yet proclaimed even. Therefore, there is very much a great overlap between the sources of membership for the National Trust and for this board so I see no conflict there.

I hope that I have dealt with the concerns raised. We are very much aware of what is needed in terms of what the national museum should be about and what our policy is in this direction and how we connect that to our cultural policy.

I just want to address one final matter that was raised by Sen. Shabazz which has to do with a contentious issue about our lack of concern for pan. Just one matter in relation to the land situation, that is, again, Mr. President, the land that Pan Trinbago claims was given to it by the then Prime Minister, Dr. Eric Williams. We took the claim to the Solicitor General asking for advice on whether, indeed, it did have a claim. The Solicitor General responded to us and asked for a list of items and certain kinds of evidence that they wanted from Pan Trinbago. We sent this list to Pan Trinbago and we have got no response.

It is not that we have said that there is no land for you, although the Chaguaramas Development Authority did say that they did not see they had any claim, but we still took it to get advice on it and that process is still taking place. Mr. President, we are waiting on Pan Trinbago to give us an answer about these items that the Solicitor General has asked us. If they have certain kinds of items then we could make a claim to this piece of land.

It seems though that whatever was done between Pan Trinbago and that previous government, we have no kind of documentation or anything out of that. So it seems as though they were given some kind of probational policy for the last 40 years and that seems to be the policy on which they worked. But we are working on it and it is not true to say that we have just abandoned it.

Mr. President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

4.10 p.m.

Mr. Chairman: Hon. Senators, this Bill contains 39 clauses divided into five Parts with a Preamble. Since, apparently from the debate there are no contentious clauses, I seek your permission to treat with the Bill in parts and if there are any specific clauses that need any amendment we will deal with them separately. Do I have your agreement?

Assent indicated.

Sen. Dr. Phillips: Mr. Chairman, I would like to propose that there be a change in the wording of the name of the Bill. It should be “The National Museum and Art Gallery”, so that wherever the name “National Art Gallery and Museum” occurs in the Bill, it should be changed to “National Museum and Art Gallery.”

Mr. Chairman: Is that agreed to, because it is referred to in many places?

Sen. Mahabir-Wyatt: It is a lot of switching. It is referred to as the National Art Gallery and Museum about 20 times in the Bill, why switch it around? Is there some problem?

Sen. Dr. Phillips: It is a typographical error. We have been referring to the institution as the National Museum and Art Gallery, and I think it is a typographical error.

Sen. Mahabir-Wyatt: It cannot be a typographical error, it is done about 20 or 30 times. What I am asking, is there a reason why the word “Museum” comes before the words “Art Gallery”?

Sen. Dr. Phillips: It is because the thrust of the Bill concerns the museum.

Sen. Mahabir-Wyatt: Okay. That is true.

Mr. Chairman: Shall we proceed?

Clauses 1 to 3 ordered to stand part of the Bill.

Sen. Prof. Ramchand: Mr. Chairman, what about the Preamble?

Mr. Chairman: We do that last.

Sen. Mohammed: Mr. Chairman, in terms of the change of name, would there be any special wording to indicate that wherever the name or title appears—

Sen. Dr. Phillips: This is what I propose, yes.

Clause 4.

Question proposed, That clause 4 stand part of the Bill.

Sen. Mahabir-Wyatt: Mr. Chairman, clause 4(2)(e) which says:

“(e) two persons with particular experience in the field of culture;”

I would like to propose that the word “culture” be deleted and be replaced by the words “painting and the visual arts” because there is nobody on the board who represents people with experience in painting and the visual arts, and even if it is two out of nine, it is a national art gallery as well.

Sen. Dr. Phillips: *[Inaudible]*

Sen. Mahabir-Wyatt: Art can mean art and dance, painting is a specific thing. This is an art gallery, but it is one for painting and the plastic arts, painting and sculpture.

Sen. Dr. Phillips: Yes, but the visual arts include painting.

Sen. Mahabir-Wyatt: Just say, “visual arts” then. It could include painting and sculpture.

Sen. Dr. Phillips: Mr. Chairman, I beg to move that clause 4(2)(e) be amended as follows:

“(e) two persons with particular experience in the field of visual arts;”

Sen. Mark: Mr. Chairman, I was wondering if Sen. Mahabir-Wyatt would want to restrict it in terms of persons with skills in painting and visual arts. If you use the term, "culture" would it not give the board a certain kind of flexibility?

Sen. Mahabir-Wyatt: It is too broad. If you have ever been there, upstairs is the Art Gallery and there is nobody on this board who has specific expertise in painting. The Art Gallery is there to show off painting and sculpture, and culture could mean work culture, energy culture, electricity culture, trade union culture, or it could mean medical culture.

Sen. Mark: What if you say “with training or experience in visual arts and painting”?

Sen. Mahabir-Wyatt: Two out of nine. For God's sake, that is all I am asking for, two out of nine where half of the thing is an Art Gallery. You do not want to have anybody with the expertise in—culture is a broad, broad term and you are absolutely right, it could be social culture, sports culture, medical culture. We talk about culture in all kinds of ways and I think Sen. Prof. Ramchand was very eloquent on this, but since this is the only National Art Gallery we have got, can we just have some experience in painting because we have nobody at the present time on that board who has experience in painting as an art form.

Sen. Alfred: Could we say that of the cultural arts which would include the paintings—

Sen. Mahabir-Wyatt: Dance, music.

Sen. Alfred: Right.

Sen. Mahabir-Wyatt: We do not want that. We want painting.

Sen. Montano: It is not a cultural centre.

Sen. Alfred: Remember if you are talking museum in the broadest sense you would want to incorporate culture.

Sen. Mahabir-Wyatt: They do not use it for that, they only use it for painting.

Sen. Alfred: All right.

Sen. Mahabir-Wyatt: There is nobody with any experience in painting there.

Sen. Dr. Phillips: There is a suggestion that we say:

“(e) two persons with particular experience in the field of culture and the visual arts;”

Sen. Prof. Ramchand: Mr. Chairman, I think clause 4(2)(a) allows us to have a person in culture. It says:

“(a) one person, with technical or scholarly expertise relevant to the collection and interpretation of historical and cultural material;”

So there is one in culture there. I think we should say:

“two persons with particular experience in the field of culture of whom one shall be a specialist in the visual arts.”

Sen. Mark: That is the same thing.

Sen. Dr. St. Cyr: Mr. Chairman, it is not the point that you have a board with no artist on it. Sen. Mahabir-Wyatt is saying we should have at least two artists on it, all the other persons are non-artists.

Sen. Dr. Mc Kenzie: Mr. Chairman, in clause 4(2)(a), we already have somebody in culture and, therefore, I am saying that in clause 4(2)(e) we could very well take out the word “culture” and have the words “painting and visual arts” because you already have somebody in clause 4(2)(a) covering culture.

4.25 p.m.

Mr. Chairman: I think the Minister is saying, “a research person”.

Sen. Dr. Mc Kenzie: Even if it is “a research person” then the person has the expertise and ability.

Sen. Dr. Phillips: It is “a research person” not an artist.

Sen. Daly: Mr. Chairman, may I say something?

Mr. Chairman: Sure.

Sen. Daly: This is a new disease having Bills where we seem to think that the appointing authority is an idiot and, therefore, we have to specify for the appointing authority the various categories of persons. That is why we are ending up with these big boards. Surely, I would like to suggest that we break the mould, and simply provide a minimum requirement namely; the minimum requirement for people in the arts and leave the rest to the good sense of the appointing authority. That gets us over the difficulty. So we say, you have a board of seven members or whatever it is, three of whom must be visual artists, cultural expertise or whatever and leave the rest to the good sense of the appointing authority. Why do we need to tell a big Minister that you must appoint this or that type of person?

Sen. Dr. Mc Kenzie: Mr. Chairman, while we think about that, sometimes you will have in one person several expertise and, therefore, if you could find one person on the board who could cover painting—we have many of them in the country who paint, and have expertise in different areas. Probably, when we do that we may have one person covering that, but that is not my point.

Mr. Chairman, my intervention in clause 4 is for a different reason. The hon. Minister stated that we have mini museums around the country, Siparia and so forth. I am saying that this board must have the authority to co-opt a representative of each of the museums as *ex officio*, observer status or whatever on this board.

Sen. Mark: This is a different point.

Mr. Chairman: Senator, what we are on right now is clause 4(2)(e), the proposal being:

“two persons with particular experience in the field of culture of whom one shall be a specialist in visual arts”.

That is what we are discussing right now.

Sen. Dr. Mc Kenzie: Sorry, Sir.

Sen. Dr. Phillips: Mr. Chairman, we will go with “two persons in visual arts”, if that is what is required.

Mr. Chairman: Clause 4(2)(e) to be amended as follows:

“two persons with particular experience in the field of visual arts.”

Mr. Chairman: Sen. Dr. Mc Kenzie, you are still at clause 4?

Sen. Dr. Mc Kenzie: Mr. Chairman, yes. I am going according to a statement made by the hon. Minister, when she said, “There are these mini museums around the country”. I am saying, that if we are going to eventually develop into a museum system, we should, from now, have a representative from the different mini museums whether with observer status, sitting in at some of these board meetings or whatever. I do not know whether it would come in the regulations but give the Chairman the authority to co-opt members, from each of these mini museums as representatives to the board. Probably, you could put that in the regulations, and you do not have to actually put it in here: that the Chairman has that authority to co-opt members.

Sen. Dr. Phillips: Mr. Chairman, I agree. The board has the power to make regulations for all of its functions. I think in that area we can allow the board that flexibility under the regulations.

Sen. Prof. Spence: Perhaps—

Mr. Chairman: Just now, Sen. Prof. Kenny has been trying to catch my eye all the time.

Sen. Prof. Kenny: At clause 4(2)(f):

“two persons each having qualifications or experience relating to the functions, operations and management of the Museum and analogous institutions.”

Does it mean that you are taking someone who is a member of the staff of the museum to put on the board? *[Inaudible]*

Sen. Prof. Spence: Perhaps, we may write to the Environmental Management Authority?

Mr. Chairman: We are not on clause 4(4).

Sen. Prof. Spence: I am suggesting that problems with the other museums could be solved by a memorandum of understanding. This is what happens with the Environmental Management Authority. The National Museum can have a memorandum of understanding for the separate private museum.

Sen. Dr. St. Cyr: Thank you, Sir.

Mr. Chairman: We are still on clause 4(2)(f).

Sen. Dr. St. Cyr: No, I am on clause 4(4).

