

*Leave of Absence**Tuesday, April 18, 2000***SENATE***Tuesday, April 18, 2000*

The Senate met at 10.30 a.m.

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

Mr. President: Hon. Senators, leave of absence from sittings of the Senate has been approved to Sen. Dr. The Hon. Daphne Phillips from April 13, 2000 to April 23, 2000 and Sen. The Hon. Brian Kuei Tung from April 14, 2000 to April 19, 2000.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MR. DAVE COWIE

WHEREAS Senator Dr. Daphne Phillips is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVE COWIE, to be temporarily a member of the Senate, with effect from 18th April, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Daphne Phillips.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 10th day of April, 2000.”

Senators' Appointment
[MR. PRESIDENT]

Tuesday, April 18, 2000

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MR. VINCENT CABRERA

WHEREAS Senator Brian Kuei Tung is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate, with effect from 18th April, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Brian Kuei Tung.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 13th day of
April, 2000.”

CONGRATULATIONS
(SEN. NAFEESA MOHAMMED)

Mr. President: Hon. Senators, on behalf of us all, I wish to offer our congratulations to Sen. Nafeesa Mohammed on the birth of her son and on becoming a mother for the first time. [*Desk thumping*]

CONDOLENCES
(MR. VERNON GLEAN)

Mr. President: Hon. Senators, I wish to pay tribute on the passing of one of the stalwarts of our community; I speak here of the late former Senator Vernon Glean who passed away on April 11, 2000 and was interned yesterday, April 17, 2000. The late Mr. Glean was very well known in the labour movement as a very formidable leader of the Seamen and Waterfront Workers' Trade Union, where he

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was President-General from 1972 to 1990. In fact, I am told that he joined that union in 1950. He served on many boards and many committees of the labour movement in Trinidad and Tobago and, in fact, was at one time the President of the Caribbean Congress of Labour.

Quite apart from those activities, Mr. Glean distinguished himself as an Independent Senator during the period 1971 to 1976 and 1981 to 1986, where he was the chief spokesman in the Senate on labour matters. The country will miss the late former Senator, and we offer condolences to the family of the late Senator.

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

May he rest in eternal peace. Members wishing to pay tribute may do so now.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, on behalf of the Government Benches and Government Senators, I would like to express our sincerest condolences to the wife and children of the late Sen. Vernon Glean. His passing was, indeed, a very sad occasion. I know that it is not only the members of the family who will miss Vernon, but also his comrades in the trade union movement, as well as the larger community which mourns his death.

Mr. President, in celebrating his life we must recognize the contributions he has made to this country and, in particular, to the trade union movement. More commonly and affectionately known among trade union members as “PG”, the late Sen. Vernon Glean was always championing the causes of others, in particular, the poor and the working class. Indeed, he was a true soldier and dedicated worker, always eager to motivate and to offer advice.

His history as a trade union leader is demonstrated in the several positions he held whilst he was alive. From 1980 to 1983 he served on the executive of the Caribbean Congress of Labour as its President. He was also the President-General of the Seamen and Waterfront Workers’ Trade Union Movement between the period as mentioned. He was also President of the Trinidad and Tobago Labour Congress and a leading light in the International Transport Federation.

Additionally, Vernon Glean was also instrumental in organizing and participating in the 1989, “Day of Resistance” as well as in the formation of the National Trade Union Centre. Among his many noble and notable contributions to our society was his involvement—even at the time of his death—in the Trinidad and Tobago Association for Retired Persons of which he was a founding member.

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Mr. President, Vernon Glean was a man of courage and character. As a stalwart of the trade union movement, he was selfless and tireless in his passion and drive to promote the interests of the poor and ordinary people of our country. He had such a great understanding of the human nature or human spirit that those who came to him for advice found solace in his words of wisdom. It was incredible how he could quip on for every problem. In local parlance one might say, "he had a plaster for every sore". One favourite that comes to mind is: A fellow mango ripe late. Having served on many state boards he was respected by employers, governments and the working people.

10.40 a.m.

His reputation as a trade union leader is well-known, both locally and in the wider Caribbean, where he commanded the respect of many labour leaders and working people.

As a trade union leader, he was constantly campaigning for better working conditions for the employees he represented. It was that same leadership and devotion which he brought to the Upper House when he served as an Independent Senator during the period mentioned.

He was dedicated to his children and his wife Linda, who are left to mourn his passing.

As a son of the soil, he was an ardent lover of sports and culture. In fact, it was he who gave the "Mighty Trini", his calypso name. The "Mighty Trini" was not happy with the former name, "Mighty Whitey" and he was advised by Comrade Vernon Glean that his name should be "Mighty Trini", as he was a true Trini man.

Mr. President, it is not surprising, therefore, that the calypsonian who was his close friend, was at his bedside when he passed away last Tuesday at the Eric Williams Medical Sciences Complex at the age of 73.

It is, therefore, with great respect, humility and admiration that we salute Vernon Glean, a son of the soil, one of Trinidad and Tobago's true sons and heroes.

Into our Lord's hands, we commend our brother, our friend, our colleague, our comrade and our former Senator.

May his soul rest in peace and rise in glory.

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Sen. Danny Montano: Mr. President, we, too, on this side would like to acknowledge the life of our friend, Mr. Vernon Glean. His life has made our nation a better place. He has made his contribution, his life has touched each and every one of us and he will not be forgotten.

That is the legacy of a man's life and it is the honour which you bring to your name that on your passing, men and women everywhere can stand and say he was a man of honour, integrity and courage. Mr. President, there is no greater wealth on this earth to have those words said about you and to have them be true and this is so of our friend, Mr. Vernon Glean. He led a life of honour and he is and will be for a long time, an example to all of us.

He served his family, the workers of his union and the nation at large with love and with dignity and he respected us all.

Mr. President, he was a simple man, who rose in station through ability and dedication, and not by greed or naked ambition. He worked hard and was successful because he was true to what he believed.

As was mentioned, he served two terms as an Independent Senator, serving the nation at the highest level. He served as the President of the Seamen and Waterfront Workers' Trade Union for some 21 years. He was a natural leader and that is an example for us all. He led through sheer dedication and hard work.

We on this side send our respects to his family and we pray that his soul be lifted into the arms of the Almighty.

Thank you very much.

Sen. Diana Mahabir-Wyatt: Mr. President, like the colleagues who have spoken of Vernon Glean before me, I can testify to the integrity, courage and the intelligence of Mr. Glean.

I first met him in 1966 when I first joined the ECA. He was at that time one of the officers of the Seamen and Waterfront Workers' Trade Union and over the years since, I have worked with him on many, many tripartite commissions and committees, both here and in Geneva, and we worked on Caribbean things as well.

One of the things that was very impressive about Vernon Glean was his dignity and his intelligence, but he also had an unusual gift of being able to see past the surface in people and to see past the surface in problems, to go right to the heart of the problem and ignore the fluff, which made him a particularly valuable advisor on industrial relations matters.

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He was always very firm in his convictions and not easy to influence, but he listened to people and that was another rare characteristic that he had that not very many people in the industrial relations field exhibit. Along with his sense of humour, he always had a sense of balance and with the unswerving commitment to whatever principle he was arguing, he would always bring that sense of humour and that sense of balance.

He was one of the people in the industrial relations field and, in the tripartite talks, he always came through as being somebody who was solid—I can only think of the words "solid as the Rock of Gibraltar". You knew that whatever Vernon was pursuing, he was not going to swerve and he was not going to back down and crumble very easily, but he would listen and listen to reason.

He was a man who was very much respected even by those in the business community on the other side of the industrial relations fence, even during negotiations.

On behalf of the Independents, I would just like to say how very proud we are that he was an Independent Senator and was on one of our Benches. He was a past colleague that we can all be proud of and we join with the rest of this Senate in sending condolences to his family and to all the many organizations to which he contributed.

The Trinidad and Tobago Association of Retired People of which many of us in this Senate are also members, will miss him, because he was one of the founders of that and he was one of the persons who, until his death, was keeping it going. We will all miss him. The country will miss him, but we are all very grateful that he was with us while he was.

Thank you, Mr. President.

Mr. President: Hon. Members, as a mark of respect, we will observe a minute's silence. Will all please stand?

All stood.

OATH OF ALLEGIANCE

Senators Dave Cowie and Vincent Cabrera took and subscribed the Oath of Allegiance as required by law.

FRIENDS OF MR. BISWAS (INC'N) BILL

Question put and agreed to, That a Bill for the incorporation of the Friends of Mr. Biswas and for matters incidental thereto, be now read the first time.

Friends of Mr. Biswas (Inc'n) Bill

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Bill accordingly read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate.
[Hon. W. Mark]

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the Senate to deal with Motion No. 1 at this time, and if we can reserve Motion No. 2 for a later stage of the proceedings, thereafter, we go on to "Bills Second Reading".

Agreed to.

MINIMUM WAGES (AMDT.) BILL

House of Representatives Amendments

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

That the House of Representatives amendments to the Minimum Wages (Amdt.) Bill listed in Appendix I be now considered.

Question proposed.

Question put and agreed to.

Clause 6.

House of Representatives amendment read as follows:

Insert immediately after 22C the following new section:

- | | | |
|---|------|---|
| Limitation
on delivery of
judgement | 22D. | (1) Matters under this Act fall to be heard and determined by the Industrial Court shall be heard within six weeks of being referred to the Court and once hearing has commenced, be heard from day to day, as far as possible, until hearing is completed. |
| | | (2) Judgment in a matter referred to in this Act shall be delivered not later than six weeks from the date of completion of the hearing save that in exceptional |

circumstances judgment shall be delivered not later than two weeks after the end of the six week period referred to and reasons for the delay shall be indicated in the judgment.

- (3) Where the Court fails to deliver its judgment within the two-week period referred to in subsection (2), it shall state in open court the reasons for the delay and if such delay continues the court shall at further one week intervals state the reasons for the continued delay until judgment is delivered.

10.55 a.m.

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

Mr. President, the intent of the first amendment is to expedite the hearing of matters brought to the Industrial Court, under the Minimum Wages Act. These amendments were proposed by the Opposition in the House of Representatives.

In fact, under the proposed section 22D when a matter is reported to the Industrial Court the court will, within six weeks, commence hearing on the problem. After the matter has been aired, the court must deliver judgment in a six-weeks' time frame. If the judgment is not delivered in that six-week period, the court will have two weeks in which to do so. The court must give its reasons for the delay in giving judgment. After the two weeks have expired, and the judgment still has not been delivered, the court then will have to, at a weekly interval, continue to say its reason for not delivering judgment.

Mr. President, this is intended to expedite the judgments so that the people who have brought these matters to the Industrial Court, their matters would be dealt with expeditiously.

In the Essential Services Division of the Industrial Relations Act, a similar provision applies, but not as extensive as the one that we are bringing into the Minimum Wages Act. In fact, under section 13(3) of the Industrial Relations Act,

with respect to the delivery of judgment—after the matter has been heard—the court will have 30 days in which to deliver judgment. This is not entirely new; it is just an expansion of what is already in the Industrial Relations Act.

Thank you, Mr. President.

Question proposed.

Sen. Mahabir-Wyatt: Mr. President, I have looked at the amendment to the Minimum Wages Bill with considerable interest. The Minimum Wages Bill, itself, has been a matter of a lot of discussion and concern in the business community and with those people who are involved in industrial relations and particularly in the field of industrial relations, I think we are all concerned about the Industrial Court and how it operates, because the Industrial Court is such a very special kind of body.

The very fact that under section 10 of the Industrial Relations Act, the Industrial Court has extraordinary powers as a judicial body, and the fact that it is protected from any appeals on the findings of fact, demand that the operations of the court be given the utmost consideration in terms of allowing it time to thoroughly investigate the cases that come before it. Because it has those powers under section 10, it is very important that the judgments of the court come forward to guide the country with the greatest of consistency and consideration.

While in the past we have all expressed considerable concern over delays in court judgments, sometimes these were ludicrous. I remember having one case outstanding for 13 years. I do not think we ever did get a judgment on that one. In recent years, the operations of the court have been streamlined and judgments come out much more quickly.

As the Minister has pointed out, this particular amendment is not entirely without precedent. Section 13 of the Act, which deals with essential services, already provides that judgment in a matter referred in one of those dispute areas shall be delivered not later than 30 days from the date of completion of the hearing, and once the hearing has commenced it has to be done on a day-to-day basis. It is the same provision that is here before us.

However, one understands why, in cases of essential services. For those who are not familiar with the concept of essential services, may I remind the Senate that these include electricity, water, telephone, external communications, fire, health services, hospital services, sanitation, public school buses and civil aviation. These employees, by law, are not allowed to take industrial action or to

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strike, never mind this is very often more honoured in the breach than in the observance. The fact is that the law prohibits strikes in essential services because these services are essential to the economy and well-being of the citizens of the country. In a situation like that one can understand why it is important to hear cases quickly and to deliver judgments quickly.

In the case of minimum wages, the situation is a little bit different. In this case we are referring to the Minimum Wages Act and we are referring to clause 22 which deals with reports to the Minister, arising out of complaints where a worker says that he or she is not getting the minimum wage which he/she is supposed to be getting. Since this is rather a common occurrence, it is just another indication of things being more observed in the breach than otherwise in this country. It is important that these cases be dealt with, because the rights of individual human beings shall not be stomped on.