Mr. Chairman: We are on 4(2)(f). Clause 4(2)(f) is to be amended as follows:

“two persons each having qualifications or experience relating to the functions and operations of management of museums and analogous institutions.”

Sen. Dr. Cyr: Clause 4(4):

“The members, shall as soon as possible after their appointment elect a Deputy Chairman of the Board from among them.”

That struck me as being a unique way of choosing a deputy chairman. While I can see it working in the initial choice, what I am wondering is, could the members vote him or her out of office? In other words, I am wondering if there is some special reason that clause is specified. I could see opportunity for difficulties.

Sen. Dr. Phillips: Mr. Chairman, the suggestion is that we amend subclause 4(3) to say:

“The President may appoint the Chairman, Deputy Chairman and all other members.”

And delete “clause 4(4)”.

Mr. Chairman: Let me get it right. “The Chairman, the Deputy Chairman and the Director who shall be an *ex officio* member”? I think you want to say that the “Director” would be an *ex officio* member. Clause 4 (1)(b) says it, but the way you have worded it, you have eliminated clause 4(1)(a) and 4(1)(c). I am trying to get it clarified. “The President shall appoint a Chairman, Deputy Chairman and all other members”.

4.35 p.m.

Sen. Dr. St. Cyr: Mr. Chairman, do we also not have to tidy up clause 4(1)?

Mr. Chairman: Yes, to include a deputy chairman. Does that mean that the number of directors will increase? It says, “seven other members”, it does not say “seven members”. [*Crosstalk*] The solution might be, in clause 4(1), to say:

“(a) a Chairman;

(b) a Director...and

(c) seven other members, one of whom shall be the Deputy Chairman.”

Sen. Mahabir-Wyatt: No, it should be:

“(c) eight other members, one of whom shall be the Deputy Chairman.”

Sen. Dr. Phillips: Mr. Chairman, it seems to me that the chairman and the deputy chairman are among these eight here, so we do not have to change the numbers. *[Interruption]* Yes, only the director is not here, so it is a nine-member body.

Mr. Chairman: Yes. The chairman, the deputy chairman—*[Interruption]*

Sen. Mahabir-Wyatt: The chairman and the deputy chairman shall be members of the board, and then the director, an *ex officio* member and six other members or seven other members.

Mr. Chairman: No, no, you just say:

“(a) a Chairman;

(b) the Director...and

(c) seven other members of whom one shall be the Deputy Chairman.”

[Crosstalk] I think it is Sen. Dr. St. Cyr who raised the question of the way it might better be placed:

“4(1) There shall be a Board of the Museum...following members—

(a) a Chairman;

(b) the Director who shall be an *ex officio* member; and

(c) seven other members of whom one shall be the Deputy Chairman.”

[Crosstalk]

Sen. Prof. Spence: If you said seven members and there are eight listed—*[Interruption]*

Mr. Chairman: No, no. Without the amendment it says, “a Chairman, the Director who shall be *ex officio*; and seven other members”. It is now saying the same thing except, “seven other members, one of whom shall be the Deputy Chairman.”

Sen. Prof. Spence: Well, what Sen. Mahabir-Wyatt is pointing out, when you come to subclause (2) there is a list of eight, not seven. *[Interruption]* Well then, you must say so. If you intend that one of these will be the chairman then you

have to say so in the Bill, otherwise, when you add the people from subclauses (1) and (2) together you will have a contradiction. You are saying seven others but you list eight.

Mr. Chairman: I do not want to get involved in the thing but when you are talking about—*[Interruption]*

Sen. Prof. Spence: It says seven other members and then you have clause 4(2). Since it says “members” it sounds as if the chairman is excluded.

Sen. Mahabir-Wyatt: You would have to say, “the Chairman and members other than the Director shall be selected as follows...”

Sen. Prof. Spence: You could put it that way.

Mr. Chairman: You cannot be a chairman without being on the board.

Sen. Prof. Spence: Pardon me?

Mr. Chairman: You cannot be a chairman without being on the board.

Sen. Prof. Spence: If you set it up in such a way that he appoints the chairman and then seven other members, that makes eight, then, when you come to subclause (2), you list—*[Interruption]*

Mr. Chairman: And it lists the eight members there. I do not want to get too involved in the argument here but—*[Interruption]*

Sen. Prof. Spence: For clarity I would have put, “the Chairman and seven other members”—*[Interruption]*

Mr. Chairman: Members, you all are free to determine how you want to put it. Are there any other proposed amendments, because I want to deal with clause 4 fully now. *[Crosstalk]* I shall propose the amendment to clause 4. Hon. Senators, clause 4 is to be amended as follows, and I shall read the whole clause:

“4.(1) There shall be a Board of the Museum (hereinafter called ‘the Board’) which shall consist of the following members—

- (a) a Chairman;
- (b) the Director who shall be an *ex officio* member; and
- (c) seven other members, one of whom shall be the Deputy Chairman.

(2) Members other than the Director shall be selected as follows—

[MR. CHAIRMAN]

- (a) one person, with technical or scholarly expertise relevant to the collection and interpretation of historical and cultural material;
 - (b) a person with some influence in the business community;
 - (c) an attorney-at-law with at least five years experience in public law;
 - (d) a person with qualifications or adequate knowledge in natural history;
 - (e) two persons with particular experience in the field of visual arts;
 - (f) two persons each having qualifications or experience relating to the functions, operations and management of the Museum and analogous institutions.
- (3) The President may appoint—
- (a) the Chairman of the Board;
 - (b) the Deputy Chairman; and
 - (c) all other members,

by instrument in writing for a period not exceeding three years, and on such other terms and conditions as the President may see fit.”

Sen. Daly: Mr. Chairman, let me be Parliament’s conscience.

Mr. Chairman: Sure.

Sen. Daly: Three of us are concerned about clause 4(2)(b). We are wondering whether saying “a person with standing in the business community” might not be better.

Mr. Chairman: Change “influence” to—[*Interruption*]

Sen. Daly: Yes, Sir. It was pointed out by persons less kind than me that you could have influence in the business community if you were an extortionist or an enforcer.

Mr. Chairman: So it should be ,“a person with some standing”?

Sen. Daly: We prefer “standing”. Sen. Gillette may be of high standing.

Mr. Chairman: All right, we will go back to clause 4(2)(b) which should read:

“a person of standing in the business community”

Subclause (4) has been deleted and we shall renumber the rest of the subclauses. Subclauses (5), (6) and (7) are now renumbered subclauses (4), (5) and (6).

Question put and agreed to.

Clause 4, as amended ordered to stand part of the Bill.

4.50 p.m.

Mr. Chairman: We have from clauses 5 through 16. Does anybody have anything to say before I put the question?

Sen. Alfred: Clause 9.

Sen. Prof. Ramchand: Minor points about clauses 6, 7 and 8.

Sen. Williams: Typographical errors in clauses 7 and 8.

Sen. Dr. Mc Kenzie: Clause 13.

Sen. Prof. Ramchand: Clause 12.

Mr. Chairman: I think that in the light of the number of clauses pointed out, we will do it clause by clause.

Clauses 5 to 8 ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Sen. Alfred: Mr. Chairman, at clause 9(3) where it says: "A quorum of the Board shall be consist..." The "be" should be omitted.

Mr. Chairman: We will treat it as a typographical error.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clauses 10 and 11 ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Sen. Prof. Ramchand: Mr. Chairman, I wonder if, in the light of what the Minister has said about the intention being a system of museums, we could not insert something to that effect here: "operate a system of museums and a national art gallery in accordance with this Act". Unless you want to introduce in the definitions that by "museum" we mean a system of museums.

Sen. Dr. Phillips: Mr. Chairman, we were talking about a museum system, not a system of museums which is different. We see it as a central museum incorporating all kinds of little museums.

Sen. Alfred: That is not stated anywhere.

Sen. Mahabir-Wyatt: Perhaps, Mr. Chairman, something under clause 13 might answer Sen. Prof. Ramchand, because 13(2)(g) refers to erecting buildings and structures and carrying out related works. It seems that possibly it refers to a museum system rather than—

Sen. Dr. Phillips: Yes.

Mr. Chairman: Sen. Ramchand, are you okay with that?

Sen. Prof. Ramchand: Yes.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 13.

Question proposed, That clause 13 stand part of the Bill.

Sen. Dr. Mc Kenzie: Mr. Chairman, under 13(2)(g), I thought that this was pretty confining just to erect buildings and structures, and I wondered whether we should not add “acquire and renovate”, because we have Biswas House and so forth.

Sen. Dr. Phillips: Clause 2(a) says “acquire.

Sen. Dr. Mc Kenzie: Yes, but clause 2(a) goes into material whereas 2(g) goes into structures.

Sen. Alfred: What about “carry out related works”?

Sen. Dr. Mc Kenzie: Well, if they are going to erect structures and carry out related works, these are buildings they are erecting, whereas I am saying that they could acquire a building and carry out the related works or renovate it. It is no big point with me, Mr. Chairman.

Sen. Dr. Phillips: Mr. Chairman, clause 2(h) may cover the Senator's concerns.

Sen. Alfred: No. That is different.

Question put and agreed to.

Clause 13 ordered to stand part of the Bill.

Clauses 14 to 16 ordered to stand part of the Bill.

Clause 17.

Question proposed, That clause 17 stand part of the Bill.

Sen. Dr. Phillips: Mr. Chairman, the proposal is that we delete subclause (1)(b) and renumber the subclauses.

Sen. Dr. St. Cyr: Mr. Chairman, my view was that subclause (2) dealt with the problem that Sen. Diana Mahabir-Wyatt had, in that one could have an upper limit in (1)(b) and variate under clause (2) as we need to.

Sen. Mahabir-Wyatt: If you take it out, it is not a problem.

Mr. Chairman: The proposal is that 17(1)(b) be deleted and 17(2) consequentially deleted also. Sen. Dr. St. Cyr, are you okay with that?

Sen. Dr. St. Cyr: Except that we are removing that the board will fix the duties and qualifications. So it is not only that we are deleting the money part, but we also seem to be deleting some additional parts.

Sen. Mark: Mr. Chairman, in 17(1)(a), once one is appointing persons and it is a responsible board, one cannot appoint people whimsically. One has to determine the kind of standards and qualifications that one will need to establish. It is subject to the Minister's approval, so we do not have to go with this subclause.

Sen. Dr. Phillips: Mr. Chairman, therefore, we will just cross it.