From that point of view I have greatest sympathy with the amendment. But I have some concerns, and I wonder if the Minister could address them. One of these concerns is with respect to section 22B where it reads:

“Upon such a matter...”

This is a matter of noncompliance with the minimum wages.

“...being reported to the Minister, he may, where appropriate, treat such a matter as though it were a trade dispute subject to the provisions of the Industrial Relations Act...”

But there are no guidelines that say what guides the Minister in deciding whether or not to treat it as a trade dispute. The Minister could, presumably, decide to send everything to the court if he so wished. We do not have any indication as to what grounds he is going to decide.

If it is a trade dispute one would expect that the first thing the Minister would do is to conciliate rather than to refer this to the Industrial Court. The amendment seems to imply that the Industrial Court becomes the main focus, which is why I started off talking about the Industrial Court.

11.05 a.m.

If the Industrial Court is the main focus and if this amendment goes through as it is, limiting the court to the time it has to consider and decide, then I could very well see aggrieved workers deciding that they want everything to go to the court. The court could very well become clogged up with cases dealing with minimum

wages, when it is already heavily burdened with other cases, and the importance of allowing the court time to give consideration and due weight to the cases that are before it— Do not forget, Mr. President, that any judgment of the Industrial Court immediately becomes a guideline for all employers in the country. Once a decision is given it becomes one of the “principles” and practices of good industrial relations by which we are supposed to live our lives.

I am concerned that the court will become clogged up with all these individual cases and individual workers will now be able to take cases before the court. I think that it is only in the case of the Retrenchment and Severance Benefits Act where an individual can take a case, without going through a trade union, directly to the Industrial Court. This will add another dimension where individual workers can do that. I have no objection, in principle, but what I am concerned about is the ability of the court, without extra resources or an extra division, to be able to carry out the amount of work that could very well result.

I recognize that only about 11 per cent of the working population are now members of trade unions. [*Interruption*] Well, it has gone down I think from 17 per cent. [*Interruption*] Is it 13.2 per cent? No, it has gone down. [*Interruption*] No, it is not 30 per cent, Sen. Mark. It is below 20 per cent from the last statistics. Whatever it is, the point is that the vast majority of workers in Trinidad and Tobago do not belong to trade unions and do not have the protection or coverage of trade unions. Perhaps, they should have but they do not and, therefore, they obviously need help where it comes to dealing with employers who are not obeying the law in respect to minimum wage.

I am not questioning that; what I am questioning is that if we do have a plethora of these cases being referred to the Industrial Court, it could very well be that the court would have to give them priority, because the conditions in the amendment say that you have to hear the case within six weeks of being referred to the court. When the court already has outstanding matters referred to it that have not yet been considered, the court, by virtue of this amendment, has to give priority to minimum wages cases because it is tied by time. Except in the case of essential services, the court is not restricted by time in any other way. I find that this is something which has to be of considerable concern to anybody who deals with industrial relations.

The other point is that I think—[*Interruption*]

Mr. President: Senator, please, you cannot do that.

Sen. Mahabir-Wyatt: What this amendment is pointing out is the need for an overall, comprehensive review of the Industrial Relations Act. For very many

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years, I listened to the honourable head of the Government Benches in this Senate complain bitterly about piecemeal approaches to legislation, when he was sitting where Sen. Montano is now sitting. I know that he was constitutionally opposed to it. In something as vital as industrial relations and dealing with the Industrial Court, it does seem to me that this is one way of trying to change the functions of the court through a subsidiary piece of legislation rather than through the legislation which set up the Industrial Court. I am concerned about this approach.

Once, of course, this amendment goes through and we have established time barriers in respect of the Industrial Court, this will then act as a precedent for time limitations in other courts. I am not sure that doing this through the Minimum Wages Act is the appropriate way to do it. I think that if we are going to put limitations on courts, judgments and hearings, generally—because the Industrial Court is a supreme court of record—this should be done by looking at the Judiciary itself, and not through the back door of the Minimum Wages Act. Mr. President, these are the concerns that I have.

The other concern I have is that, of course, I hope the Minister will indicate to us what was the rationale for six weeks. Why six weeks? Why not 10 or 12 weeks? In both subsections (1) and (2), why is that particular time frame used? Was this something that was suggested by the Industrial Court itself, which, of course, is the body which will be most appropriate in terms of determining its own capacity to deal with cases? It is quite unlike the Industrial Court—my experience with the Industrial Court—to have imposed these kinds of limitations on itself. Six weeks is a very, very short period of time, even if it is going to be a day by day hearing.

When we take into consideration the fact that this is not an essential service—I can understand an essential service, although it does not seem to be, being invoked by this Government at the moment—it is understandable in that case. A minimum wages case, although it involves human and civic rights, is not an essential issue in the same way that the hospitals are being shut down because the nurses are on strike is an essential issue. To put these time limitations on the Industrial Court automatically elevates minimum wages cases above other cases and principal matter of negotiations and so forth.

I did not understand from the Minister's introduction what the rationale for this was, and I hope that he will address this for me, and also the implications of this particular amendment on the rest of the court system and judicial system in Trinidad and Tobago. If we pass this Bill today, does it automatically mean that this would be used as a precedent in the Magistrates' Courts, the High Courts and

the Court of Appeal? Because the implication is that once it is in one superior court then it is just a matter of saying, “Well, it is already in one superior court then, surely, it would have to be extended to the other superior courts.” This is very much a subsidiary piece of legislation and it seems contrary to various principles enunciated by the hon. Attorney General in this Senate in relation to other legislation, particularly, when I was arguing during the debate on the Sexual Offences Act and Cohabitation Act, for a particular amendment.

He pointed out that this would be introducing a rather substantive and fundamental matter through the back door, as it were. I had to back down because as I said, “Yes, it probably does need a national debate before these kinds of things are decided.” It seems to me that this is also something that has such grave implications, in terms of the rest of the Judiciary and judicial reform, that it should arise out of a national debate rather than an amendment to the Minimum Wages Bill.

Thank you, Mr. President.

Sen. Rev. Teelucksingh: Mr. President, on reading clause 6 for the first time—and I am not too much aware of all the laws, even the details of the Industrial Relations Act—there are so many pieces of legislation relative to industrial relations and yet when I read it I had to look at it a second time. I asked myself, “Is this putting the Industrial Court under heavy manners by giving the court a deadline for judgments?” I could not help as a layman seeing this. Although I am very happy that the hon. Minister has assured us that this is not a new principle that is being introduced in the working of the Industrial Court, and although it is not a new principle, I want to agree with my colleague, Sen. Mahabir-Wyatt, that we have to look at it again.

It may not be of historical significance in the sense that you are saying it is not setting a precedent, yet I link it with the debate we have been having within recent times on the general administration of justice in this country, where in certain quarters there are concerns—and all of us are concerned—about outstanding judgments, undecided cases and the need to have these expeditiously addressed. Are we introducing something new? That is the question. The answer is no, but I think it is also yes. It is very significant that we see this; that you are telling the Industrial Court that once a matter begins hearing, that it shall be heard within six weeks of being referred to the court. You have six weeks, another six weeks in Part II and a two-week provision following that and so forth. I think this is important; it is significant that we ask the court not to have matters protracted over a very long period of time

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Maybe I might need to ask of the Minister, what about this one, that very interesting matter of profit sharing in collective agreement; a dispute between the Telephone Services of Trinidad and Tobago and the Communication Workers Union? Hearing of that matter began on December 01, 1999, and that is some time, about four months ago. Now, in such issues, do we have limits for the delivering of judgments, the kind of limits that we are now saying is necessary for the new Minimum Wages Bill? Is this going to be applied to other cases? It would not be so special; I believe that it is definitely, absolutely going to be of historical significance in the administration of justice in that court and in other courts.

Mr. President, the question of the Industrial Relations Act came up, but the law prohibits strike in essential services, hospital services, that has to be essential. I want to ask the hon. Minister in his reply, because I consider this to be extremely important, for we know what uncontrolled industrial action can do. The nurses' protest and the withdrawal of their services have continued for almost a month. I know it is not before the court, but it is before the nation; the nation is the court, and this has resulted, Sir, in added suffering to the poorer section of our community who depend on public hospitals, clinics and health care.

The question I want to ask the hon. Minister is: Are we genuinely searching for consensus through dialogue, patience, understanding and conciliatory talks, rather than thinking that confrontation and withdrawal of labour is the answer to dispute resolution? Civil society supports freedom, justice and human rights and liberties and these extend equally to the poor and the disadvantaged.

Mr. President, the last day we had a debate—and it is continuing and it will continue—on the need to modernize the law that governs society. The question is: Does the hon. Minister see the need to revisit and modernize the Industrial Relations Act? Is it necessary to modernize that piece of law in addition to the one we considered at the last sitting? I know we paid tribute to a giant in the trade union movement, is it necessary and appropriate, in our time, that unionism be modernized, the whole business of trade unionism, that the appropriate agencies also re-examine the role of trade unions and other bargaining units to make them relevant and appropriate for today?

These are my concerns. I really see this not to be a simple amendment, but a very serious one that might impact on, maybe, the general administration of justice in this country.

I thank you, Sir.

11.20 a.m.

Mr. Partap: Mr. President, I thank Sen. Mahabir-Wyatt and Sen. Rev. Teelucksingh for their intervention in this debate on the amendments before this Senate. I assure Sen. Mahabir-Wyatt that there is no time limit for the investigation and the adjudication of the matter before the Industrial Court. The time limit set by section 22B(1) of this Act mandates the Industrial Court to begin hearing matters referred to it within six weeks of the referral to the court. The court now must act within six weeks.

That is already the practice Senator. In fact, when a matter is reported to the Industrial Court, within six weeks a meeting is convened with the parties to give direction, so in other words, they do act within six weeks after the matter is reported. That is a practice. It is not in the law, but it is a practice. The hearing will be started in six weeks. It is not a burden on the court, as we see it. We will have discussions with the court. It can be done, and I am sure it will be done.

The matter on the organization of the court was raised. In fact, we are looking at it now. We have about 16 judges or thereabouts and, according to discussions we are having now with the President of the Court, we are not disinclined to increase the number of judges.

Apart from that, as I speak to you, we are in the process of trying to find a location in San Fernando to establish a division of the court in the South. We are trying to accommodate the process of the minimum wage as well. They are going to start the hearing within six weeks. There is no limit for the adjudication, but once the matter is being adjudicated, the hearing has taken place and all the evidence come before the court, we are saying that the court must deliver its judgment after hearing the matter in six weeks' time. The law gives an additional two weeks and every week thereafter, the court will say why it cannot deliver judgment.

Sen. Mahabir-Wyatt: Mr. President, through you, I wonder if the Minister will comment on whether or not it is going to be done by a separate division of the court in order to handle individual matters unlike the other collective matters coming before the court.

Mr. Partap: We have been in discussions with the President of the Court, but we are not going to tell the court how to operate its business. However, we believe that the President of the Court may delegate one or two judges who will look after these matters. I do not want to speak for the President, but we are in discussions with him on this matter.

Sen. Mahabir-Wyatt raised another point and I assure her that the process that the labour inspectors do in relation to a report of a violation of the minimum wages, even before this Act comes into place, will continue. So there will be the kind of conciliation between the worker and employer before the matter is reported to the Minister. The authorized officer—who is the labour officer—will submit a report to the Minister within two weeks of the report on the violation. That is how the Minister will act by sending the matter to the Industrial Court after the matters of conciliation continue as it has been in the past. All that the officers did before this amendment was made, will continue.

Sen. Mahabir-Wyatt: Mr. President, there were two questions. Firstly, what is the basis on which the Minister decides to treat it as a trade dispute? Secondly, if it is a trade dispute, surely the first step will be conciliation before arbitration; conciliation at the ministry before sending it to the court for conciliation or arbitration.

Mr. Partap: I told you Senator that all the procedures that were done previously will continue. In fact, a number of matters in relation to violations that had been reported to the ministry were settled before any court action was taken. Even now that will continue. In fact, we had conciliated matters with a number of employers who agreed to pay workers their entitlement. I hope that answers your question.

Sen. Mahabir-Wyatt: Mr. President, the most important question that I asked was whether or not this Bill would not be setting a precedence in the judicial system outside of essential services that would therefore influence cases in the other courts. In other words, this would be setting a precedence for judicial reform before the public debate on judicial reform has been completed.

Mr. Partap: Senator, I do not want to get into the domain of the Attorney General, but this only affects the Minimum Wages Act, as far as I know. I do not know what will happen. I cannot speak for the Attorney General or on other aspects of the law, but what I can say is that it will affect the Minimum Wages Act and this is what we have been seeking to amend in order to protect those vulnerable persons who really need this kind of protection. I explained to the Senate that the statute of limitation is one of the areas that the amendment is going to affect, so that when a matter is brought to the Industrial Court that is outside the statute of limitation the Minister can have an extension of time.