Sen. Montano: Mr. Chairman, in 17(1)(a), my first reading of it is that I am not really sure as to whether the Minister's approval is required for the position or for the person himself. Why is the Minister getting involved in what is, in fact, an operational matter? If it is for the person himself then it means that every time a staff member changes it has to go to the Minister, which seems to me to be a hopelessly cumbersome process, hampering the activities of the board which, I assume, is going to be a responsible board. Or, is it in fact merely that the position has to be approved by the Minister? Because the terms and conditions are clearly set out by the board. So the Minister is not approving what the conditions are; is he merely approving the person, or is he approving the position? Do we need the Minister's approval for that at all? Are we really accomplishing anything by doing that? [*Crosstalk*]

5.05 p.m.

Mr. Chairman, I suggest that we simply remove the words “subject to the Minister’s approval.”

Mr. Chairman: If, in fact, you are making a proposal for an amendment, I must deal with (b) first and then you would make your proposal for the amendment.

Sen. Kuei Tung: Mr. Chairman, I just want to make a small point but that is going to be subject to what you said—

Mr. Chairman: What I am saying is that if, in fact, there is a proposed amendment to clause (17)(1)(a), then before going to that proposed amendment I must deal with the “b” that we dealt with just now and clause (17)(2), and then I move on. So this is what I was asking the hon. Senator.

Hon. Members, the question is that clause 17 be amended at clause (1)(b) as follows:

Delete (b) and renumber—*[Interruption]*

Sen. Mark: Mr. Chairman, Sen. Montano is now saying that he wants a further amendment to (a).

Mr. Chairman: No, I think he was on a different point.

Sen. Kuei Tung: Mr. Chairman, the point is that if (b) is put before (a) we are really putting the cart before the horse, in the sense that you may want to deal with (a), (b) and (c) which flows. So if you try to amend (b) and (c) and then go back to (a), (b) and (c) may end up being amended badly. May I respectfully suggest that we try to fix (a) first and then (b) and (c) afterwards. Only because (c) would be consequential.

In that case I want to make the point that once things are being funded by the state, the organizational chart must be approved by the Minister. If not, they may run off and spend things that the Minister may not have funds to meet. So I think the positions have to be approved by the Minister not the people who are being appointed to the positions. So I want to have that clarified—because it literally says, the whole organization: the Director, Curator, Registrar, Accountant, and such members of staff. Maybe, we could just make it simple and say that “the board may—*[Interruption]*”

Sen. Mahabir-Wyatt: Once you explain that it looks all right just the way it is. What is wrong with it?

Sen. Dr. Phillips: [*Inaudible*] Delete the words “on such” in the line below and put the words “and the”.

Sen. Montano: Mr. Chairman, I suggest that it should read like this, “the Board may appoint subject to the Minister’s approval of the positions.” In other words, we insert after the word “appoint” “of the positions” and continue with the words “a Director, Curator”, and so forth.

Sen. Mahabir-Wyatt: Mr. Chairman, with all due respect, one does not appoint positions, one appoints people to positions. That is just not, in human resource management, something you could do. You create positions and you appoint people to fill those positions. So if it is the board may create, subject to the Minister’s approval such positions as, and so forth—this looks to me that the approval is for the people. I think we have to get that policy straight; whether the Minister has to approve the establishment of the positions, that is one thing; if it is the appointments that is another. The way it is worded, it means that every time there is a messenger the Minister has to approve it, it probably should be “create such positions as may be required for the work of the museum.” It is really what you are looking at. [*Crosstalk*]

Sen. Dr. Phillips: Mr. Chairman, the amendment to clause (17)(1)(a) reads:

“The Board may, subject to the Minister’s approval create such positions as are required for its operations, and determine terms and conditions attached to these positions.”

Sen. Montano: Then it still begs the question whether the creation or the determination of the terms and conditions is subject to the Minister’s approval.

Sen. Alfred: Mr. Chairman, if you put in the words “and the board shall or “the board may” that would remove any doubt that the Minister would be implicated in this.

5.15 p.m.

Sen. Dr. Phillips: Do you want to determine terms and conditions?

Sen. Alfred: Yes. [*Crosstalk*]

Sen. Dr. Phillips: Mr. Chairman, I want to suggest that we move on while the wording is being redrafted.

Mr. Chairman: The Minister is suggesting that we defer this until some drafting is accomplished. Is that okay?

Hon. Senators: Yes.

Clause 17, by leave, deferred.

Clauses 18 and 19 ordered to stand part of the Bill.

Clause 20.

Question proposed, That clause 20 stand part of the Bill.

Sen. Alfred: Mr. Chairman, I have a little concern with clause 20 where it says at the very beginning:

“The Board shall undertake to provide training where this is available for members of the administrative...”

I think we could leave out that clause. If it says that the “Board shall undertake to provide training for members”;, in other words, that is a responsibility of the board.

When you qualify it by saying “where this is available” you are saying, perhaps, they could always say the training was not available. I think that the onus is on them to provide training; it is just a way of thinking. [*Interruption*] No, it is their responsibility to provide training, that is how I see it. [*Crosstalk*]

Mr. Chairman: The Minister says there is no problem in deleting the words “where this is available”. Clause 20 is amended as follows: In line 1 delete “where this is available”. It will now read:

“The Board shall undertake to provide training for members of the administrative, clerical or manipulative staff in accordance with policies laid down by the Board and such terms and conditions as are approved by it.”

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Clauses 21 to 23 ordered to stand part of the Bill.

Mr. Chairman: We are now on Part IV, clauses 24 to 34. Does anybody have matters on any of these? We will take the entire block.

Clauses 24 to 26 ordered to stand part of the Bill.

Clause 27.

Question proposed, That clause 27 stand part of the Bill.

Sen. Alfred: Mr. Chairman, there is just one little thing in 27(c) where it states:

“the method to be adopted in making payments but out of the funds of the museum.”

There is a typographical error.

Mr. Chairman: In which clause?

Sen. Alfred: Clause 27(c).

Mr. Chairman: Yes, that is a typographical error; take out the word “but”.

Question put and agreed to.

Clause 27 ordered to stand part of the Bill.

Clauses 28 to 34 ordered to stand part of the Bill.

Mr. Chairman: Is there anything on clauses 35 to 39 from anybody?

Clauses 35 to 39 ordered to stand part of the Bill.

Mr. Chairman: We have to go back now to the redrafting of clause 17.

Clause 17 reintroduced.

Question again proposed, That clause 17 stand part of the Bill.

Sen. Dr. Phillips: Mr. Chairman, clause 17(1) redrafted now reads:

“Subject to the approval of the Minister, the Board may:

- (a) create such positions as are required for its operations and determine terms, conditions and qualifications attached to these positions.”

Sen. Montano: But you come back to the position where the terms and conditions are still subject to the approval of the Minister.

Sen. Mark: Yes, it must be, otherwise you have runaway horses in those areas. We have experiences of that.

Sen. Shabazz: Like you had ADDA?

Sen. Mark: I do not know about that one.

Sen. Dr. Phillips: Mr. Chairman, then we will delete (b) consequently (2).

Mr. Chairman: Hon. Senators, this is the proposal:

[MR. CHAIRMAN]

“17.(1) Subject to the approval of the Minister the Board may—

- (a) create such positions as are required for its operations and determine terms, conditions and qualifications attached to these positions.

Delete (b), renumber (c) and (d) as (b) and (c). Delete subclause (2).

Question put and agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Preamble.

Question proposed, That the Preamble stand part of the Bill.

Sen. Dr. Phillips: Mr. Chairman, I have received an amendment by Prof. Ramchand. [*Interruption*]

Mr. Chairman: Nobody knows about it? [*Crosstalk*] If it is proposed we cannot ignore it.

Sen. Mark: We are not ignoring it, we are just saying that we will not go with it at this time.

Sen. Prof. Ramchand: It is just a note to the Minister asking her whether she would consider a suggestion.

Mr. Chairman: So it is not before us?

Sen. Prof. Ramchand: If she would not consider it and the Preamble is coming up for discussion, then I have some criticisms of the Preamble that I would now voice. I cannot just be told that we are not going with that; I must have a chance to say why I do not like it.

Mr. Chairman: Yes, I must propose it.

Sen. Prof. Ramchand: Mr. Chairman, I think the Preamble is overwritten and imprecise and, I would think, unnecessary too.

Sen. Daly: It is of no legal value whatsoever.

Sen. Prof. Ramchand: I do not want to waste time and fight it clause by clause. I prefer to go with the suggestion to just remove it.

Sen. Daly: Delete the Preamble. [*Crosstalk*]

Sen. Mark: Mr. Chairman, we would delete the Preamble. [*Desk thumping*]

Mr. Chairman: I think I have to reword my question. The question is that the Preamble be not approved.

Question put and agreed to.

Preamble deleted.

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

Senate resumed.

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

Mr. President: Hon. Senators, we have long passed the normal tea time, but I think we have got through this Bill. We will now suspend for tea until 6 p.m.

Sen. Daly: Wade, do you have a home? [*Laughter*]

5.30 p.m.: *Sitting suspended.*

6.05 p.m.: *Sitting resumed.*

**DEOXYRIBONUCLEIC ACID (DNA)
IDENTIFICATION (NO. 2) BILL**

Order for second reading read.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. President, I beg to move,

That a Bill to provide for DNA forensic analysis, to include a DNA report as evidence, to provide for the use of DNA testing to determine parentage, and other related matters, be now read a second time.

Mr. President, this Bill was first before this honourable Senate in February 1998, and when the debate concluded on March 3, 1998, it was referred to a select committee. Seeing that the select committee's report submitted to this Senate in September 1998 for all intent and purposes was acceptable, I would certainly like to give the honourable Senate a slight reminder of what the Bill purports to do and how the amendments would affect the new Bill.

The primary purpose of this Bill is to permit the obtaining of samples of body substances from detainees, arrestees and to allow for the analysis of these substances by the Forensic Science Centre. The Bill pursues the further objective of allowing the police to use the generated DNA to assist in criminal investigations and to be admitted as identification evidence in criminal proceedings.

(DNA) (No.2) Bill
[HON. J. THEODORE]

Wednesday, December 08, 1999

The situation, as far as this goes, from what I recall at the last debate there were many concerns expressed about the issue of privacy, the rights of the individual and the general matter that prevailed as far as the Bill is concerned. So in dealing with the issue at the committee stage, the committee dealt with the matter of setting out the law governing the taking, packaging, storing and testing of DNA samples and using DNA as evidence in court. Since DNA evidence may eventually lead to criminal prosecution and conviction, it is important that the process of taking, storing and testing of the sample be without question of any impropriety or of interference. When DNA evidence is used in court, the defence, faced with this powerful, scientific tool seeks to attack it on two grounds. One, that the chain of custody was faulty and cannot be relied on, or two, the standards and processes of testing are questionable and, therefore, the DNA evidence is not good evidence.