Sen. Rev. Teelucksingh asked about the modernization of the Industrial Relations Act; that is not very far away. We had established a committee headed by Mr. Oswald Wilson, an attorney at law, and there is a tripartite committee set

up that had been looking at the IRA for the purposes of amending and modernizing it within the realm of industrial relations in the 21st Century. The committee has completed its deliberations and I believe in a day or two the report will go before Cabinet for consideration, after which amendments to the IRA will come to you again at the appropriate time. We are on track with that, so the laws are going to be modernized, and we are modernizing a number of laws. In fact, the Workmen's Compensation Act which is in dire need of amendments, is in the process of being amended. There are a number of amendments that need to be made to bring industrial relations up to the 21st Century and we are on board.

Without any further comments, Mr. President, I beg to move.

Mr. President: Before I put the question, may I remind the hon. Minister that in responding to questions, he should address the Senate through the Chair, and not directly speak to the Senators.

Question put.

The Senate divided: Ayes 19 Noes 3

AYES

Mark, Hon. W.

Theodore, Brig. The Hon. J.

Gillette, Hon. L.

Gangar, Hon. F.

Cuffy Dowlal, Mrs. C.

Tota-Maharaj, Mrs. V.

Hamel-Smith, P.

John, S.

John, W.

John, Mrs. J.

Montano, D.

Jagmohan, M.

Alfred, Miss C.

Shabazz, M.

Yuille-Williams, Mrs. J.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E,

Kenny, Prof. J.

Ramchand, Prof. K.

NOES

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Question agreed to.

Clause 10.

House of Representatives amendment read as follows:

A. Delete after the word “dollars” in section 26(2) the following words “and the Court may order the employer to pay compensation to the workers” and insert a full stop.

B. Insert after subsection (2) the following new subsection:

26(3) The Court shall, in the determination of a matter referred to in this Act, exercise its power and jurisdiction under sections 10 and 11 of the Industrial Relations Act.

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

The second amendment is meant to widen and expand the remedies available to employees whose matters come before the court. The court is not limited to the award of compensation to employees alone. In fact the amended clause 26(3) enables the court to order the reinstatement of an employee where circumstances dictate, so this is the rationale for the amendment.

Question proposed.

Question put and agreed to.

DEFENCE (AMDT.) 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 amend the Defence Act, Chap. 14:01, be now read a second time.

Mr. President, Trinidad and Tobago declared itself an archipelagic state in 1986 in accordance with the United Nations Convention on the Law of the Sea held in Montego Bay, Jamaica on December 10, 1982. This declaration was enacted into domestic law by the Archipelagic Waters and Exclusive Zones Act, No. 24 of 1986, which defined the new areas of marine space appertaining to Trinidad and Tobago in the archipelagic waters and also the nature and extent of the jurisdiction to be exercised in this area.

11.35 a.m.

Mr. President, the archipelagic state of Trinidad and Tobago is defined as the political entity of Trinidad and Tobago comprising that group of islands, including parts of islands inter-connecting waters and other natural features which are so closely interrelated that they form an intrinsic geographical and economic entity.

The archipelagic waters of Trinidad and Tobago include any areas of the sea that are enclosed by the archipelagic baselines which join the outermost points of the outermost islands and drying reefs of the archipelago. The primary importance for the determination of the archipelagic baselines lies in section 7 of the Archipelagic Waters and Exclusive Zones Act which states; and I quote:

“The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from the archipelagic baselines...”

Therefore, the establishment of these baselines affects the area in which the coast guard exercises its jurisdiction.

The Defence Act provides that the coast guard has power only with regard to the territorial waters of Trinidad and Tobago. The coast guard is not specifically empowered to exercise jurisdiction in the archipelagic waters, or exclusive economic zone of Trinidad and Tobago. The Archipelagic Waters and Exclusive Zones Act, in enlarging the area, over which Trinidad and Tobago could exercise its sovereign power and control, did not make a consequent amendment to the Defence Act, to also enlarge the jurisdiction of the coast guard in that regard.

As a consequence, the objective of the Defence (Amdt.) Bill, 2000 is to regularize this position. The Bill, after the short title, an Interpretation Clause at clause 3, seeks to amend section 6 of the Defence Act, to empower the coast guard to exercise jurisdiction, not only with respect to the territorial waters of Trinidad and Tobago, but also its archipelagic or internal waters. If we look at the Defence Act, Chap. 14:01, which gives powers to the coast guard, section 6 states:

“An Officer, Petty Officer or man in command of any unit of the Coast Guard, in any case where he has reasonable cause to suspect that any vessel is engaged in any unlawful operations whatever, within the territorial waters of Trinidad and Tobago, may stop and board and search, with any assistance, any and every part of such vessel and if he thinks it necessary may direct such vessel to proceed to such place as he may specify.”

On the other hand, Act No. 24 of 1986 states that the persons referred to in subsection (2)—this deals with surveillance in the exclusive economic zone, the territorial sea and the archipelagic waters.

Section 28 states:

“The persons referred to in subsection (2) are empowered in the exercise of their official functions to—

- (a) stop and board, inspect, seize and detain a foreign fishing craft,
- (b) seize any fish and equipment found on board the foreign fishing craft, and
- (c) arrest the master and crew of any foreign fishing craft;”

in the exclusive economic zone, the territorial sea and the archipelagic waters, and may also institute such criminal proceedings against them, as may be necessary to ensure compliance with the Act and the Regulations.”

Part III, section 28(2) goes on to state:

“The persons to whom subsection (1) applies are—

- (a) members of the Trinidad and Tobago Coast Guard;

Since the consequent amendment was not made in the Defence Act, the coast guard, right now, have no powers within our archipelagic waters. This amendment would also validate all acts and things done under the Defence Act, as if the amendment had come into force at the commencement of the Archipelagic Waters

and Exclusive Zones Act, No. 24 of 1986. It is sometime now that the matter has been raised but the coast guard found that with the change in designation their area of control left out the zone identified by the state having become an archipelagic state.

Therefore, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, I do not know about anybody else here, but yesterday when I was looking at this I could not find a copy of the Archipelagic Waters and Exclusive Zones Act to which the Minister was referring. I am very glad that he was fairly clear in what he was saying. For clarification, I did go searching in all of the Acts and so forth, and I did begin to understand a little of what we are talking about here. That is, as it stands now, the coast guard has access, within the territorial waters, which is defined as the 12-mile limit—most of us might understand that expression—but it seems that under the 1986 Act, the exclusive zones were extended in certain areas beyond that 12-mile limit. So this is not going to allow the coast guard access, or the powers under the Defence Act, to board vessels in that exclusive zone area that is outside of the territorial limit.

Mr. President, I am only surprised that after some 14 years it is only now an issue, and the fact that clause 4 is making this thing retroactive to 1986 it begs the question: Has something recently occurred that all of a sudden brought this to everybody's mind? Or, is it just that someone has woken up to the reality? Because it does beg the question. But in terms of being able to police the waters, one of the things that the coast guard needs are boats, functioning vessels—and I have to express my disappointment.

Three years ago, almost all of the coast guard vessels were down for repair, they were virtually non-functioning at all. We were largely depending on gifts from the United States of America and others to have any form of policing at all, and I happen to know that tenders were put out for the repairs of these vessels. I think, at that time, there were seven boats that had to be dry-docked or beached anyway, but on the hard, as the expression is, and repaired extensively. I think the proposals had been put up because of the amount of work that needed to be done that it should be divided into groups of three or two as the case might be, so that a number of different yards could have a go at the whole project. No single yard would have a task of doing more than two or three boats as the case might be.

The proposal was also, that if it was done in that way all the boats would have been operating within nine months. Three years later—I can tell you—I was in

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[SEN. MONTANO]

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Chaguaramas on Sunday and I passed by the Helicopter Port, where the Miss Universe Pageant was held, there are three boats sitting on the hard. I know that each one of them had been sitting there for the past three years. It seems to me astonishing that we can have that kind of a situation occurring. How was it that that contract was entered into? Very little work is going on with the boats. I understand that the contractor is having financial difficulties. In fact, I am reliably informed that he has not paid his rent to the CDB for several months. So if he cannot even pay his rent, is he repairing the boats? These boats are absolutely essential. We can talk about lines of demarcation and rights of boarding and so forth until we are blue in the face; unless we have functioning boats we are just wasting time.

Mr. President, that seems to be the way that this Government goes about awarding contracts to friends and supporters and so forth. Regardless of the fact that the objective is to repair the boats and to get them functioning and working, and to keep them working in the shortest period of time, it does not seem to be the objective: the objective is to patronize friends.

11.45 a.m.

Mr. President, somebody has to wake up. We support this piece of legislation but we would certainly like to know that these boats, all of the boats, would be back in the water at the soonest possible opportunity and kept there. Thank you very much, Sir.

Sen. Prof. Julian Kenny: Mr. President, I am glad that the Government has addressed this issue of the change in status of our natural waters consequent on the passing of the Archipelagic Waters and Exclusive Zones Act. Now, there is no problem in getting a copy of the Act. It is in the parliamentary library. It should be available to everyone.

There is one point I wish to raise in connection with it, which is that we appear to pass many pieces of legislation that have implications for existing legislation and it is not only the Defence Act, which we are now correcting, that was affected. I would just point out one piece of legislation which was brought to us, the Shipping (Marine Pollution) Bill which is before a committee now. That draft Bill in its original form made no reference whatsoever to the Archipelagic Waters and Exclusive Zones Act. So I do think it is important that we correct this anomaly.

I do think, however, that we ought to go a little further. There ought to be a review of all our maritime legislation, including our shipping legislation, whether

it is fisheries or mineral rights or whatever have you, to ensure that we now recognize, 14 years later, we do have such a thing as the Archipelagic Waters and Exclusive Zones Act. Thank you, Mr. President.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. President, as far as the matter of the Coast Guard vessels is concerned, all 10 launches are functioning and they have been working since last year. They were on sea trials and they are posted to Tobago, Point Galeota, Cedros, Hart's Cut and Stauble's Bay. We also received from the United States two 82-foot cutters, which were sailed down by coast guard crew again last year from San Diego, California, through the Panama Canal to Trinidad and Tobago. So it is really not a problem of vessels working. What we are trying to address now is the maintenance of these vessels to ensure that they keep working.

Again Sen. Montano is quite correct that the boats were out of the water for the last four years. In fact, we met them parked up on the land and most of the Coast Guard officers were not able to go afloat for at least the last two years. Contracts were awarded, tenders were awarded and the firm that was regarded as the one best able to carry out the job was given the job and all 10 launches were repaired. The vessels that are in the hangar right now, Mr. President, are two fast patrol boats, CG-6 and CG-5. The problem with CG-6 is that the contractor finished his job and certain tasks, which the Coast Guard had undertaken could not be done by them, the wiring, the electricals in the vessels and the servicing of the two engines.

During the course of last year, Mr. President, the Coast Guard informed the Ministry that the engines needed more than just a top overhaul and certain parts may need to be changed. They indicated that they were not able to undertake that task and needed to send the engines back to London to be done by the makers. So we are now exploring the possibility of having these engines stripped down and repaired here in Trinidad and Tobago by a firm that is expert in this sort of work. As far as the electrical wiring is concerned, similarly a contract is to be awarded to have the wiring done. Now, once these two items are completed, the boat will be able to go back into the water. It does not make sense putting it into the water now because it cannot operate under its own power.

We have taken a decision not to proceed to fix CG-5 because it is not an economically sound arrangement, having regard to the cost to fix that boat. We are now in the market for a replacement vessel that is within budget and within a reasonable price. The other boat that the hon. Senator may have seen there—he said there were three of them—is a disused prison boat that is out of service and

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has been dry-docked there. So all in all, for all intents and purposes, the Coast Guard does have a sufficient number of vessels in the water to carry out its functions. Right now they are all working and, if he sees any alongside, it is simply because the vessels cannot remain at sea on a 24-hour basis. They have to come in, they have to be checked and they have to be serviced and refuelled.

I must confess, however, that our big challenge is putting a programme in place to maintain these vessels because it is the same lack of maintenance that caused all of them to be put in dry dock. The amount of money this Government has spent to ensure the security of this country is totally out of sync with what should have been spent had those vessels been properly maintained over the last five or six years. So it is really a problem of, like most other things, running the vessels until they break down and then trying to find plenty money to fix them. My Ministry is not that way inclined and we are determined to keep the vessels functional and to make sure that they are serviced regularly as they ought to be, according to the schedules that have been laid down by the manufacturers and by the Coast Guard.

Mr. President, on the matter of the Government taking so long to bring this amendment, I mean, it seems a rather pointless question because the fact remains that we discovered that, and I know, the Coast Guard has been appealing for several years for this matter to be brought in line with the Act. For some reason it appears that whoever was in a position to do something about it did not think it was a serious matter and it was perhaps pure terminology. This is the problem we have been experiencing in the Ministry of National Security where a number of people, with no familiarity with how the police, prisons, fire services and the Defence Force operate, tend not to take seriously certain appeals that are made to them. Many of the programmes, therefore, that should be put in place go a begging and simply are not put in place.

I must confess that even before I came into office I was aware that appeals were made for this Act to be amended. I cannot say why it was not done but I felt it was my duty to ensure that the Coast Guard be given the authority to patrol our waters so that there should be no loophole in the law which would allow somebody to challenge the authority when they pull somebody ashore and try to take them to court. It is only fair that the Coast Guard be allowed to carry out its duties. I wish to assure you, Mr. President, and this honourable House that every effort will be made to ensure that these vessels are kept functioning and that proper maintenance programmes are put in place and as far as possible systems

are to be put in place to ensure that errors such as the ones that have been occurring over the years do not happen again.