We found it important therefore, to establish that any DNA legislation must strive to establish a balance between the rights of the individual and the right of the state to use DNA evidence as a tool to detect and prosecute criminals. Proceeding along those lines, we found that while the capability to do DNA analysis is presently available in Trinidad and Tobago at the Forensic Science Centre, the state of the law does not enable samples to be obtained from suspects of an investigation for comparison with any results obtained from analyzing samples found at the scene of the crime.

I would give a short background into the Forensic Science Centre, what it does, and its capabilities and, indeed, its present preparedness to proceed with DNA testing. At present, there are two trained individuals based at the Forensic Science Centre who are capable of conducting DNA analysis. Both have been trained in the systems of analysis, both are holders of Bachelor of Science and Master of Science degrees in biology and other forensic science related fields. Their capability to do DNA analysis training has therefore been an embellishment on their previous experience and ability to perform other types of chemical and biological analysis and was obtained as follows: Training course at Life Codes Connecticut and another training course at the California Institute of Criminalistics in Sacramento.

The Forensic Science Centre has also been stockpiling equipment and chemicals in preparation for the commencement of DNA analysis at its laboratories. The matter of funding or budgeting for a start of DNA testing does not come into play here. Most of the required reagents, chemicals and physical equipment have already been acquired.

Mr. President, the Forensic Science Centre will not, of course, be responsible for obtaining the samples from detainees and suspects and this Bill provides that any tissue sample or bodily substance shall be taken only by a qualified person and here, a qualified medical person. This was one of the concerns raised by the hon. Senators, whether just about anybody can take a sample, what training would be required to make sure the sample was properly obtained, stored, correctly transported and delivered to the Forensic Science Centre.

Careful provisions are made in the Bill for receiving the consent of persons from whom these samples may be obtained. Because of its proposal to legitimize the violation of privacy rights in certain circumstances, the Bill requires a prescribed majority if it is to become law.

The committee also dealt with the manner of consent being given by the person from whom the sample is to be taken and the Bill provides for documentation of reasons for refusal and provides for a court of law to address whatever inferences it thinks just on the basis of such refusal. Not only can persons charged after the proposed passage of this legislation be required to give consent for the taking of intimate samples, but also those who may have been convicted prior to this, or similar enactment.

I shall just go through, generally, the purpose of the Bill and draw one or two examples by referring to some of the clauses. The Bill provides specifically for the destruction of samples regardless of the findings where persons are not charged or prosecuted for offences after specified periods, or are discharged after a preliminary inquiry. That was another concern; whether the samples should be retained, and if so, for what purpose. However, the court will also be empowered to order preservation of DNA samples where it is satisfied that the samples are otherwise reasonably required in a related investigation or prosecution. It is almost like storing fingerprints from those persons of whom the law has the authority to make the fingerprints, so that by elimination one can exclude a number of innocent parties and concentrate on the likely suspects.

The Bill will also allow for convicted persons who have filed appeals to request from the Commissioner of Police DNA forensic analysis, or DNA material already available, or give DNA samples for analysis. The reason for this is straightforward: a person claims he is innocent and is prepared to give a sample to prove that the sample taken at the scene of the crime does not match his, he is entitled to do so.

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Mr. President, the powers and responsibilities of the police will be significantly modified so as to enable the police to avail themselves of the technological advances in the field of forensic science to obtain and present evidence which is now, under the present law, unavailable to the court. The following are to be noted with respect to the proposal to give the police greater powers. The greater powers here are tempered by greater control and greater measures to ensure that these powers are not abused. It widens the authority of investigators to collect, preserve, and present scientific forensic evidence. Such evidence is able to stand up well in the court and is not subject to cross-examination, or to the vagaries and unpredictability of human testimony.

The Bill clearly outlines the circumstances in which a police officer becomes empowered to request a sample for DNA testing. The section especially provides for persons under 18 years of age to have the right to consult with an attorney-at-law, parent, or an adult relative.

Mr. President, where there is a situation requiring the taking of a tissue sample as described in the definition, the Bill provides that the police officer must, *inter alia*, inform the person of the nature of the offence committed, the reason for the giving of the sample, and of the right to refuse to give the sample, the consequences that may result where consent is refused and that the result of the test may be used in evidence. So there must be full disclosure to the person who is being questioned, or to the suspect, and samples cannot be arbitrarily taken. It must be explained, and an attorney should be present when such a request is being made. We expect on the positive side that this procedure may result in reducing the backlog of cases.

Forensic testing may have the effect of totally excluding suspects and the cases where further investigations and laying of charges may otherwise have ensued may have a shorter life span. DNA findings may also prompt persons to enter guilty pleas due to a result of DNA testing and so further free up the court's schedule. Before giving a tissue sample, a person must give his written consent in the presence of both a police officer and a Justice of the Peace. Persons refusing to consent to give intimate samples may record the reasons for their refusal on a prescribed form, or if he does not wish to do so himself, the officer shall record the reason in the said prescribed form.

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate

continues to sit until the conclusion of the matter before it, as well as Bills Second Reading, a Bill to amend the Minimum Wages Act, Chap. 88:04. We will take the Minister's presentation and adjourn that particular debate.

We then have a motion on the adjournment which I deferred earlier in the proceedings. Those are the matters which we would conclude before we adjourn.

Question put and agreed to.

**DEOXYRIBONUCLEIC ACID (DNA)
IDENTIFICATION (NO. 2) BILL**

Sen. Brig. The Hon. J. Theodore: Mr. President, clause 53 of the Bill proposes the creation of several new statutory offences with respect to the proposed provisions of the Bill. Persons who, *inter alia*, wilfully and unlawfully obtain DNA samples without consent, disclose, or obtain a DNA sample or data without authorization, breaks the seal, or opens or causes to be opened any container or package holding DNA samples, or in any manner tampers with such a container or package commits an offence.

Towards this end, Mr. President, certain concerns which were raised at the time were also addressed by the committee and I would like to refer to some of the clauses to show where the Bill was thoroughly overhauled and every effort was made to ensure that this Bill reflected the rights of the citizens and the responsibility of the state to get this evidence.

The previous Bill at clause 14 stated that the police officer was not required to deliver samples immediately, but had 10 days in which to do so. The new Bill, apart from providing that all tissue samples are to be taken by a qualified person, gives the police officer only five days to deliver these samples to the Forensic Science Centre.

6.20 p.m.

Mr. President, the integrity of the sample was a concern, especially with regard to tampering and storage. Clause 29 provides that only a "qualified person" as defined in the Bill can take tissue sample. A qualified person is defined as:

"a registered medical practitioner, or a person registered under Part II or III of the Nurses and Midwives Registration Act..."

And this is new:

"...acting under the supervision of a registered medical practitioner;"

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With regard to integrity, the said qualified person taking a tissue sample has to complete a prescribed form giving information as to the sample; the person from whom it was taken; the nature of the sample and then seals this and gives a completed package to the police for transmission, thereby minimizing the risk of tampering.

Mr. President, the privacy of a person giving a sample has also been provided for under clause 34. A qualified person must ensure, among other things, that:

- “(i) it is taken in circumstances affording reasonable privacy to that other person;
- (ii) it is taken in the presence or view of a person who is of the same sex as that other person;”

This procedure must not be carried out in a cruel, inhuman or degrading manner but in a manner consistent with appropriate medical or other relevant professional standards.

The new Bill seeks to minimize acquisitions on the part of accused persons, where DNA reports are to be used in criminal matters by introducing the use of a prescribed form which will state the consent or refusal to give a tissue sample. The accused would be provided with a copy of such. The earlier Bill did not provide for the person giving the sample to receive a copy of the approval or refusal which he was asked to sign. It was felt that it was important for the records and that the person be given a copy of what was being presented as being his document.

Mr. President, the new Bill establishes an independent body—this is a new section—to monitor the powers and duties given to the Forensic Science Centre. This is in an effort to ensure that standards for the proficiency of conducting DNA Forensic analysis are maintained, upgraded and to oversee any research conducted in the area. This is at clause 41 of the Bill.

There is also a new clause 39 which introduces the establishment of storing DNA data derived from the analysis and tissue samples. Under the Bill, the supervisory body is charged with the responsibility for ensuring confidentiality and security of this data bank. We can see in the Bill that under the definition, care was taken to ensure that the definition of a “tissue sample”—I do not know who would remember that we spoke of intimate samples and other samples. The committee determined that one did not need to take an intimate sample under the circumstances of investigation. So we have a definition for “tissue sample” which means:

“a sample of blood, saliva or hair taken from a person, and includes a swab taken from any part of that person’s body.

- (2) A sample taken from a person includes a sample taken from that person that consists of bodily substance from another person’s body”

In keeping with the responsibility given to the committee, these various areas were investigated and I should simply like to refer to some of them for clarification. I will also be very grateful if any other members of the committee who are present, would like to refer to anything that I may have overlooked. I will welcome the assistance to make sure that this is very clear.

Clause 30 deals with the qualification of the person who takes the sample. At clause 31 the matter of taking the sample has to be done with the person being fully aware of what is taking place and the process to be followed by that person should that person disagree or change his mind. I think what is also important is, the matter of taking the sample and informing the person from whom the sample is taken. I will read Part V, clause 37 which states:

“A police officer shall ensure that between the time when he collects a DNA package...”

Not a sample, as was the case before. The police officer gets the package after a “qualified person” takes the sample—and the time the police officer delivers it to the Forensic Science Centre it should be properly stored. The question of putting the sample in a refrigerator or chilling it depending on the nature of the sample came up. That has been addressed. Again, this talks about the length of time he has to deliver it to the Forensic Science Centre.

Clause 41 deals with the DNA Board; clause 52 with the analysis to be made available from a sample that is taken. So, generally, the Bill virtually looks like a new Bill now that all the concerns were addressed. What is also relevant—and I know this is something that Sen. Nafeesa Mohammed is keen on—is that going before the committee, we had access to many experts and very good advice from people who are involved in forensic pathology. I am sure that the members of the committee learnt a lot. The members were very cooperative.

When the Bill was presented in September, 1998, I asked Sen. Carol Cuffy Dowlat, who presented the Bill on my behalf to pass on my thanks and compliments, certainly to Sen. Danny Montano, for giving us the benefit of his research and his candid and straightforward way of dealing with the issues that may have bothered him. Again, Sen. Prof. John Spence for identifying where

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these experts will come from. It is all well and good to say experts but if you do not know whom to call, you could have difficulty in getting the right people.

We had several doctors and scientists from the University of the West Indies to address us. There were police officers to talk about how the samples were transported and packaged. Generally speaking, I certainly feel very confident that the manner in which this Bill was addressed will satisfy the requirements of both the citizens of the country and the law enforcement agencies

Sen. Alfred: Mr. President, may you permit me to ask a question? I noticed no mention was made about taking samples from corpses. Is that going to be addressed? *[Laughter]* Is it planned for some future time? I know it is done in other countries.

Sen. Brig. The Hon. J. Theodore: I think that is done presently. A sample from a corpse would be a sample—it is not so much a sample from the corpse—that is in the corpse that comes from the person who is alleged to have committed the crime. Blood samples are taken, samples of sperm in the case of a rape or murder and this is already done.

Mr. President, what this law does, it gives us the authority to use these samples in a court of law, which is not done presently. I would like to re-emphasize that the Forensic Science Centre, at this point in time, is sufficiently well prepared to start. The reason for putting in this supervisory board was to ensure that testing is maintained at the acceptable international level. The members of the board will visit from time to time and do spot checks or maybe audits to see how their training and standards are maintained.

6.30 p.m.

This was thought to be very important because it was not sufficient to simply leave it to the Director of the Forensic Science Centre to maintain these standards, although right now it is the director who recommends the training and does the selection of personnel who work there.

I said some time ago that a number of the scientists who are there are on contract and that became necessary because the public service post and the standard of remuneration certainly did not attract and could not keep the level of people we need in that science centre. Right now, however, they are functioning and I feel that this Bill will make a big difference because they are anxious to start. They may have conducted experiments now, but they cannot use them.

I should like to commend this Bill to this honourable Senate. I certainly feel that the team effort that emerged during the discussions of the committee certainly reinforces how much one can accomplish when everyone puts their heads together to get something done. [*Desk thumping*] I would like to commend this Bill. Mr. President, I beg to move that a Bill to provide for DNA forensic analysis, to include a DNA report as evidence to provide for the use of DNA testing to determine parentage, and other related matters be now read a second time. [*Desk thumping*]

Question proposed.

Sen. Danny Montano: [*Desk thumping*] Mr. President, one thing I am sure is that it is no surprise to anybody that I am the first person after the Minister to speak on this issue. Like the Minister, I will be brief and even shorter than he was. This, of course, was a Bill that, as the Minister said, we first saw in February, 1998. We concluded our debate on it in March, 1998 and then a committee was appointed to further consider the Bill, and we did a tremendous amount of work. Mr. President, what I would say, like the Minister, is that it certainly was a team effort, and we all worked extremely hard. We actually met over a period of about four or five months under the, I would say, tutelage, really, of Mr. Harripaul, the parliamentary draftsman, who was really excellent in his approach. [*Desk thumping*]

Mr. President, I think it is worthy of comment because for some of the other committees with which I have dealt, I have found that the other draftsmen have become rather wedded to the concepts and ideas that they have put into the first drafts of their Bills and I have to say that Mr. Harripaul immediately opened his mind to the suggestions that members of the committee made. [*Desk thumping*] It was really quite a unique and enjoyable experience and I would like to congratulate him on his effort. As I say, Mr. President, we worked long and hard on this, all the members of the committee working in what really was a truly bipartisan approach. I think that what we have come up with may not be perfect, but I think that we have done a pretty good job of it.

What concerns me at this point, Mr. President, is this. Bear in mind that this matter was started in February, 1998, it came back to the Senate in September, 1998 and we passed it with virtually no debate. We simply said, "Okay", we agreed, we passed it, and I understand that it was sent down to the other place where, because of time constraints, it lapsed. Having worked so hard at it, we are here now, more than a year later. It came back here in July of this year and we are now in December of 1999 and this Bill has come back.

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This, in my opinion, is an important piece of legislation. One of the pillars of the UNC administration has been that they would deal with crime in Trinidad and Tobago. Mr. President, that is a promise on which they have notably failed. This Bill was going to give the police service a tool that would be used in the defence of citizens. When crimes are committed it would give them a valuable tool in finding out who the perpetrators are and actually proving it quickly and simply. It will serve not only to deter perpetrators from heinous crimes, such as rape and so forth, but it would also serve to unclog the court situation to a limited extent. So it had dual objectives.

Mr. President, there is no greater need for those objectives to be achieved than it is now and it is very appropriate that we have this. However, Mr. President, this is a year out of date at this point and there is absolutely no excuse on the part of the Government for not having brought this thing back immediately in October of 1998 and it would have been passed again with little or no comment at all. It is regrettable that I have to stand here at this point, when we have a show as we had yesterday evening dealing with a barbaric situation where the penalties involved in the Sexual Offences Act are, in my opinion, just as heinous as the crimes that it would serve to deal with.

This is even more regrettable when, in truth and in fact, this Bill, dealing with DNA, is designed, among almost all other things, to deal with the question of rape [*Desk thumping*] and that Sexual Offences Bill is pushed through—I was going to say shoved up, Mr. President, but I shall say pushed through—the Senate, forced through here, forced down our throats quickly and ferociously in a barbaric manner and this Bill is left to lapse not once but twice. [*Desk thumping*] This, above anything else, is going to bring our police service, if not into the 21st Century at least into the 20th Century and this is what we need. It is long overdue.

Mr. President, I know that this is not the Minister's fault. I do not know who is responsible for bringing these things up but I know it is not his fault. I know that he has done his job. I know that [*Desk thumping*] in the committee when we met, his attitude and his approach were nothing less than commendable. [*Desk thumping*] He had his shoulder to the wheel and he worked with us side by side, every Wednesday or Thursday as it was, and we worked hard and long at it. There is no excuse on the part of the administration of the UNC Government to allow this Bill to lapse twice.

Mr. President, it is high time that we have it through and, therefore, without further ado, I congratulate the Minister, Mr. Harripaul and my fellow members of

the committee for their hard work, their dedication and their commitment to the issues involved here, and the care and consideration that everybody gave to all the comments that were made. I do not want to sully my congratulations by the unfortunate remarks I have had to make on the UNC administration. I thank you very much, Sir. [*Desk thumping*]

Sen. Prof. John Spence: Mr. President, I too will be very brief. I congratulate the hon. Minister for the preparations which he has informed us of this afternoon in anticipation of this Bill being passed. I would say another word on that in a minute. I also join with Sen. Montano in his comments on the work of the committee and in congratulating and thanking Mr. Harripaul for the contribution that he made to our discussions. [*Desk thumping*]

I was very heartened to hear the Minister of National Security say that they are now prepared to move forward with this activity. It is true that he has had perhaps a year to prepare but, nevertheless, we were told earlier today that it was not possible to prepare a budget and to move forward with an activity unless the Bill had been passed. So, I think it gives the lie to that approach to our activities and I certainly am fully in support of preparing in advance for activities that we must perform. [*Desk thumping*]

I would like to make a comment on the hon. Minister's reference to the need to keep staff. One of the problems is that we do not have, in this country, a scientific civil service with distinct conditions of service from the general public service. I hope the hon. Minister of Public Administration is listening to this. So the problem arises that the only avenue for promotion of these individuals is to go into administrative posts and this is where we lose the very important skills that we have had to create by training and by years of experience. Unless we are able to solve this problem, I think we will be continuing in a situation where, in order for our trained personnel to get promotions because their families have grown up and they need more income, they go into administration and then you have to start all over again training persons.

I have, more than once in this Senate, contrasted this with the university system whereby you could start as an assistant lecturer and do virtually the same job when you become professor, three or four steps in promotion later on, and it certainly is time that we face this problem. I am sorry that I have not got the attention of the hon. Minister of Public Administration because it really is in his lap. I was saying, Minister Mark, Minister of Public Administration, that unless you could address the problem of the scientific civil servants you will continue to

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have inefficiencies created by the fact that the only avenue for promotion for scientific staff is to become administrators.

This is an issue which, unless it is addressed, we will continue to have a situation which I think we are going to have soon again in the forensic area. Yesterday, I think, I read that the contract of the existing forensic pathologist is not going to be renewed and he has to complete a certain number of cases and all the rest of it. I think it was only recently the courts ruled that he was the only qualified forensic pathologist. So certainly we need to address that issue very aggressively. Other than that, I would urge that we pass the Bill expeditiously. I hope the same thing will happen in the House and that we can start on this activity as soon as possible, for I agree with Sen. Montano that it is sorely needed at this time. Thank you, Sir. [*Desk thumping*]

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. President, I should like to thank the hon. Sen. Danny Montano and Sen. Prof. John Spence for their support and very kind words. I would repeat that it is mainly through their efforts that we were able to proceed as well as we did with a view to getting this Bill done. [*Desk thumping*] There is certainly no substitute for bipartisan action when matters of the country are at stake. [*Desk thumping*]

So again, thank you gentlemen very much, and thank you to the other members of the committee. I should like to thank you for your support of this Bill. Mr. President, I beg to move that the Bill entitled, “an Act to provide for DNA forensic analysis, to include a DNA report as evidence, to provide for the use of DNA testing to determine parentage, and other related matters”, be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

6.45 p.m.

Mr. Chairman: Hon Senators, this Bill contains 58 clauses, five parts, a schedule and a preamble. I would also like to have your consent to deal with the Bill in parts. When the Clerk announces Part I, I will ask if anybody has any proposals on any of the clauses before I put the question.

*(DNA) (No.2) Bill**Wednesday, December 08, 1999**Clauses 1 to 58 ordered to stand part of the Bill.**Schedule ordered to stand part of the Bill.**Preamble ordered to stand part of the Bill.**Question put and agreed to, That the Bill be reported to the Senate.**Senate resumed.**Bill reported, without amendment.*

Mr. President: Hon. Senators, this is a Bill, the passage of which must be supported by not less than three-fifths of all Members of the Senate. A division will be taken.

The Senate voted:

Ayes: 23

Noes: 0

Mark. Hon. W.

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Gillette, Hon. L.

Tota-Maharaj, Hon. V.

Cuffy Dowlal, Ms. C.

Baksh, N.

Hamel-Smith, P.

John, S.

Gray-Burke, Rev. B.

Moore, N.

Williams, Mrs. A.

Cowie, D.

Mohammed, Miss N.

Montano, D.

Alfred, Miss C.

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Shabazz, M.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

[Desk thumping]

Question agreed to.

Bill accordingly read the third time and passed.

MINIMUM WAGES (AMDT.) BILL

Order for second reading read.