Mr. President, I beg to move that this Bill 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.

Clauses 1 to 4 ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment, read the third time and passed.

**TRINIDAD AND TOBAGO NATIONAL STEEL
ORCHESTRA (AMDT.) BILL**

Order for second reading read.

The Parliamentary Secretary in the Ministry of Housing and Settlements and Acting Minister of Culture and Gender Affairs (Sen. The Hon. Carol Cuffy Dowlat): Mr. President, I beg to move,

That an Act to amend the Trinidad and Tobago National Steel Orchestra Act, 1999 (No. 19 of 1999), be now read a second time.

Mr. President, before moving the amendment I take this opportunity to congratulate my friend and colleague, Sen. Nafeesa Mohammed, on the birth of her son. I know both parents will be extremely proud and happy and I know also that their lives can only be enriched by the birth of their son. Their son is going to enrich not only their lives but also those of its grandparents and all the friends and family of the Mohammed family. So again, may Allah bring peace unto him; His choicest blessings on that family.

Mr. President, the amendment before this Senate is indeed a very simple one. It is actually intended to address a particular inconsistency that has presented itself in the course of the implementation of the National Steel Orchestra Act, 1999, Act. No. 19 of 1999. While we attempted to correct this inconsistency, we took the opportunity at the very same time to incorporate certain comments

coming from the Comptroller of Accounts and the Treasury Solicitor and to correct certain typographical errors that, in fact, exist in the Bill.

12.00 noon

Mr. President, one of the hindrances to the effective performance of the orchestra is the absence of a functioning board of management as provided for in Act No. 19 of 1999. This particular inconsistency in the provisions of Act No. 19 needs to be addressed before the board of the orchestra can be appointed.

Mr. President, section 5 of the Act states: “The Board shall be comprised of seven members appointed by the President...” but proceeds instead to describe eight such members. This inconsistency has, in fact, prevented the President from signing the instruments of appointment.

The Trinidad and Tobago National Steel Orchestra (Amdt.) Bill, therefore, seeks to address this inconsistency by stating that there shall be eight board members, seven of whom shall be appointed by the President while the eighth member, by virtue of the office of musical director, shall be an *ex officio* member of the board.

Mr. President, in addition, it is to be noted that although the Comptroller of Accounts and Treasury Solicitor were requested to submit comments on the draft National Steel Orchestra Bill 1999, those comments were unfortunately received only after the Act was assented to on August 23, 1999. As stated before, in the process of amending this Act, therefore, we took the opportunity to incorporate the suggestions and comments of the Comptroller of Accounts and the Treasury Solicitor. These are, in fact, provided for in clauses 7, 8 and 9 of the Bill.

As indicated in the Explanatory Note to the Bill “Clause 7 would amend section 13 to provide that the Accounting Officer of the Ministry to which the responsibility of the subject of culture is assigned is to be the Accounting Officer for the purpose of the Fund”, because under clause 7 a fund was established.

Clause 8 would amend section 15(4) by deleting all the words from the words “thereof” and substituting the words “of such statement”; so that the responsibility of submitting audited statements to Parliament would remain with the Auditor General.

Clause 9 would amend section 18(1) to require compliance for the directions of the Minister of Finance as to the date before which estimates would be submitted.

Mr. President, in summary then, the main objective of the Trinidad and Tobago National Steel Orchestra (Amdt.) Bill is to address as previously stated the inconsistency in respect of the number of members to be appointed to the Board of the National Steel Orchestra and, as stated, the comments of the Comptroller of Accounts and Treasury Solicitor have been incorporated.

The typographical errors to be corrected relate to clause 8 where the functions of the board are stated and clause 8(c) which says: “ensure training of the members of the orchestra in music literacy...” is, in fact, intended to read “in music literacy.”

Mr. President, I would also like to take this opportunity to apprise members of this Senate of the work that is, in fact, being done by the National Steel Orchestra. This orchestra has already proven itself to be an important cultural asset to this country. Recently in November, 1999 the orchestra performed at the FAO Telefood Concert in Jamaica. In January, 2000, the orchestra performed in Venezuela. In March 2000, the orchestra performed at the 36th International Feast of San Sebastian and went on tour to Singapore and Japan. These overseas tours are invaluable learning experiences which have helped the management of the orchestra in its planning and preparation for the future of the Orchestra.

Members of this honourable Senate will also be pleased to note that the orchestra will soon be moving into its own proposed headquarters, complete with rehearsal, training and office space on Nelson Street, Port of Spain. So, in fact, much has been done and much continues to be done for the promotion of music coming out of our national instrument. *[Interruption]*

Sen. Yuille-Williams: In light of the amendments made to section 5, who appoints the musical director now that you have made that amendment there? *[Interruption]*

Sen. The Hon. C. Cuffy Dowlat: Mr. President, I will undertake to respond to the question from the hon. Senator, when I reply after contributions from the Senators. At this stage, I beg to move the Bill be now read a second time.

Question proposed.

Sen. Joan Yuille-Williams: Mr. President, with due respect to the hon. Minister presenting this amendment today, I would have thought that in trying to clean up a bit of legislation which had been done sometime ago, that would have been looked at. I do not think that the Government should just overlook it because most of what we are doing here, today, was nothing fundamental in terms of the

National Steel Orchestra (Amdt.) Bill
[SEN. YUILLE-WILLIAMS]

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Bill itself, but actually it was cleaning up the Bill. Too often we have to go back on these things and I hope—the question that I asked would clearly affect a lot of this Bill again. I am sure that the hon. Minister could not say it off the cuff, because no provisions were made in this Bill for any musical director.

Mr. President, by making that amendment the Government has just put out the musical director who was formally appointed by the President. I can see other persons being appointed; I can see some place where the chairman and the secretary will be appointed after the first meeting and so forth, but nothing was said about the musical director and I think it is very important. I hope before we end that we can get—I am quite sure that it is going to have fundamental amendments again to this Bill to look at that. I think we really need to look at the work that we are doing and not just come again to the Parliament making piecemeal amendments without fundamentally looking at what is going on.

I remember when the original Bill came to this Parliament, or even before that, there was great fanfare for Independence in August, 1998 when this steelband was launched. I see my good friend, the hon. Minister of Public Administration smiling. The Minister must smile because I think he was part of it, or at least, the Minister announced it. There was even a fight as to who should have made the announcements. When the Minister made it I think other people felt that it was not in his jurisdiction to make it. However, great fanfare was made in August, 1998 to launch the National Steel Orchestra.

Mr. President, greater fanfare will be made a little later on this year—this election year—to open the proposed building that we heard about on Nelson Street. No wonder this amendment is coming here now, one year and 8 months later after the first fanfare, because it is time for a second big fanfare. So when the Government opens this building on Nelson Street and the board is put in place—although we do not know who will appoint the musical director yet—we are going to have more fanfare. This is one of the matters that we are looking at. Nobody is concerned about what happens. What they are concerned about is the public relations and whatever benefits it could bring for them as far as public relations are concerned.

Mr. President, the Government must also realize that there are a number of us who are very much interested in music, and very much interested in the steelband and, therefore, there are a number of us who follow what is going on very, very, closely.

I know we did not get the Regional Health Authorities (Amdt.) Bill the other day because that was pulled off for the time, because it is not a time to bring amendments to the Regional Health Authorities Bill, but it is also not a time to bring amendments to the National Steel Orchestra Bill!

12.10 p.m.

If you are coming here today to talk about the glorious things the National Steel Orchestra has done, then it leaves the way open for us to talk about the so-called National Steel Orchestra.

I remember when that Bill was first brought here, I was one of those persons who said, “Why do we not try the National Youth Orchestra?” I remember that. I have need to repeat it. Put them in there for two years. You could have a programme for them. I also thought, too, just as we have seen abroad—and I remember mentioning it—where we can have them not only doing the musicianship, as we will have with the steel pan, but they can also continue their academic work and careers because you are not going to just put these young people there without building on another side. Nobody took me on.

It was convenient to fill the gallery with a number of people who were selected for the National Steel Orchestra. They were all excited. I want to tell you that 30 people were appointed, I think; 29 are still there. As far as they are concerned now, it is survival and everything is happening. People may want to believe why they stayed there was because there was something which sustained them. I will tell you what. They are getting \$2,500 every month as an ordinary member and for four persons who have been selected out of the 30, they get \$4,000 a month. Would you not stay, Mr. President, regardless of what was happening?

So, when you are talking about sustaining, I could tell you why they were sustained. But we have something more fundamental than that. I am saying today that I feel sad for those people who are there, not that I do not feel they should be there, because it was not my business. I had said, “Do not put that group in. Put a younger group.” But if you put those people in, what have you done for them, from 1998 to now? I will tell you.

As I was telling someone today, they are now housed at Fort San Andres down at South Quay, for those who do not know. If you pass there sometimes, you will see some youngsters in coloured T-shirts for two days and for three days, they wear their ordinary clothes. This morning when I passed, I deliberately looked up. I saw two of them there with their feet on top the veranda, hanging out.

That is about their third home. They were at Exodus Panyard. They were here; they were there; they were everywhere. At the beginning, as I told you, they had no clothes, but they are at Fort San Andres in a small room there, waiting to come up to Nelson Street for the big launch.

What do they do there? Nothing. Absolutely nothing goes on there. There are 30 people there. There is no programme. Remember when we started the Bill, attached to it was a programme that the hon. Minister brought here. Remember that? I am telling you there is no programme; no system; no guidance. They go there every day, Monday to Friday, sign a book—sometimes you can sign for your friend—and they stay for a day. These days they are going home half day because there is no air-condition unit there. Thank God they can be released because as far as I am concerned, they are somewhat in prison.

Who are the tutors? Four of the 30 people are the tutors. Four of the 30 who are now paid \$4,000 are supposed to be tutor, arranger and whatever you have. Can you understand what happens? They do not even hit one stick in that building when they get down there. That is what hurts me, how they make people waste their time. Even though we opposed it, and it was put in place, you did not find it convenient to even build on those persons' self-esteem. That is what they call artiste abuse, because they have a talent which could be used. [*Desk thumping*] That is abuse. Nobody cared.

We are talking about information technology. I am sorry I missed the debate on Sen. Prof. Kenny's Motion. At least, send them to learn the computer. Take an NSA programme in there to give them some skills development while they are there, but do not have them going there every day with their feet hanging out. Nobody cares. Then they come here to talk about National Steel Orchestra. The name sounds big. Nothing is going on and somebody should pay for the abuse being done to those persons, because they want to play; they want to feel good about themselves; they want to improve. There is nobody to make them improve; no programme; no guidance. They are abandoned.

They went to the Miss Universe Pageant. About eight or 10 of them played in tuxedos. Only eight or 10 of them have tuxedos, so when they travel, it is only that section which has tuxedos. Out of 30, that is the number who went out there and played and they got this uniform. That was it.

Therefore, we have to be serious about what is happening to our young people. Even though this side did not support the concept, once it is passed in this Parliament, we have a responsibility to ensure that what was passed here was

carried out. We did not. They put all kinds of things and said “programme this” and “programme that”. There are no tutors or anybody, not even this Bill will tell us who is going to appoint the Musical Director because that is not important here. There is no seriousness about who is the Musical Director. The seriousness here today is to come to put the board in place to open that building before the election—grand fanfare. We are not going to allow it to be passed without saying so, and I am sure anybody who is sitting on that side will feel hurt today to hear what I am saying.

Let me just go on a bit to the hon. Minister—let me congratulate her—who talked today about what has been done. They went on three tours. Big thing! Great thing! I was a member of netball at one time. We went on several world tours. Does that improve things, just going on a tour? Would you take a tour to Japan and Singapore and tell me that helps to develop the musicianship? Out of the 30 people, the most who ever left here, I think, was 12. On what basis do they go? Friends. I heard they are playing well, but if you have four or five strong people and you are picking 10, they are bound to play well. They must play good. That is the size of the band going; the others stay here. Who is picking them and who is taking them? You do not know. It hurts me.

Let me tell you some things about the National Steel Orchestra. I was hoping that the hon. Minister would not say anything about the tours. Do you know why? Because it opens the way for me to talk about the tours. They made three gracious tours. She gave the years. I am not even going to bother to look at what years. They went to Jamaica. Everybody in this Parliament who reads the paper will understand that they went to Jamaica and there was a big hullabaloo because Panazz was selected to go to Jamaica. Panazz was invited. These invitations go to the Ministry but because we are to be fooled, they use these invitations to send the National Steel Orchestra out. Okay.

We were developing a group to be taken to a high standard, so Panazz was told to stay and the National Steel Orchestra went to Jamaica, and if you read about the performances, you would have heard that they did not do us proud, but they went to Jamaica and you come here and boast about the National Steel Orchestra going to Jamaica. That was the first tour they made—a small bunch; I think about 12 of them went. The others stayed behind.

Then, they went to Venezuela—I do not know on whose invitation—for the second tour in Caracas. If you read the article headlined “National Steelband woes growing pains, says pro-tem manager” in the *Daily Express* of Friday, April 14, 2000, Auburn Wiltshire is part of it. He mentioned in this article about what

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happened in Caracas and I do not need to go through the whole thing. The article said in part:

“Talk current in pan circles is that the band has been experiencing a variety of setbacks, including the embarrassment of being under-funded while on tour. During a stint in Caracas, the drummer was injured, some say, because he fell off a music truck due to poor infrastructure...

Wiltshire admitted that there had been an accident in Caracas and that there were money problems during a tour to Singapore...”

—which he missed. But, let me go back to the Caracas tour.

In Caracas, we sent this little group—poor souls—without a drum set. They borrowed a drum set and they had a makeshift thing with the drummer sitting on a brick to make height. It collapsed and he fell off and was injured. At the moment, he is trying to get compensation for his injury. You heard them say it was a drum set. I am telling you what happened. Whether he had said this in the newspapers, yes or no, I was going to say it because I follow them closely. I know all those people. He fell off the truck. It was just go; to come to say we sent them on a trip to Jamaica, and to Caracas as well on trip number two, wasting funds on that trip.

What did they do? They did not even give them what they needed to have to go on a trip. You cannot get a drum set. They are so under-funded. Do you know what I mean? You did not even have the equipment.

When I was there, we had the Community Action Revival Empowerment (CARE) programme and we gave youths around the country drum sets so that they could develop. I still see some of them playing. You have a National Steel Orchestra and you cannot even fund it properly. You cannot even give them the clothes. They are still wearing clothes given to them by Hasely Crawford and others. They are still in those, but you are sending them out to come to fool us in the Parliament and you are sending these small groups.

Then, of course, this big trip to Japan and Singapore, the opening of which I understand, was made by one who is attached to the Parliament. Okay. So you sent them. Do you think it was any better? I heard they travelled in tuxedos—I do not know why, but probably that is all they had. The group, again, went off. They went to play for something, Red Cross 2000 or whatever, as their first engagement. There was indeed trouble as to whether they were staying for 16 days or 26 days. Whatever happened, they played for whatever they had to play.

They kept them at the Hilton and they were making five engagements in a day. They made 30 engagements in the time they were there.

Hon. Senator: Wow!

Sen. J. Yuille-Williams: I told you about artiste abuse. They gave them US \$10 as a stipend per day. I will tell them about abuse.

There is a letter which is circulating in the Ministry now which is under investigation from a Trinidadian from there, who wrote saying how he was very much embarrassed at what was happening to that group out there. If you read this, you will hear that they had problems. Do you think it is two problems they had there? Let me tell you.

They carried the pannists and remember when we said that this state band would go out, we asked for a cultural package to go with it, because we wanted to promote Trinidad and Tobago. Do you know what was the cultural package? One limbo dancer went along with the pannists. One limbo dancer was the cultural package. There is a picture now that is around which anybody can see. If you go and ask for it, they will give you.

On the night of the performances for the limbo dancer, there was the captain/manager of the band holding one end of the stick and another member of the band holding the other end of the stick with the dancer going underneath. Is that not a disgrace?

You are talking about limbo dancers from Trinidad and Tobago going out there. The pictures are there to see. We could put them in the newspapers if we wanted to, to see what happened. That is the cultural package they sent. The man said he was embarrassed and the picture shows you. They brought back the picture. When you were sending out a dancer, you sent the backup; you sent everything. You sent those dancing with them. You do not send one limbo dancer alone and two band members holding the stick with the dancer going underneath. That is the cultural package we are sending out and you are telling me that you are interested in tourism and you are interested in building so and so. I am telling you that you are not interested in anything. You are interested in opening that building this year with a fanfare so that people will see and hear what the National Steel Orchestra is doing.

Nobody cares about those artistes down there. They do not care, so all those three trips made; every one frustrated the people. Fight and quarrel between the captain and a pan tuner out there, because it is just go, to say you went. The

reason these people are going, if you read it, nothing happens to the National Steel Orchestra. Did you hear anything about them? You do not hear until they are going on an overseas trip. You hear nothing about them. Nothing is heard, but they are out there.

Let me just tell you. You do not care about people because I think there were two females who went on those trips, the dancer, and two members of staff, none female. You take up the young women and send them out. Not one female went. They sent two women as pannists and the dancer and they are all about Japan, Singapore and Venezuela. Staff is not important because nothing is happening. You could put in 10 boards there tomorrow morning, if you do not care about the people, it will all fail because there is no vision. We said so when we started. If you do not have a vision for the National Steel Orchestra, it will really perish and it has. It was good to have it for the Independence—big noise—but you did not care about them. I do not know how any of you out there asked any questions at all.

Even though we opposed it and it was put in place, we will support it if you do the right thing, but whatever you have, do something for those people who are there. Carry them further. Do not have them sitting there—and every time I talk about young people and I see the hon. Minister of National Security, I am upset because it is the same way he allowed them to kill the Civilian Conservation Corps for which I will never forgive him. If anything happened to them, I will walk behind him and tell him, he allowed them to do it, but he knows.

It is the same thing happening in every youth programme in this country, the Civilian Conservation Corps, the Geriatric/Adolescent Partnership (GAP) programme. Well, they have now run back with the GAP programme this year. After a suspension of three years, I saw it advertised last week. In election year, GAP is jumping in again. That is going on. Things are happening at the ministries. It is a mandate to get something happening in every office for this year. That is a mandate of the Government—have something happening. I am seeing it happening. I am seeing Princes Town's second chances jump in the Minister's office. I am looking at it all. All those are election strategies.

12.25 p.m.

Even though the Government knows it wants to do it and knows that it was going to fight the election five years ago—do it all the time. Do it! But do not wait until this year. I am not going to forget them. I do not go on platforms, but this year I shall not fail, because it is nonsense that we are sitting here, coming to

this Parliament and the Government is fooling us and then glorifying what is not to be glorified, when people are out there suffering. We have sent people there. The Government is wasting time in people's lives for which it is going to pay.

If I leave my home in Point Fortin and sit at Fort San Andres with my feet up and get frustrated and I cannot even do something, well then what is the Government doing. This is what I am still saying to the people here. Therefore, this, today does not impress me.

As I said before, the Government is not even interested in music because it does not know who is going to appoint the director. The director may not be appointed because there is none now and there is no need to have one—he is not important at all.

I read where the Minister said it is the first time in the history that pannists passed examinations. I asked them: "What examinations did you pass?" Some got a little grade two in theory and some got a little something. There is no consistent programme. Why do they not continue? Why are a few getting this and a few getting that? There is no programme that is consistent. There are many people out there, 29 souls being taken advantage of by this Government for public relations purposes only. That is what gets me extremely bitter, because there is so much that the Government can do for these young people, even though we said no to the manner of setting them up. We said do not allow this to happen. So we are in a bind, we are closed in. We do not know what to do. Every month they get \$2,500 and another gets \$4,000 because he is one inside there, but it is a shame.

Last week or two weeks ago Pan Trinbago or whoever it was, had some big ceremony at Laventille where they handed out prizes and awards. I cannot remember what it was. The Minister was there. I asked somebody who was there: "Where did they do it?" The person said: "At the grounds up there, on the hill." I said: "Why there, the grounds?" We built a pan building on Despers ground. The only one of its kind in the world.

Sen. Shabazz: They do not want to use it.

Sen. J. Yuille-Williams: It was built many years ago. We left a building because we felt the people of Laventille in that area gave so much to this country in their music, so there had to be one and it is put up there. Tell me. I understand that the building is deteriorating. It is just lying there. You know when a building is closed for years and nothing happens it deteriorates. Millions spent up there. The National Insurance Property Development Company did it. To hear that it is not completed—of course the Government has no need to complete it. It does not

want to complete it and it says that it is interested in this. If the Government had that up there it would have gone up there. It is there for all these years. There is no excuse. Go and ask the Despers people.

What hurts me is that West Indian Tobago Company (WITCO) was going to put a facility there for Despers, but when we came in with this, they backed off. Therefore, we left Despers in the rain. They were given a little room outside in the corner to store their things. Better we had allowed WITCO to put a facility there for Despers. They would have been in it.

What I am just trying to show—the Government can say all it wants but—these are the things that point to the fact that nothing is happening in certain areas. Therefore, I am saddened. All of us should feel sad. The country that gave the world this instrument does not have anything to boast about and say: “We took care.” The Government does not care about the pan and the pan men, who are sitting here today.

Probably some of you do not know what is really happening. I would want to say so because, I would hate to think that when my friend was out there talking he ever thought that two years later that would have been the case. Better he had kept it himself. It might have been somewhere else. With due respect to him. Because he would not have wanted me say something like that about him. Carefully, we cannot allow this to happen.

I am, therefore, asking that we really look very carefully at this whole idea of the National Steel Orchestra. Stop boasting about things which cannot be, which have not been. Stop boasting about all these tours because if one sees all the reports one would be ashamed of what came out of them. Do something about those people when they come every day. Have somebody in charge. Have schedules. Ensure that they play, learn and grow. Also ensure that the other parts of their lives are also developed.

The programme that we had stuck on here—I do not know what ever happened, but that could not go on for all time. After that it is nothing, not even clothing. They come. They have to come because they really come to get paid.

We are making some amendments here today. I am not interested in the amendments you know, except it does not matter too much to me. Let us say that in doing it so, there were eight people and now it should be that the Minister would appoint seven. Everybody knows that seven and one make eight. If he is appointing seven, everybody has to know who will appoint the next one. This Bill just comes here, just like that, appointing seven and the most important person in

the whole thing, the musical director, is not appointed by anybody. What does that tell us? He is not important. Music is not important.

We will take one or two of the guys who are experienced and say: "Play." I asked one fella: "What did you all play?" He said: "Miss surely we will learn yellow bird over and over because we have to put that in the repertoire because yellow bird is important." They have skills. I am not complaining that they do not have skills. They came from bands. Therefore, as far as I am concerned, we are doing them an injustice by keeping them there. They come every month and they get paid. I understand that at the end of every month they sign something called "offer of service". I do not know in terms of labour what that means, but every month they will sign a document called "offer of service". I see the Senator is smiling. Tell me what does "offer of service" mean at the end of every month? I do not know what it means but this offer of service is for one month. It is like something hanging over one's head. Every time they get paid, or at the beginning of the month they sign. Is that a contract? Probably it is—marked "offer of service" and they offer their service which includes putting their feet out there for one month.

Thank God the unit went down. I hope it goes down longer so that they can go home half day and probably they could go on a course where they could learn something else, because they have their lives ahead of them. They have a life to live. Some of them could make it through the pan fraternity but, still, they have a development to take, regardless of what age it is. By now they have all gone. Thank God they have been released from the area in which they were and they are somewhere on their way as they move on.

Mr. President, these are some of the things that I would really like to say. I meant no disrespect to some of the people who write and say things. I have worked with some people. I know people want to defend the position that they hold.

The band is not a credit to us when it leaves here. The Government would not fund or dress them properly. The Government would not give them a proper stipend, the things they want, or proper equipment but they are going out there. What else could we say? It is distasteful. I have this word written here.

One person said the pans have not been blended for six to eight months. The last time they blended those pans was for the Commonwealth Heads of Government. I have it written here. That is what they said. The last time was

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when there was that big meeting in Chaguaramas. But they do not need to because only 12 were needed.

A few people came very happily to announce to this Parliament that the band has been touring and that the band will continue to tour.

Therefore, I want to say, in closing, Mr. President, that I am sad. I am really saddened by this whole thing about the National Steel Orchestra. I am saddened that we did not take the opportunity to show that we really love the pan and that we could develop the pan. I am saddened that this Government is not showing that they care about young people, at all. In so many ways we are seeing them left there. I am saddened that the public relations is the thing that is guiding us.

It is an election year and the things that we could do for election are guiding us. If one notices, there is a heightening of things around for election. People always say that things happen for election. But never have we seen nothing happening in certain areas. Only the megathings we saw happening where the money was and the money for friends. But the “people things” were not happening. But all of a sudden we suddenly remember that there are people out there and things out there and they are coming and running it here.

The Government comes today boasting about the National Steel Orchestra because it is important for this to happen. Some people might say it is because there is no board, things are happening. I tell you no, that is not the truth. If this was a problem, why did the Government wait so long to come back to make this amendment? Why so long? The Government waited so that it could be conveniently done, as I repeat, to walk into the new building with all kinds of practice rooms. Without a vision, the people perish. Without a vision, this whole concept of the National Steel Orchestra will perish. That is what I feel: there is no vision as to what is going to happen.

In fact we asked, how long are those people going to stay in the National Steel Orchestra? Until they die? Is there a time they would have to leave or, they just get fed-up and frustrated? They are not going to get fed-up and frustrated until they reach retirement age, because if I could get money coming to me without working, why must I get fed-up and frustrated? We do not have an Unemployment Relief Programme down there. The Government is giving them that kind of attitude to work; that is what it is doing. It is just giving them money every month and they move off with it. The Government has to instill in them what it would like to do.

12.35 p.m.

You have a captive audience of 29 people now. Plan for them. There are a couple older ones, but I understand that there are a number of younger ones with them. Even though we did not say, “National Youth Orchestra”, I understand that there are some young ones in there. Cope with them. Music one part; their personal development another and in, addition, academics as well. That is what happens.