The Minister of Labour and Co-operatives (Hon. Harry Partap): Mr. President, I beg to move,

That the Bill to amend the Minimum Wages Act, Chap. 88:04 be now read a second time.

I have the honour to present this Bill which has as its short title, the Minimum Wages (Amdt.) Bill, 1999. Since the Government introduced a national minimum wage of \$7 an hour, it became evident that unless certain amendments were made to the present Act, the intended beneficiaries of the national minimum wage would still find themselves not receiving the legal base level for wages.

The national minimum wage was based on a philosophy of establishing a basic floor of wage that would apply to all low-skilled, non-skilled, low paid workers not covered by an industrial collective agreement or a negotiated contract. These are workers who are not protected by trade unions and are outside the pale of the Industrial Court. Indeed, these workers are among the 70 per cent of the labour force who are non-unionized.

This basic floor provides these workers with a minimum wage of \$7 an hour, which puts their income slightly above the poverty line. Some people would scoff at this, saying that such a move was cosmetic. I disagree. I see it as a major move forward. It was a major move forward if we put the \$7 an hour against the background of wages paid to low-skilled workers of between \$2.50 and \$4.50 an hour before the national minimum wage came into operation, and, of course, if we

put on the table as well that most of these workers had to work for between 10 and 14 hours a day.

Mr. President, the national minimum wage in the related order was designed to put low-skilled, non-skilled workers in an improved financial position. As you are aware, wages are one of the most effective means—some even say the only effective means—of passing on prosperity to the citizens of our nation. While this may be so, it is also always prudent to manage prosperity so that it does not fuel inflation and undermine good economic management. If I may say so myself, I verily believe that we on this side have been managing prosperity very well. *[Desk thumping]*

However, now that we have instituted the national minimum wage, there are still reports of some employers cheating on their employees. The Labour Inspectorate of the Ministry of Labour and Co-operatives has been dealing with the complaints, but what we have found is that some employers are using novel approaches to deny employees their lawful due.

It appears to us that a few employers are using what I term the “Columbus approach” in dealing with the minimum wage. By that, I mean that they may be keeping two sets of records. One has the amount actually paid to workers, while the other has the correct minimum wage which the workers sign as receiving but never really receive. So, Mr. President, when complaints are lodged at the Ministry of Labour and Co-operatives and the labour inspector is sent in, the employer produces the book with the workers' signatures next to the correct minimum wage but which, allegedly, was never really paid to them.

7.00 p.m.

Our labour inspectors have found that most of the workers who make formal and informal complaints about not receiving the correct minimum wage are the same ones who sign for receiving correct minimum wage. Understandably, these workers are not at all prepared to stand up against an employer for fear of victimization or even dismissal. As a result, the labour inspector cannot execute his obligation under the law and prosecute offending employers. The fact is these employers have nothing to answer if the employee signs for receiving the correct wage. Mr. President, what I explained just now is the plight of our low-paid, low-wage workers. They are often denied the minimum wage and are forced to suffer in silence.

The proposed amendments contained in this Bill would correct some of the deficiencies in the present legislation. In fact, the main thrust of the Bill is the

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transfer of jurisdiction in respect of matters arising under the Act from the Magistrates' Court to the Industrial Court. This would mean that offences under the Act would become industrial relations offences, subject to the trade dispute procedure in Part V of the Industrial Relations Act, Chap. 88:01. This means that the breach of a Minimum Wages Order would be deemed to be a trade dispute which is reportable to the Minister of Labour and Co-operatives by either the worker, the recognized majority union, or a union of which a worker is a member.

The amendments proposed in this Bill would allow for the enforcement of the Minimum Wages Orders that apply to domestic workers and other workers as well, who are not deemed to be workers under the Industrial Relations Act. As you are aware, domestic workers were historically excluded from the category of "worker" under the Industrial Relations Act. This exclusion worked to their disadvantage. They were denied any opportunity to state their case, or seek redress in the Industrial Court.

This evening I pay tribute to Ms. Clothil Walcott [*Desk thumping*] the leader of the National Union of Domestic Employees who had been leading the struggle for domestic workers to be recognized as workers. If I am not mistaken there is a Senator on the Independent Benches who had been in that struggle, as well. [*Desk thumping*] Mr. President, the National Union of Domestic Employees—if you did not catch it yet—has an interesting acronym (NUDE). The National Union of Domestic Employees had been knocking at the Ministry's door on behalf of domestic workers almost on a daily basis. I am sure Ms. Walcott would be pleased this evening to note that, as a first step, the Government is proposing that domestic workers be allowed to report to the Ministry of Labour and Co-operatives any infringement of the Minimum Wages Act and the sister legislation, the Maternity Benefits Protection Act. It is a first step. [*Desk thumping*]

Mr. President, the transferring of jurisdiction of matters arising under the Act from the Magistrates' Court to the Industrial Court, represents a quantum shift in policy, that is, industrial relations offences would have been decriminalized and custodial sentences on employers would be removed. It was not the intention of the parent Act or any of the Minimum Wages Orders, to destroy the livelihood of employers and the workers by imposing custodial sentences. The purpose of the Act was really to ensure a minimum rate of pay for workers and not to destroy businesses. The amendment, therefore, would include the removal of imprisonment as a penalty, introducing instead stiffer penalties for employers who breach the provisions of the Act.

Because offences under the Act are subject to the summary jurisdiction of the Magistrates' Court, the prosecution of such offences is governed by section 33(2) of the Summary Courts Act, Chap. 4:20 which states and I quote:

“In every case where no time is specially limited for making a complaint for a summary offence in the Act relating to such offence, the complaint shall be made within six months from the time when the matter of the complaint arose, and not after.”

It has been too often the case that violations of the Minimum Wages Act are statute-barred since workers rarely make complaints to the Minister within the six-month period stipulated by this Act. Therefore, there are a number of cases that had to be dropped by the wayside of people making formal and informal complaints and even reports. We could not take them to the courts.

However, in the proposed amendments the Minister of Labour and Co-operatives would be empowered to utilize his discretion under clause 51(3) of the Industrial Relations Act, to extend the time within which a matter can be reported. This would provide for greater and more effective prosecution of breaches of the Act. Mr. President, the amendments would also empower workers and trade unions in the pursuit of their own rights. They will have that power. It is hoped that by giving workers the right to initiate their own action, employers would be encouraged to comply with the law.

The amendment would provide an important protective cover for workers who report their employers for non-compliance of the Minimum Wages Order. An employer can be fined up to \$20,000 for dismissing, suspending or otherwise adversely affecting the employment of a worker who reports non-compliance of minimum wages. Of course, this is one of the provisions of the Maternity Benefits Protection Act, which is already in operation at the present time. Mr. President, when we put this into operation it means that where the infringements of the Minimum Wages Act are found, the worker can make a report and the employer cannot dismiss him. Of course, this is the reason we have workers suffering in silence: they are afraid to make a complaint.

Now that I have given a somewhat broad overview of the proposed amendments to the Act, permit me to briefly walk hon. Senators through the various clauses. I will skip some; they are just a few. Clause 4 proposes to amend section 21, whereby an authorized officer's power of inspection is expanded to require an employer or other person authorized by the employer to permit the interview of workers in respect of whom a Minimum Wage Order applies.

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7.10 p.m.

Under the present Act you cannot interview a worker at the workplace. You can only interview the employer or somebody appointed by the employer, but you cannot interview the worker. We are making it possible now for the inspectors to interview the workers on site.

Mr. President, clause 5 proposes to amend section 22 in a similar fashion to clause 21, by broadening the investigative powers of an authorized officer whereby he is permitted to interview workers in respect of salaries and terms and conditions of service.

The Act is further amended in clause 6 of the Bill by adding three new sections, namely, sections 22A, 22B and 22C. Section 22A would require the authorized officer to submit a report of his findings on the inspection of any premises or place carried out under section 22, to the Minister within 14 days of carrying out the inspection. The Minister may then, if appropriate, deem the matter to be a trade dispute subject to the provisions of the Industrial Relations Act, or send the matter directly to the Industrial Court for determination.

Mr. President, section 22B, one of the new section, proposes that:

“Where—

- (a) a worker alleges non-compliance with the provisions of this Act;
- (b) a worker’s employment is terminated on the ground of his refusal to accept terms and conditions less than provided for under a minimum wages order;
- (c) there is a difference of opinion as to the reasonableness of any action taken or not taken by an employer as to the suspension or dismissal of a worker consequent upon the making of a minimum wages order, the worker, the recognised majority trade union or, where there is no such union, any union of which the worker is a member, may complain to the employer, in writing, in respect of any matter identified in paragraphs (a), (b) or (c) seeking to have it rectified.”

Mr. President, subsections (2) and (3) propose the procedures to be followed by the worker or the relevant trade union, and I just read that for you, and the ultimate steps to be taken in terms of the jurisdiction of the Industrial Court. Section 22B, which is a new one—*[Interruption]*

Sen. Mahabir-Wyatt: Through you, Mr. President, I would like to thank the Minister for giving way. I would just like to ask a question. I do not see anything in this Bill, particularly in the section which the Minister just read out, which limits a domestic worker from taking a dispute over non-payment of minimum wages and non-compliance under subsection (3).

The Minister specifically said that as a first step domestic workers would be able to take things to the Ministry of Labour and Cooperatives, but there is nothing in this that limits domestic workers to provisions just to the level of the Ministry. As far as I can see in this legislation domestic workers are the same as any other workers. Could you just clarify that? Domestic workers must be covered under this 22B.

Hon. H. Partap: The domestic worker, for the purposes of this Bill, would be declared a worker and, therefore, can report a dispute and it would be done under 51(3) of the Industrial Relations Act.

Sen. Mahabir-Wyatt: So you can if you so choose?

Hon. H. Partap: Yes, you can.

So section 22C would prohibit an employer from dismissing a worker, and I alluded to this earlier, so that the worker can be protected even though he or she makes a complaint about not receiving the minimum wage.

Mr. President, we intend, at the appropriate time, to amend section 25 as well. The intention behind the amendment to section 25 of the Minimum Wages Act Chap. 88:04 is not only to continue to effect the transfer of jurisdiction to the Industrial Court for matters arising under the Act, but more importantly, to make it clear that the Industrial Court has jurisdiction to award damages to the employee where the court sees fit, in addition to arrears of wages owed by the employer. That amendment would be made at the appropriate time when we complete the debate.

Mr. President, as from Wednesday, December 15, 1999, that is next Wednesday, the Labour Inspectorate of the Ministry of Labour and Cooperatives would embark on a country-wide campaign to meet workers where they are, in order to assist them in any issue relating to minimum wage, maternity protection benefits, or terms and conditions at the workplace.