Mr. President, if you go to the Australian Institute of Sports you will see some of the best sportsmen came out of it. But if you are in that institute, you will see where they are doing other things, academic and otherwise. The timetable might be biased towards sport, but they are developing in other areas. Why can we not use that experiment here? Is that a big thing? Why would some of you not just walk down to Fort San Andres some days and see, and feel sad, and say, “That could have been my child that they are wasting time with.”

They do not want money for just money’s sake. They want to be musicians; they are artistes; they applied for it. What saddened me—and I did not want to read it, but this guy is my friend. I do not have a choice. Hear how this ends:

“I am not a party fanatic,…”

And I know that he is not.

“...but I applaud the Government for taking a stand like this to produce the orchestra,…”

Great; he did. What is the end of it? [*Interruption*] This article is from the *Daily Express* newspaper of Friday, April 14, 2000—last Friday. I understand him, but he said:

“What were the choices? Is it that we should have left them to go and thief?”

That is what he said. I said to myself, because people criticized it, I hope that is not how you feel, because these people who applied to go there were not dissidents, necessarily, they are just lovers of the steelband music. But when you make statements like, “We did not let them go and steal,” it makes me feel, “I am not going to send my child in there, because the people going there are people who might have gone on the other side and strayed, and you are using this National Steel Orchestra to hold people together. The Minister of National Security might have been wondering that he did not even know that was part of the thing.

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I mean to say, Mr. President, you do not say things like that; I am sad. I am sure that was not the concept. I myself did not want the concept, and although I did not like it for that age group, I am going along with it, because if it was passed in Parliament, we support it out here. But we are not going to support your taking advantage of those people. None of them were dissidents. If I had a child and he or she applied for it, it is not because my child was going astray, but because of what it meant to be a part of a national steel orchestra and what we could get out of it. So part of your vision meant that you needed to take them on.

Therefore, Mr. President—I know that it is lunchtime—it is a sad time that we have to talk like this today. But I am going to wait in this Parliament for the big opening: send the information, lord things all over the country, “Come and see the National Steel Orchestra”. They would be all out there in tuxedos that day. Thank God they will all get tuxedos this time! They can play, because they are all musicians.

Where do we go from here with this steelband? How long are they going to be there? How many years will they remain there? Do they have a pension to get? Do they have a retirement fund? What is going to happen? Are you going to throw them out afterwards, and they will have nowhere to go, nothing to do? Too many questions are unanswered, because you wanted to do this in August 1998 on Independence Day, to say that you launched a national steelband on that day. But you did it, but you could have done much better than what you have done.

I am not saying that you should not have done it. If your politics tell you to play it this way and launch, you launch. But remember when you launch that you have the responsibility to the young people and this country. Therefore, if you do not accept that responsibility, there are those of us who sit on this side who follow and monitor, and I tell you, Mr. President, when we rise, we rise with concrete evidence. We know what we are talking about. [*Desk thumping*]

When you boast about what you do miles away in Singapore and Japan, we know what happened in Singapore and Japan. Do not come in here to the Parliament and say, “because we follow you”. When you see us sit here and say nothing it is because we are very quiet about what happened there. Sometimes, if you do not boast, we will not provoke it. So, nobody said anything about appearance fees and so forth; I am not provoking that. Nobody said certain things about how the interaction is with the band; I am not provoking that, because it was not raised here this morning.

I promised myself, as someone who knows some of the people, to keep quiet on things which were not raised. But when you boast about the tours they made and the wonderful things that you did, and you did not tell me that the man fell off the brick in Venezuela, injured himself and is trying to get compensation, I will raise it now.

So with these few words, Mr. President, I am just hoping that I can get you to focus on the National Steel Orchestra; focus on a mandate which you have; focus on the responsibility to this country and do not embarrass us. When you send the National Steel Orchestra, it is embarrassment if they are not properly clothed. I have taken national teams away and I know what it meant when we had to get a wardrobe for them to go out there. I know what it is, when you have to prepare a repertoire for them.

They have the skills, they could do it; they did not ask for Unemployment Relief Programme, they asked to stay with the act to have that self-esteem—they want to represent Trinidad and Tobago. Therefore, I am hoping that it will be done. I am hoping that the musical directorship is not something “by the way” that you will consider. I hope it is really important.

It is an embarrassment to come here and tell me that you do not know how the musical director is going to be put in, but you know how much every board member is going to get. You must know how much money they are getting already. You know what the secretary is getting. You know everything about it, except the musical director.

Thank you, Mr. President.

Mr. President: We break for lunch at this stage. This sitting is now suspended until 1.45 p.m.

12.41 p.m.: *Sitting suspended.*

1.43 p.m.: *Sitting resumed.*

DISTINGUISHED VISITOR

Mr. President: Hon. Senators, we have with us sitting in the front row of the distinguished visitors’ gallery, Mr. Geoffrey Robertson Q.C., legal counsel to the Commission of Inquiry whom we welcome and, of course, next to him is somebody who needs no introduction, but for the record, the Attorney General.

We would now resume the debate on the National Steel Orchestra (Amdt.) Bill.

TRINIDAD AND TOBAGO NATIONAL STEEL ORCHESTRA (AMDT.) BILL

Sen. Martin Daly: Mr. President, I would like to support the previous speaker who discussed the irrelevance of this amendment, that is to say, that we are spending any parliamentary time on amending an Act that deals with the constitution of the board of the National Steel Orchestra.

It is well known that it is my view that there is not one single government in Trinidad and Tobago that has the moral authority to speak about the steelband. The steelband has languished for as long as I have known it and that is for quite some time. I cannot remember which government was in power—it certainly was not this one—when Pandemonium was thrown out of the yard close to the junction of Jerningham Avenue in the Queen’s Park Savannah. It certainly was not this one. So that this measure is largely irrelevant because if we are to do anything meaningful about promoting the steelband, I wish to bore everyone by reminding them of the things which we have to do.

First on the list, Mr. President, is that we have to teach all the players to read music. Without that, their repertoire will continue to be limited and the music will not be properly ready for export.

Secondly, we have to do serious and original work on the standardization of the pan so that when the bands go on tour, they do not have to carry the entire orchestra with them. In fact, it has been my recommendation, and I take the opportunity to repeat it, that at the office of every Embassy of Trinidad and Tobago, in every part of the world, there should be a group of pans available to be played by any visiting orchestra from Trinidad and Tobago, so we do not have to log these things around the world.

Thirdly, Mr. President, in my unscientific way, but recently supported by my colleague, Sen. Prof. Kenny, we are doing no research into the metallurgical properties of the steelband to see whether that is one route by which we can either improve the sound or the level of the sound.

Fourthly, we are doing no work on the proper electronic amplification of the pan, which will result in it being heard in the big fetes and other events without losing the quality of the music. I repeat that the steelband will never become a serious employer, or be able to pay commercial wages to the considerable labour that is involved in playing it unless we can overcome the problem, that in the large public fetes which now have crowds between 10,000—30,000 persons, steelbands are not hired because they cannot be heard above the level of the

normal conversation of such a crowd, far less with the shuffling of feet and the increased level of noise activity in those fetes.

May I complain again that as useful as it is as a safety valve for carnival time, we have to develop avenues other than Panorama as an occasion to judge the skills of the pan. Panorama has stifled the steelband for the last 30 years. We have had the same judges for the last 30 years and no one can do anything adventurous or new because they are playing to a formula to suit the oligarchy. If there ever was an oligarchy from which this Government should disassociate itself, it is the judicial oligarchy, and I use that word advisedly under present conditions. If it is one oligarchy from which this Government should disassociate itself, it is the judicial oligarchy of those persons who presume to judge the pan. It is the same ears listening every year and they look for the same things and there are bands like Panberi, for example, that is trying something different, and now there is the problem of what to do about Andy Narell who is also trying something different with the support of those persons who know something about the pan, like Pat Bishop. Andy Narell would never, never—certainly not in my lifetime—an Andy Narell arrangement will not rise above 7th or 8th place assuming that he continues to make the finals because the judicial oligarchy of pan simply cannot care or understand what he is playing and he is trying to take the music forward out of the narrow confines of what is required of a panorama tune.

I do not wish to cause anymore turbulence than there already is in the country by suggesting that we should get rid of the Panorama altogether, but it is certainly a thought. It is keeping the steelband back because you play two tunes which you can learn by rote and it does not require the players to extend their musical abilities.

Of course, I have to ask, where is TIDCO in all of this? Should they not be seeing to it that before we have Miss Universe that we have something like Mariachi Square? I made the point on the last occasion. When the Attorney General and others have distinguished visitors, where will they take them to hear a steelband playing during the course of today or this evening? The answer is nowhere. We do not have the equivalent of Mariachi Square in Mexico City where at any hour of the day or night you could go and hear the Mariachis playing, for which Mexico is famous. We have no such thing. Where is TIDCO? I guess they were in hiding at the same time they were in hiding when they allowed the American Eagle to stop the only direct flight out of Tobago into the outside world when the concessions which the American Eagle were demanding were far less than the net revenue gained from the tourism American Eagle brought to

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Tobago. People in very high office get upset when I criticize TIDCO. Where were they when American Eagle left? The only direct route out of Tobago to the outside world. What is TIDCO doing to promote the steelband? Why do we pay this ritual lip-service to the fact that it is the only original instrument in the 21st Century and we invented it? Why do we not have someone at the University of the West Indies doing research like Mr. Mannette is doing in the United States of America where he is marrying his native intelligence to the intelligence of a computer?

Mr. President, to be spending legislative time on setting up or improving the administrative arrangements for a National Steel Orchestra is a complete waste of time. We might as well be spending time on organizing a board to manage something that we are no good at. I wish to repeat my prediction that when we continue to do as our North American friends do, and when two North American teams play the basketball championship, or a baseball championship they say it is the world's championship and we are following in like vein by saying the national Panorama event is the world's championship of steelband and we are the world's capital of the steelband, I assure you—and I repeat my prediction, Mr. President—that if we had a truly world Panorama competition we might have a difficulty in running in the first four or five because we would be competing with people from the United States of America, China and Sweden, valued people of invention like Narell who did not score on their Ray Holmans and who are using instruments that have been scientifically improved. Up against that kind of resource, I doubt we will run in the first four or five. I very, very seriously doubt it and then we will have a woeful lament as we do about the present state of the cricket team.

It amazes me and I do not want to spend too long on this, but I listened to my colleague, Sen. Yuille-Williams, with great interest and I notice, to be fair to the Government, she criticized the Government for sending no females and only one limbo dancer on tour, and she was generally critical of tours, and of the fact that the objective of this Bill had to do with an election year and the desire to open a new hall for the National Steel Orchestra.

1.55 p.m.

I am afraid, as much as I enjoy the company of my colleague, I wish to use her contribution as an example of what I say, that no Government has the moral authority to discuss the steelband. I am not aware of what was done by her party when it was in Government to deal with any of the list of things which I have enumerated: standardization, amplification, metallurgical research and so forth. I

am not aware of anything done by the party when she was in Government that did any of these things. However, I do understand the great moral authority with which she speaks about tours.

Routinely, when that party was in Government, what you got for winning the world championship of steelband, when you won the Panorama, was a tour somewhere. So I understand when she speaks with great moral authority about tours. Indeed, she also speaks with great moral authority when she criticizes the Government for sending no females and one limbo dancer on tour. Well, we recall the day trip to Haiti, which was made by a previous Government, which was littered with females and limbo dancers. So she speaks with great authority on the subject of tours.

You see what it tells us is that all of the parties that form Governments in this country, squabble about who should go on tour. "How much "woman" they should take; "how much limbo dancers" they should take and under what sticks? *[Interruption]* I am happy to give way.

Sen. Yuille-Williams: Mr. President, the Senator probably misinterpreted what I was saying in two ways. In terms of the tour, I did not criticize the fact that tours were being made, I was criticizing the preparation that was made for the tours. That is what I am saying. They were not adequately prepared. I was also criticizing the fact that females went on these tours and there was not adequate chaperoning and that type of thing for the tours. I think I was quite clear on that. At the same time, let me just say that Pandemonium was removed from their grounds. I do not know if the hon. Senator knew that we bought a piece of land for Pandemonium, similarly, the same for Fonclaire. Thank you.

Sen. M. Daly: Mr. President, perhaps I should not have treated the matter as jocularly as I did. My point is simply this. Both sides of the partisan house would spend time squabbling about tours, and who bought a piece of land for what band, when they are not dealing with the measures that are needed to keep the steelband alive and to keep us at the head of the steelband world. That is my point precisely. It is a matter of great importance to the parties that form the Government as to who goes on tour, how many people they take on tour, and whether it is a good tour? The tours are not going to take care of the problems which I have outlined. They are simply not going to do it. That is my point.

I really think that spending time and resources on forming a national steel orchestra, in an entertainment business in which we are a declining force, is a waste of time of this honourable Senate today. As gracious and charming as the acting Minister of Culture and Gender Affairs is, I hope that she would take our

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advice. I have no official word on why the substantive Minister has gone to India, and, no doubt, she would throw some light on this in her winding up. Her ministry, I believe, is Culture and Gender Affairs? Well, I do not know in connection with which of those portfolios she has gone to India. Maybe, we could be enlightened in due course, but it has opened the way for an equally charming replacement. I am sorry to say that her charm would be misspent this afternoon in preparing to make amendments to a national steel orchestra in an entertainment industry in which we were declining.

Mr. President, with those few words, may I repeat my plea to the present Government, and to ask the Opposition—since I understand they are a contemplating Government, to get serious about the steelband. Let us try to take it forward and not have petty squabbles about how many women went on tour, and how many limbo dancers we should have taken.

Thank you, Mr. President.

The Parliamentary Secretary in the Ministry of Housing and Settlements and Acting Minister of Culture and Gender Affairs (Sen. The Hon. Carol Cuffy Dowlat): Mr. President, I must thank my hon. colleagues for the contributions that they would have made this morning and this afternoon. I must begin by borrowing the words of the hon. Opposition Senator, Joan Yuille-Williams, by saying, “that I am, indeed, saddened that a former Minister of Culture”—but then again, I ought not to be really surprised for, in fact, she was part of a PNM Cabinet—would stand in this honourable Chamber and not understand that fanfare and ceremony, that celebration of our pan music, our national instrument, the appreciation of the ingrain, inborn talents of our people ought to be proclaimed at every opportunity. So that if we chose the opportunities as we have done previously to proclaim our national instrument, we ought to be proud. A former Minister of Culture ought to have known that.

Moreso, if we, in fact, choose—when we do move to our new headquarters at Nelson Street—to do so with fanfare is, in fact, recognizing and treating with respect, pan; it is recognizing and treating with respect, that which is good within us, and for that which we must be justifiably proud. But then again it has never been their style to motivate people, to build their self-esteem and confidence, and to build independence rather than dependence. [*Desk thumping*]

The hon. Senator said that we do not care about people. But then the people of Trinidad and Tobago speak for themselves on election day; they talk about elections and about caring about people. Just two weeks ago, Members and the electorate of the constituency of Ortoire/Mayaro demonstrated and spoke on

behalf of the people of Trinidad and Tobago, and without a shadow of a doubt there were no surprises. They amply demonstrated that we in this Government do care about people and we do not only pay lip-service. We actually do care about people.

The hon. Senator is also not fully cognizant of some of the opportunities inherent in the mere fact of going on tour. Let me reiterate, Mr. President. Tours of the nature undertaken, help not only in performing and forging invaluable relationships with international audiences, some members of these audiences to which these young people went on tour, did not even speak English, but yet they appreciated the magic and the wonder of the music of this novel 21st Century instrument.

Tours allow international exposure, which is an integral part of the orchestra's training, in preparation for its effective and efficient functioning within the provisions of the National Steel Orchestra. The orchestra, in fact, is to perform at overseas events at which this country is to be represented.

The hon. Senator, having boasted that she did, in fact, tour with netballers, can tell you about the speed of growth and maturity, and the invaluable friendships and experiences that are gained when you travel abroad. This really cannot be measured in only dollars and cents. It would be demonstrated and amplified in the way of life. I am certain that the mere fact that the hon. Senator is here today and has served this country well, is an amplification of some of the experiences that she would have gained while she was on tour.

The hon. Senator quoted extensively from a review done in a newspaper that appeared to be critical of the persons on tour, the conduct of their affairs and the general management of the team. Learned writer and the hon. Senator did not also see the need to encourage, motivate and constructively advise as to how to improve.

2.05 p.m.

Mr. President, even real sympathy did not seem to have been expressed in a most unfortunate accident that would in fact have taken place and about which an investigation is taking place. Then again, Mr. President, the speaker, a member of the PNM; no wonder many of our young people from that regime still feel misled, misguided and frustrated—an attitude of non-recognition. The reporter, Mr. President, the source of the article, a newspaper of Friday, April 14, 2000. The name of the newspaper, Mr. President, the *Express*. Do I need to say more?

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We then come to the appointment of the board, in particular, the appointment of the musical director. The hon. Senator made much ado about nothing but, then again, maybe it was her lack of understanding or her non-reading of the parent Act. However, section 8 of the parent Act says:

‘The functions of the board shall be to—

- (a) appoint members of the Orchestra in accordance with section 22;”

It continues with (b), (c), (d) and (e). Section 22(1) of the parent Act says, Mr. President:

“The composition of the Orchestra and the qualifications and selection criteria for the various positions on the Orchestra shall be determined by the Board subject to the approval of the Minister.”

Mr. President, my understanding of that seems to be that the musical director is a member of the orchestra and as such he would be appointed in accordance with section 22. I think what the hon. Senator might be a little confused about is that the musical director is going to be an *ex officio* member of the board. *Ex officio* means that, by virtue of the office which that person holds, they would sit on the board. I do not think that person would, in fact, need a special instrument of office from the President. So, Mr. President, it is quite clearly stated as to how the board is going to be appointed.

Sen. Yuille-Williams: Thank you for giving way. I am very serious about this because when I asked the question to the hon. Minister who presented it, she said she was not in a position to answer me and she was presenting. So there is nothing wrong with me asking the question because she should have been on the ball with it. She said she was not and therefore I gave in to her because I had asked previously—[*Interruption*] [*Sen. Cuffy Dowlat rose*] You gave way. You gave way.

Mr. President: Both of you cannot be on your feet at the same time. Please sit! Are you making a point of order? Are you asking for clarification on something?

Sen. Yuille-Williams: Yes, I am asking for clarification. She gave way.

Mr. President: Well, just ask for the clarification and take your seat, please.

Sen. Yuille-Williams: Thank you. I did not mean to interrupt. She gave way and I thought she was allowing me to do that. She has just said, and I am trying to clarify this, that the musical director is a member of the orchestra. That was not stated before because in the parent Act, which I have before me here, it states:

“The Board shall be comprised of seven members...”

Subsection (d) talked about the musical director in the parent Act. Now I am hearing that the musical director is a part of the orchestra, which was not here before. Therefore, I would like her to clarify that the musical director is a member of the orchestra. Does this mean that of the 30 people we have selected, one of those will be made musical director? Previously this person was a member of the board, and I think I was quite clear.

Sen. The Hon. C. Cuffy Dowlat: Thank you, Mr. President. I am a little confused as to the initial comments because I did indicate to the hon. Senator that I would respond to her question in winding up, but maybe in her exuberance she did not appreciate what was being said. Nothing is wrong with saying that the musical director is going to be a member of the orchestra. I would think the musical director is an integral member of the orchestra and ought to be appointed accordingly. So, Mr. President, I do hope that, in fact, addresses what seemed to be a minor concern of the hon. Senator.

The hon. Senator spoke and said she did not understand what is meant by “offer of services” but then, again, it was a term used under her administration, assuming that she, in fact, was in charge of her administration when they introduced GAP—GAP being Geriatric Adolescent Partnership Programme. She spoke about offer of services then, so I am assuming it did not mean anything different then, or that she did, in fact, understand what was meant at that point in time.

The hon. Senator continued and spoke at great length on the East Port of Spain Cultural Complex and about her and her administration’s concern about pan and the pan movement. That was an administration, Mr. President, which spent some \$10 million on a building that they were unable to complete. My understanding is that moneys that were intended to be spent on the construction of three buildings were, in fact, used on one building, yet they were not able to complete that building; and they care about pan, they care about Desperadoes, they care about the people on the hill.

Mr. President, we are in the process of completing the building in partnership with the community. It is a shame for people to come here and criticize this Government for all the initiatives that we are taking, at least, to begin to address some of the problems that exist and have existed in this country. Also, this is not just any member of the Opposition, not just any Senator of the Opposition or of the Government speaking. Mr. President, this is the former Minister of Culture of

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a past PNM administration. *[Interruption]* What culture? That is a really good question.

So, Mr. President, I am not too certain that there was anything major in terms of criticism of the amendment that was put before this Senate today. There was a concern, and a valid concern, raised by Sen. Daly, as to the need for young people to learn to read music. We are all appreciative of the fact that to really be able to make the kind of contribution one can in the musical world, one must be *au courant*, one must be aware of music and the reading of music. Again, Mr. President, I turn to clause 8 of the parent Act which states:

“The functions of the Board shall be to—”

There are subsections (a)—(e), but subsection (c) says:

“ensure training of the members of the Orchestra in music literacy.”

I did, in fact, earlier indicate that there ought to have been no comma between music and literacy, so it should be music literacy—reading and learning of music.

This brings me to why we thought and still think that this amendment is so important, because the board has very important functions to perform. The board can only perform some of these functions when they have, in fact, received their instruments of appointment. The major reason for this amendment before this honourable Senate is to ensure that members of the board can, in fact, receive their instruments of appointment. As I indicated earlier, Mr. President, we also thought it valuable at this time to incorporate the comments of the Comptroller of Accounts and the Treasury Solicitor as to the method of accountability. Of course, Mr. President, because public funds and taxpayers’ money are to be spent, it therefore is important that these things are accounted for properly. We understand and we appreciate the need for accountability and transparency.

So, Mr. President, I am indeed pleased to present this Bill on behalf of the hon. Minister of Culture and Gender Affairs who is, at present, representing this Government and this country at a most useful conference in India where she is one of the lead presenters of a paper. We in Trinidad and Tobago ought to be proud that of the Caribbean people there our Minister is going to be one of the lead presenters at that conference. So I think this is an opportunity for us in Trinidad and Tobago to also be proud of the representation that we are, in fact, having very far afield.

With these few words, I beg to move. *[Desk thumping]*

Mr. President: Hon. Senators, I said it before and I would say it again, in making your contributions please try not to personalize what you say.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 4.

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

Sen. Cuffy Dowlat: Mr. President, I beg to move that in clause 4(a) we add an “s” to the word, “word”. So it would read:

“by deleting the words ‘seven members’...”

Mr. Chairman: Is that typographical?

Sen. Cuffy Dowlat: Typographical.

Mr. Chairman: Okay, we will treat that as a typographical error.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

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

Clause 9.

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

Sen. Cuffy Dowlat: Mr. President, again it is a typographical error. The last line should read:

“... ‘the deadline date stipulated by the Minister of Finance.’”

Mr. Chairman: All right, we will treat that as typographical. The word “date” was omitted.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clause 10 ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment, read the third time and passed.

2.20 p.m.

DANGEROUS DOGS (NO. 2) BILL

[Second Day]

Order read for resuming adjourned debate on question [April 11, 2000]:

That the Bill be now read a second time.

Question again proposed.

Mr. President: The hon. Attorney General had begun his response to the contribution and had spoken for four minutes.

Hon. R. L. Maharaj: Mr. President, when the matter was adjourned on the last occasion, I stated to this honourable Senate that, having regard to the concerns which were raised by hon. Independent Senators, the Government would give consideration to these concerns, and to see whether they can be accommodated in amending this piece of legislation.

Mr. President, we would recall that these concerns were raised in the context that we were dealing with a Bill, in which we were trying to put measures in place in order to protect the public against dangerous dogs. The Bill had a history in that when the measures were first formulated, the Government had come with a Bill in which the Government—and that Bill was in 1998—had proposed to ban the importation of dangerous dogs in Trinidad and Tobago; to ban the breeding of such dogs; and to ensure that the existing dogs under that category were neutered within three months.

I mentioned to this honourable Senate that when that Bill was introduced, there were loud criticisms against it, because the people were saying that we were affecting the right to the enjoyment of property. As a matter of fact, there were concerns raised that we should regulate, instead of prohibiting. I have here even the Opposition at the time, had stated that they were supporting regulation and not banning. One would recall that that Bill needed a specified majority in order to pass.

Mr. President, I am mentioning these matters, in order to show that this has not been an easy task. I am very indebted to the Independent Senators for expressing their concerns and giving their support to what may probably be measures which would protect the public against dangerous dogs. What happened thereafter was that the Government came with a Bill in which—as I described on the last occasion—it was going to regulate and try to place the onus upon owners to have proper premises, and to ensure that when the dogs are taken into the

public places that members of the population would be protected. There have been severe criticisms of those measures, because the concerns have been expressed: How would the Government be able to monitor these measures? What sort of machinery would be put in place in order to ensure that this is done? Mr. President, in fairness to the Opposition, when the Bill was in the other place, the Opposition indicated that if the Government considered the original measures they would have considered supporting the Bill.

Mr. President, we took the position that having regard to the opinions which were expressed that we would try regulation, and if it meant coming back to the Parliament within three or six months, we would have come back to the Parliament. When we came here, the Opposition said that they were prepared to support regulation, which was a different position in that House. Be that as it may, I am just showing how difficult this has been. Here it is now, looking at the measures, I think that the Government, in a matter like this, cannot close its eyes to the fact that dog attacks have been occurring at epidemic levels in Trinidad and Tobago. [*Desk thumping*] I do not think that we can deny the fact that these dogs pose and continue to pose serious threat to the well-being and safety of our citizens and visitors. I do not think that we can deny the fact that these are really regarded as devil dogs; they are superb killing machines.

Mr. President, last night, I spent some time again looking at some of these matters. I cannot help but say that when one looks at the attacks—and I have here some newspaper clippings over the period of time—there can be no doubt at all that these matters are—I would not go into all this today, I think we are very familiar with it—very serious. Here it is, there is the escape of a dangerous animal that can really cause a lot of suffering, trauma, injury and death.