Officers from the Labour Inspectorate will establish desks at regional offices of the Ministry of Labour and Co-operatives and the Inland Revenue offices, where workers can come once a month, in the first instance, to discuss their

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problems and to seek the advice of the labour inspectors. The date, time and venue will be published in the media for the benefit of those persons who may wish to avail themselves of the opportunity. The areas to be served by this decentralized approach are: Port of Spain, San Fernando, Princes Town, Mayaro, Tunapuna, Arima, Couva, Sangre Grande, Rio Claro, Chaguanas, Point Fortin and Siparia.

Please permit me, Mr. President, to remind this honourable Senate that the amendments we propose to the parent Act result from our experience in the enforcement since the enactment of the National Minimum Wages Order, 1999. Mr. President, these amendments are important if the national minimum wage is to continue to make an impact on the lives of the low-paid, low-skilled, non-skilled workers in this blessed country of ours. I ask that the Senators opposite support the amendment when the time comes. [*Interruption*]

Sen. Prof. Spence: Mr. President, I wonder if the hon. Minister would just explain in a little more detail how it benefits the worker if the procedures have been transferred from the Magistrates' Court to the Industrial Court and what sort of penalties can the Industrial Court impose on employers who do not observe the minimum wage.

It seems to me that if an employer does not pay the minimum wage it is tantamount to theft from the worker, therefore, I wonder what sort of punishments are available through the Industrial Court as opposed to the Magistrates' Court which can incarcerate persons. Can the Industrial Court do that? How do the two sets of penalties compare?

Hon. H. Partap: I had mentioned that we are trying to decriminalize the whole process and we are putting industrial relations offences in the hands of the Industrial Court, where they should be. We will deem this to be an infringement of the Minimum Wages Act. We will deem it to be an industrial relations offence and, therefore, instead of going to the Magistrates' Court which is so cluttered at the moment—and this is one of the reasons we want to move the industrial relations problems out of the Magistrates' Courts, because they are so cluttered and it takes a long time before we can even get a case heard. [*Interruption*]

The penalties are there, but there would be no custodial penalties. The penalties have been increased and it is in the Order. I think they have gone from \$1,500 to \$10,000. If you check 22C(2) it would now be a fine of \$20,000. It used to be \$1,500, I am not sure, but it has gone from \$15,000 to \$20,000 in some cases. The idea is that every worker will have access to the Industrial Court. They

can make their complaints and go to the court. I think it would be better for the worker.

Mr. President, if that satisfies the Senator, I beg to move.

Thank you.

Question proposed.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I would like to reserve my right to speak on this matter. I want, at this time, to propose an adjournment of the present debate on the Minimum Wages (Amdt.) Bill to the next sitting of the Senate, and that we move to “Motions” under Government Business.

Agreed to.

Mr. President: We shall now move to “Motions” under Government Business by the Minister of Finance.

REGISTRATION OF CLUBS (AMDT.) REGULATIONS

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I beg to move a Motion that reads as follows:

Whereas it is provided in section 22(1) of the Registration of Clubs Act that the Minister may, subject to affirmative resolution of Parliament make regulations *inter alia* for prescribing the fees payable upon application for registration of a club:

And whereas the Minister has made the Registration of Clubs (Amdt.) Regulations, 1999 on the 19th day of July, 1999:

And whereas it is expedient to confirm the said Regulations:

Be it resolved that the Registration of Clubs (Amdt.) Regulations, 1999 be confirmed.”

Mr. President, this Motion should have been in my name, that is why I did not say that I rise to move a motion standing in my name. It so happens that this Motion was moved by the Minister of Trade & Industry and Consumer Affairs on my behalf, but for some reason it came up here as being the Minister of Trade & Industry and Consumer Affairs. If you notice, the actual order was signed by the Minister of Finance at the time in July 1999, so maybe I should put on record my thanks to the Minister of Trade & Industry and Consumer Affairs for moving it in the other place.

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Mr. President, this Motion, as I said, is made pursuant to section 22(1) of the Registration of Clubs Act, Chap. 21:01. It seeks to simplify the basis on which the proprietary clubs pay registration fees and at the same time increase these fees to bring them more in line with current fees payable by other similar organizations.

At present, the registration fee paid by a proprietary club, if it is located in Port of Spain or within 10 kilometres of the boundaries of Port of Spain, is structured based on the number of members of the club. There are actually five classes of fees. Where the membership does not exceed 100, in other words less than 100, the whole fee is \$375; where the membership exceeds 100 but does not exceed 250, the fee is \$750; and so forth, with fees ranging from \$375, \$750, \$1,500 or \$1,800, depending on the size of the membership, up to a maximum of \$2,250 where the membership exceeds 750 persons.

Where the club is situated elsewhere than in Port of Spain or within ten kilometres of the boundaries of Port of Spain, the fee payable is still determined by membership—again, I want to explain, this is the old membership scale of fees—but only half the relevant fee is payable. In other words, it would be half of the \$375, \$750, \$1,500 and so forth, based upon the size of the membership.

It should be noted that proprietary clubs do not include members' clubs. I want to repeat that: proprietary clubs do not include members' clubs, but refer to any club other than a members' club. These fee increases are aimed at curing a specific mischief, and that is the present practice of club shopping.

Sen. Prof. Spence: I find that very confusing. What is the difference between a members' club and a non-members' club? How could you have a non-members' club? Could the Minister explain the difference, because it is a mystery to me?

Sen. The Hon. B. Kuei Tung: There is a difference between a proprietary club and a non-proprietary club. The difference is that a proprietary club may be owned by an individual for profit; the Country Club is a proprietary club. The members do not own the club. Queen's Park Club is a members' club because it is owned by the members. So there is a difference between a proprietary club and a members' club in the sense that the members own the club, the proprietary club is owned as a business by some body or company.

7.25 p.m.

Mr. President, these fee increases are aimed at curing a specific mischief, the present practice of what we call club shopping. That is where owners of clubs—and I am talking specifically now about proprietary clubs—shop around for the smallest licence fees payable under the existing legislation.

In 1988, the Ministry of Finance noted that revenue was being lost as a number of holders of special restaurant licences under the Liquor Licences Act, Chap. 84:01, were closing down their businesses and reopening as members' clubs. At the time the cost of registration as a members' club was cheaper, being \$300.00 per annum as opposed to between \$3,375 and \$4,500, for a special restaurant licence. In other words, they used for convenience whatever name suited them to pay the smallest possible registration fee, and that is why we call it a mischief of shopping around for the smallest licence fee payable.

As a result of the loss in revenue, it was decided to increase the licence fees for members' clubs which was at the time increased from \$300.00 to \$1500.00; however, this resulted in clubs registered as members' clubs closing down and reopening as proprietary clubs which often paid smaller licence fees depending on the size of membership and location. As soon as we make one change, they go to something else.

Because of this practice of club owners shopping around for the smallest licence fee, it is proposed via these regulations, that the licence fees paid by proprietary clubs be increased. This would help to standardize licence fees payable under legislation, whether for a special restaurant licence, or to register as a proprietary club. When there is not such a great difference in the various licence fees payable, depending on the type of organization, this would go a long way towards discouraging owners shopping around for the lowest possible fees.

An opportunity is also taken to simplify the fee structure for such proprietary clubs. Instead of five different classes of fees, there are now only three classes. The fee structure also depends on the size of membership. Once membership exceeds 100 persons, the relevant fees are payable depending on the location of the club.

Hon Senator: *[Inaudible]*

Sen. The Hon. B. Kuei Tung: There are three only, in the sense that there are three amounts. If you look, you will see that two amounts are the same. I think it is \$2,250 at the same two classes. I know there are four classes, but there are really only three in the sense that you could bunch two of them together seeing that the fees are the same.

Mr. President I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, I think the hon. Minister knows I am going to talk about casinos. I understand what is taking place, and I really do not have a problem with it. The registration fees are being increased by roughly ten times what the original schedule was, and I do not have a problem with that, except that I really do not know how anybody arrived at the numbers.

We are changing it from “A” to “B” and I do not know how “B” was arrived at. It is just a letter out of thin air. The Minister is saying that the justification for the change is for the protection of the revenue stream and I understand that, and I think the Government is right to do everything it can to protect its revenue stream. I also remember in the recent budget, the revenues from clubs are expected to be \$1.5 million in this fiscal year. So in any event, it is not a great deal of money about which we are talking, but, of course, \$1.5 million can be used to do a lot of good, social things and, therefore, it is important that we deal with it.

While the Minister is talking about trying to protect the revenue stream, I am at a bit of a loss when it comes to his position *vis-à-vis* casinos which, of course, are proprietary clubs and which, in fact, operate in virtually tax-free environment. While they pay a tax on the tables, they pay no income tax at all because gambling as such, is tax free and the club is actually gambling also, and therefore, the profits are free of income tax. The clubs pay no income tax at all. The club is owned by them, it is not an incorporated entity and, therefore, its proceeds from gambling are tax-free and that is the difficulty I have always had with the casinos.

They are paying a tax on the tables, yes, but quite frankly it seems to me—and we will get into this on another occasion when we talk about the horse racing industry where in the beginning, the bookies, or whatever they are called, who take bets and so forth are specifically legislated for and they must pay a tax on their receipts. Everybody says they are not paying the right amount of income tax and yet we come in a situation here, where this administration has literally set up a brand new industry where large amounts of money are being invested.

I quoted one fellow who was interviewed in the *Daily Express* I think, when I made my budget contribution. He was investing \$8.5 million in a casino in what is in fact, a tax free business venture and that is where I have difficulty. I have no difficulty with the fees for the registration of clubs and so forth, but really, what signal are we sending out there? It is not rocket science. I know that there are other areas where they have much experience in the taxation of casinos and I do not think it would be rocket science to bring in these experts to tell us how we should go about doing it. So, insofar as this relates to the casinos, I think that it

really is a mischief—to use the Minister’s word—to allow these businesses, legitimate as they are, to avoid income tax under this loophole of being a club and operating in a tax free environment. That is the difficulty I have.

With those few words, I thank you.

Sen. Prof. John Spence: Mr. President, I agree entirely with the points made by Sen. Montano. My difficulty was, I tried to get it by questioning the Minister, but quite frankly, I am still confused, and just before making my comments, I would like to ask this question. Do proprietary clubs have to have a membership? Do they have to have a recorded membership?

Sen. Kuei Tung: Yes.

Sen. Prof. J. Spence: They do. That was the question I was trying to ask and could not understand the answer. I suppose, Mr. President, the reason the Government does not tax these clubs in the normal way is that by so doing, it will be recognizing casino gambling as an activity in Trinidad and Tobago. So to avoid recognizing that, they have this device of letting them be done in clubs and the consequence is—as Sen. Montano has pointed out—a multi-million dollar business does not attract tax.

Personally, I think it is horrific to think of the hypocrisy that goes on where gambling is illegal, but we allow these clubs to operate. Who checks on the membership? Whose duty it is to check on the membership of these clubs? Is it the Ministry of Finance? Could I ask the hon. Minister, Mr. President, if it is the duty of the Ministry of Finance to check on the membership of these clubs? May I wait for a reply, because my further comments would be dependent on the answer to that?

Sen. Kuei Tung: I do not know.

Sen. Prof. J. Spence: You do not know. Honestly, Mr. President, I think we have a very serious problem in this country. Here we have gambling taking place under the guise of clubs. Can the hon. Minister of National Security answer the question? Is it checked on by the police?

Sen. Brig. Theodore: *[Inaudible]*

Sen. Prof. J. Spence: Mr. President, I honestly think we have a serious problem in this country. I am against casino gambling. I have said it at the very beginning when the issues were introduced and here we have, what is, in effect, casino gambling, and we do not even check whether they meet the regulations

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they are supposed to be doing. I think myself that the way we should address these regulations is to change them so that there are proprietary clubs, what they call membership clubs, non-proprietary clubs and clubs that have gambling devices in them—it is not good enough just to tax the gaming tables, there should be a separate category and in that category then the fees can be realistic.

My reaction to reading this before I understood the difference between all the various clubs was to say this would not be \$2,500, but \$2 million because that is a fair fee for the clubs that have casinos in them. Why continue with the hypocrisy? We have these clubs, let us tax them and put the tax to some good benefit in the country. What is worse than that, we have an activity which clearly is not good for the country and we cannot even tax it. At least the Lotto—which again, I do not think is good for the country—we tax it. I really think it is disgraceful and who checks on it? We cannot even say who checks on it. Is it the duty of the police? If we cannot say today, could I ask the Minister of National Security whether it is the duty of the police, or the Minister of Finance to let us know at some stage and let us have it? I will ask the question of the various Ministers.

I will ask all of them because I do not know which one to ask. I will ask all of them to give me a record of the number of checkings that have been done on the membership of these casinos for the last year. I am sure the answer would be zero, absolutely no checking because anybody can tell you they can just walk in and sign the book. How are they checking, if they are checking? The way to check is month by month and see whether the membership is changing and let us have a system whereby a membership club should have a member for at least a year. It really is a disgrace.

Mr. President whatever this Motion is supposed to do, I find it very hard to take any position on it at all because it includes those activities which I think are detrimental to the country and which I object to greatly, and further, I object to them more strongly, as Sen. Montano has pointed out, if they do not pay any taxes.

Thank you.

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I thank both Sen. Montano and Sen. Prof. Spence for their contribution to this debate. I will answer the easy one first.

Sen. Montano asked in moving from “A” to “B” how we arrived at “B”. It is fairly simple. As I said, I am trying to standardize it so I already had a “B” established in other areas in other clubs, so I merely brought in the special

registration in line with the others. I did not do it arbitrarily, I just brought them together in the same line so you will find the regulations now are more in keeping with the other regulations which had already established \$3,375.00 for clubs in Port of Spain.

In other words, first you had special restaurant licences. Do you remember that one? And people moved away from special restaurant licence because I increased the special restaurant licence high to \$3,375. a year. They say, if we open as a club, we only have to pay \$375.00. So they switched from special restaurant licence to a club and paid \$375.00 a year. What I am saying is I did not arrive at “B” on these figures quite arbitrarily, I merely harmonized all the numbers. So “B” was not so arbitrary as you might think.

I am a bit surprised and it really struck me as odd that these people pay no income taxes. I just assumed that they would pay if they have corporation tax, and if not, PAYE or income tax as individuals.

7.40 p.m.

But you do strike a note, that is gambling is not taxed in Trinidad and Tobago. I am not too sure if I could say: “Here is more of my income which I got from gambling and therefore I pay no tax.” I do not think that is quite how it works. I think gambling is not taxable because, basically, gambling is illegal—and still continues to be illegal—in Trinidad and Tobago. The fact is—*[Interruption]*—I am wondering, one cannot say that one is getting income and not declare it because that is also against the law.

It is against the law for one to say that one got income and not declare it. It is something else for one to say: “I got income too but guess what, I got it by gambling and gambling is not taxable.” *[Interruption]* By definition it is not income. I have a problem with that. Anyway, I would have it researched and I would get back to you on it. I promise that.

Who checks on the membership? I think it is the Board of Inland Revenue, I am not too sure. I will tell you why I say they do not check, to be quite frank. What happens is, each year one has to go and license his or her club. I think this is done at the Board of Inland Revenue. Somewhere along the back of my mind too, I think the magistracy comes into it; where a person has to get a liquor licence as well. I know there is something, but to be quite frank, I am not so familiar with exactly who does it.

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Based on these fees, even though there are a lot of clubs and we collect \$1.5 million, it is small money and it is going to cost a lot of money to have people leaving the Board of Inland Revenue to go and check to see how many members a club has. A club pays \$3,375. For me to do a check I would have to hire clerks. I do not think they do that.

Sen. Prof. Spence: I was not referring to that, I was referring only to those clubs that also have gambling tables. Since they pay a fee on the gambling table, you know which ones they are.

Sen. The Hon. B. Kuei Tung: Right. We do know that there are casino-type gambling clubs, therefore we do have people who check those, incidentally. They make small checks. They go and check to see how many tables there are because these people have to pay a licence fee based on each table. You are right; they can check that as well. I think you are also right and I have to admit it, rather ashamedly, that we do have an activity going on where people are bending the law. I know that the enforcers—if I want to call it that—seem to be powerless; they do not even bother to keep a membership club book or booklist, I am told. I do not frequent these clubs.

Therefore, anybody who walks in would be required to sign in. There are no true members in the true sense of the word. I am aware of all of that, I really do not know how else we could enforce this. This is one of those areas where an activity has mushroomed overnight and it falls through the cracks because the real enforcers do not know whom to enforce.

I have a problem right now—for argument sake—where I am told that there are some clubs that have illegal equipment in them. I ask Customs and Excise: “How could you allow illegal equipment to come in?” Then there is another problem, if you thought the CKD business in motor cars is bad, try one-arm bandits. This equipment comes in without the one arm. They come in looking—no arm and Customs and Excise say if they have no arm, they are not breaking the law, it has to have one arm to break the law. Customs and Excise allow the people to pay the duties on a no arm bandit and then they put on the arm when it reaches the club, so they are now illegal. Then I ask Customs and Excise and the police: “Whose duty is it to enforce the law?” and they both point to each other. The thing is laughable but that is really what is happening. I keep conferring with my colleague and saying: “What is wrong, the police tells me it is the Customs and Excise and Customs and Excise tells me it is the police?” Because the Customs and Excise says: “I cannot go and see the equipment that I tell them to pay duty

on”, and the police is saying: “Well I do not have anything to do with that, police do not seize on customs goods.” [*Interruption*] What is the Government saying? I am trying to find a resolution, as a matter of fact; I have met with the Prime Minister to discuss it with him. He is looking at it. [*Interruption*]

I will tell you a further complication for all of this; some of these people are here on work permits. I say no more. It is not an easy solution. [*Interruption*] It really is. I will tell you what the problem is. The problem is that we know—Sen. Prof. St. Cyr would back me up on this—we have a natural proclivity—is that the right word, Sir?—towards gambling. We all have this get rich quick mentality. We feel that if we place a bet we would suddenly become millionaires tomorrow. Many people in Trinidad are inclined to that kind of behaviour. So it is easy for people to create these things. I do not know what else I can do. I thought that by penalizing the tables we would have some clamp on the mushrooming, as I said, of it. Instead, it seems to have attracted a lot more people into the business. I keep standing, literally, in frustration trying to get these people to, at least, make some contribution to the coffers.

Look at this; this is a typical example of where you play “ring-a-ring-roses”: people are busy trying to get ahead of you and every time you make one move, they change to something else. I am not even satisfied, as I said, Sen. Prof. Spence, that these are the correct amounts, but it is a step in the right direction, it was \$375. They can argue that they have gone from \$375 to \$3,375.

Mr. President, with those few words, as I said I am personally going to undertake to have this question of income tax investigated. I will discuss it with the Chairman of the Board of Inland Revenue and if I have any feedback, I promise I would bring it back to you.

Mr. President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Resolved:

That the Registration of Clubs (Amdt.) Regulations, 1999 be confirmed.

ADJOURNMENT

Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, before moving to have this honourable Senate adjourned to Tuesday, December 14, at 10.00 a.m., may I take this opportunity to inform fellow Senators—and I am hoping that we can keep this order—of the Bills that we are going to deal with on Tuesday. We are going to address—and we did inform

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fellow Senators that the revised Environmental Management Bill would be circulated by Friday. In your envelopes that you should get from the Senate very shortly, that Bill ought to be in it, in time for the next sitting. This is what the Attorney General indicated. We hope that Bill will be circulated in time so that you can peruse it before we come here on Tuesday.

Mr. President, we want to tackle that Bill first and then go on to Bills Nos. 6, 7 and 8 on the Order Paper, dealing with the Motor Vehicles and Road Traffic Act. We want to deal with them conjointly because they all impinge on one another. So we want to do those three Bills together. Having completed those three Bills, we will go on to the Minimum Wages Bill. We want to conclude that matter on Tuesday and then the Tourism Development Bill.

Mr. President we are also seeking to proceed with the Bill to amend the law relating to the distribution of the estates of deceased persons, which is Bill No. 9, and that is, possibly, on Wednesday. If we have time on Tuesday night we will conclude it. On Wednesday we are going on to the Bill to provide for regulating the keeping of dangerous dogs, that is Bill No. 14, and then we are going on to Bill No. 22, a Bill to amend the Limitation of Certain Actions Act, 1997, and then Bill No. 23, a Bill to amend the Criminal Procedure Act, Chap. 12:02.

In other words over the next two days, Tuesday and Wednesday these are the Bills that we are going to conclude. We will start at 10.00 a.m. and go until 10.00 p.m. on both days, except on Wednesday we will start at 1.30 p.m. and go until 10.00 p.m.

Mr. President, I beg to move that this Senate do now adjourn to Tuesday, December 14, 1999 at 10.00 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.51 p.m.