What we have recognized more and more is that it is a matter which I do not think we can say we can postpone making a decision on this matter. It is a decision, which the Government had to make, and based on the concerns expressed, the necessary discussions were held. Up to yesterday morning, I had discussions with the hon. Prime Minister and we are all in support of the fact that action must be taken now in order to deal with this problem.

Mr. President, so that the amendments which have been circulated are amendments to the effect, which will prohibit the importation of these dogs in Trinidad and Tobago; will prohibit the importation of the semen or embryo of a dangerous dog; will prohibit a dangerous dog from being taken by the owner or

being in a public place; will prohibit the breeding of dangerous dogs; will impose an obligation on the owner of a dangerous dog to neuter that dog within three months. So that the position would be that the existing dog owners would be able to own their dogs, but they would have to neuter them within three months, so that you would not have an increase in the population of those dogs; you would not be able to bring in any more dogs into Trinidad and Tobago; and you would also have the additional measures in preventing them from taking it into the public place.

We have also inserted in the amendments the suggestion made by Sen. Daly that there be specific offence, of course, where a dog cause the death of someone or cause injury. So that one would see from the amendments—if I may explain it to Senators—the first aspect would be that we have to amend the preamble, because it would need a specified majority, so we will go back to what was in the original Bill and the new clause 1A would be:

“This Act has effect even though inconsistent with sections 4 and 5 of the Constitution.”

The new clause 3A:

- “(1) No person shall import into Trinidad and Tobago a dangerous dog, or the semen or embryo of a dangerous dog.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for two years.”

2.30 p.m.

Clause 8 which is consequential.

Clause 11 which says:

- “(1) A person who owns or who for the time being is in charge of a dangerous dog shall keep that dog under proper control in permitted premises.
- (2) A person who owns or who for the time being is in charge of a dangerous dog shall not allow that dog to enter a public place or a place which is not a public place where it is not permitted to be.
- (3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year.

- (4) This section does not apply to a dangerous dog being used for lawful purpose by a constable or a person in the service of the State.
- (5) In this Act ‘permitted place’ means private premises into which a dangerous dog is allowed with the concurrence of the owner or operator of the premises.”

Clause 15 is substituted by a new clause:

- “(1) Where a dangerous dog injures a person, the owner of the dog or the person who for the time being is in charge of the dog commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for five years.
- (2) Where a dangerous dog kills a person, the owner of the dog commits an offence and is liable on summary conviction...”

Hon. Senators, this fine, to me, seems very small—a fine of \$2,000—and I have recommended that this fine be increased, but I said I would give it to the hon. Members of the Senate to help us with that fine.

“...and to imprisonment for ten years.

- (3) The Court, before which a person charged with an offence under this section...”

Sen. Mahabir-Wyatt: Excuse me, Mr. President, I wonder if the Attorney General could just clarify something for me. My copy says \$200,000—are you talking about 15(2)?—not \$2,000. I wonder if I could just mention—

Hon. R. L. Maharaj: I am indebted because when I saw \$2,000 at first, I was not—but if it is \$200,000 it may be that is still not sufficient.

Clause 15(3) says:

“The Court, before which a person charged with an offence under this section appears, shall take into consideration before passing sentence all the circumstances surrounding the loss of control of the dangerous dog by the person charged.”

That is to determine what extenuating circumstances may have been involved, if any. In clause 19, it says:

- “(1) A constable or an officer of a local authority duly authorised to exercise the powers conferred by this section may—

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- (a) seize a dangerous dog or a dog which appears to him to be a dangerous dog which is in a public place or a place where it is not permitted to be; or
- (b) kill such dog.”

Sen. Prof. Spence: Mr. President, through you, to the Attorney General. I think there would need to be a consequential change in clause 4 which, in the original Bill, said that to get a licence, you would have to produce a certificate that the dog will be neutered. I think we would need to put that into clause 4.

The second point, if I could just ask. Now, it will be the case that many persons who have been injured may be rather poor or humble folk, and having to take civil action for damages may be difficult for them. Is it possible in the Bill to include a provision that the courts can award damages if a criminal offence has been committed without the person, the individual, the victim, having to sue in a civil action?

Hon. R. L. Maharaj: That is a very good point, but the compensation which can be awarded may be limited because the Magistrates' Courts will have a limited jurisdiction for compensation. If the matter is in the High Court, there may be no difficulties with that. With the fine, the Magistrates' Court would have the jurisdiction to impose the fine, but the Magistrates' Court, for compensation, has very limited jurisdiction.

That is always a problem when people have to go to court and that is why we have put in this Bill that you can sue the insurance company at the same time. Speaking about that, I instructed the draftsman that when we are at the committee stage, I wanted to get it clear that the \$250,000 would be in respect of each claim. So, what would happen, as it is in the Bill, the injured person or the person who is affected, if the person died, the personal representative would be filing a claim against the owner of the dog, or the person who had control of the dog, or the occupier of the premises and also the insurance company at the same time.

It has been proven that where the insurance company is directly involved, they look at the economics of the situation and since the matter would be determined very quickly, most of the insurance companies would try their best to have the matter resolved. But, Mr. President, I am prepared at the committee stage to look into all those matters.

It is said that a dog is a man's best friend, but I think these events have shown that dangerous dogs are man's worst enemy and they are really hounds of hell, and I hope my body language today did not in any way—

Sen. Prof. Kenny: Mr. President, one thing which concerns me about this legislation is the rather loose usage of the phrase “dangerous dog”. I think we really need to have clarification of this before we go to committee. In the Schedule, it says:

“Pitbull Terrier or any dog bred from the Pitbull terrier and having the dominant characteristics of that dog;”

Now, a pit bull is not a pedigree; it is not a registered breed and my concern here is that in Trinidad and Tobago, people mix their breeds. I hear that people breed Rottweiler with pit bull, or Rottweiler with Doberman. Now, there is no way you can predict the outcome of a cross and my concern is that you may have mixtures which, when bred, produce something with the temperament of the pit bull, but which may not look like a pit bull.

So, I really think that if we are going to pass this legislation, we really ought to be very precise in what we mean by a “dangerous dog”.

Hon. R. L. Maharaj: But, Mr. President, I thought that was very clear. I must confess I am not an expert in that area, but what I can tell you is, we had to get the advice locally as to how to put it. But when we look at other legislation, for example, the English legislation, it dealt with this matter.

“Pitbull Terrier or any dog bred from the Pitbull terrier and having the dominant characteristics of that dog;”

I really do not have the expertise to explain that but it would seem to me that it is a pit bull terrier or any dog from that breed and having the dominant characteristics of that dog.

When one looks at the Bill itself, it says that no person shall breed or breed from a dangerous dog, and under the Bill the Minister can add to this Schedule, so let us face it. At this time, I would want to concede that it seems to me—I am no expert—that it may be that another kind of dog, a Doberman or other dogs could also be considered to be put on the list, and I have no doubt that those matters would be determined, but at the present time, from all the reports, the pit bull is the dog that is really causing many of these problems. Therefore, we had to have a starting point.

Sen. Prof. Spence: I thank the hon. Attorney General for giving way. I wonder if the problem could be solved by, in the Schedule, just deleting all the words after the second "terrier". In other words, if one deletes "and having the dominant characteristics of that dog", that sticks to any dog which is bred from the pit bull terrier which is more consistent with the Bill, which says you must not breed.

I cannot find the section which authorizes the Minister to add or take away from the Schedule, but I would ask that if there is going to be any removal from the Schedule, that comes back for affirmative resolution of Parliament. Perhaps the Minister might be given the authority to act, certainly not to remove. I cannot find the section of the Bill at this time.

Hon. R. L. Maharaj: I think we can go with that. When we reach the committee stage, we can deal with that and I will certainly look into the description. I will have to consult with the draftsman, but I will look into it.

Sen. Rev. Teelucksingh: Just one question. I am concerned about the matter of the insurance policy, the policy that you are making mandatory. Suppose we have a situation like this—I know it happens with third party motor cars where insurance companies do not want to get involved with vehicles—if we have a crisis and the insurance companies do not want to adhere to the provisions in clause 8. What next?

Hon. R. L. Maharaj: Mr. President, I am glad the hon. Senator asked that question. Under the Bill, the person cannot get a licence. The person would not be able to have the dog and the dog can be destroyed.

Sen. Rev. Teelucksingh: Would that be included in the Bill?

Hon. R. L. Maharaj: I think it is there already but we could—

Sen. Rev. Teelucksingh: I think it should be spelt out because we might have a problem.

Hon. R. L. Maharaj: Because if you do not have insurance, you cannot get a licence to have the dog and if you do not have a licence, the dog is unlawfully in your possession.

Sen. Rev. Teelucksingh: I think it should be included. The owners will need that.

Hon. R. L. Maharaj: Clause 9—I think the hon. Minister of National Security is fast becoming very legally oriented. Clause 9(1) says:

"Where a policy of insurance required under section 8 is no longer in force, the owner of the dangerous dog in respect of which the policy is issued shall promptly inform the local authority."

Subclause (4) says:

“Where the owner fails to comply with the Order...”

It means that the dog can be destroyed.

Mr. President: I think many of these matters can be dealt with in committee stage because we are going into, really, the details of the Bill.

Hon. R. L. Maharaj: I would not want to prolong this debate any more because I think that many of the matters would be dealt with at the committee stage, but I would be failing in my duty if I do not say that this one in the law which is to be amended is one which was passed in 1918. The Dogs Act was passed in 1918, and it is now over 80 years that we have had this piece of law.

This is a vivid illustration of how laws remain on the statute books and there is no way of effectively looking at these laws from time to time in order to see whether they really serve the needs. Yes, we have a Law Commission which has been established and one sees that by not having appropriate amendments over a period of time, it has really caused injury to people.

In this Bill, one cannot help but feel very sad, not only for all the persons who have been injured as a result of dangerous dogs, but even over the weekend, the poor little boy was injured because of a dangerous dog.

Mr. President, it was in 1998 when one looked at this, one saw that the law was totally inadequate and it is from 1998 to now, we have been trying to get a piece of legislation flavoured to suit our particular needs. I think I would like, on behalf of the Government, to say thanks to the Independent Senators and the Opposition Senators for the contributions made. They have certainly helped us to bring this Bill in its amended form and even though it reproduces most of the matters in the original Bill, we have still been able to add to it.

Mr. President, I thank you and I beg to move that this Bill be read a second time.

Question put and agreed to.

Bill accordingly read a second time.

2.45 p.m.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 3.

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

Sen. Montano: Mr. Chairman, picking up on the point that Sen. Prof. Kenny raised a little while ago, in terms of the definition of “dangerous dog”, I also have some concerns about the limitation of Schedule 3, in the sense that I do not know if any one animal could be particularly defined or identified as a Pit Bull Terrier. I can foresee some legal obstacles there.

I would just like to share this with you. I picked this up from Florida. The Florida legislation defines as dangerous:

“...any dog that according to the records of the appropriate authority:

- (a) Has aggressively bitten, attacked or endangered or has inflicted severe injury on a human being on public or private property;
- (b) Has more than once severely injured or killed a domestic animal while off the owner’s property;
- (c) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for fighting; or
- (d) Has, when unprovoked, chased or approached a person upon the streets, sidewalks or any public grounds.”

They dealt with it from the standpoint that any dog could be a dangerous dog if his behaviour is in fact threatening.

I checked Australia. Apparently Australia has gone a very similar route also. I would just like to throw that out because that was the point that Sen. Prof. Kenny raised. That has its difficulties.

Looking at what I was reading, what happens here is that before any dog is labelled as a dangerous dog somebody literally has to make a complaint or lodge a sworn statement with the local authority saying: “Mr. X has a dangerous dog because the dog has threatened me, chased me or bitten my dog—whatever it is.” There are difficulties with that. It means that we are kind of leaving it open.

I suggest that, perhaps, we can go the route that we are going here, but include this so that it can be one of two things and it would not necessarily be limited to the definition of the pit bull.

Mr. Maharaj: Mr. President, I take the point made by the hon. Senator. I think that, yes, he agrees to go this route, but what we are trying to do is make it a

strict liability that no person should own a dangerous dog, with the exception of the person who has already owned them. That is why if one tries to identify the kinds of dogs—because I would anticipate that this Schedule would be added to, from time to time. Therefore, it may be better to take up the suggestion that Sen. Prof. Spence made, that is to say, to take out from “terrier to dog” so that when we come to the Schedule we would be able to identify the dog, the breed or any dog bred from that particular breed.

Sen. Montano: I have no real objection provided, that the legal experts could satisfy me that a pit bull can be identified as a pit bull. Somebody could say: “You could accuse me of whatever you like, but this dog is not a pit bull within this meaning.” What exactly is a put bull? It is a crossbreed on its own.

Mr. Maharaj: I understand that it can be done and I understand that is how it is done. For example, in the United Kingdom, there is the same description here. What they do is that they have a provision and they can add to it. I understand this is how it is done, in that, one could identify as to whether a dog is from a particular breed or not. Perhaps Sen. Prof. Kenny could help us. I do not know.

Sen. Prof. Kenny: Mr. Chairman, I do not think I can help all that much because there is a problem here, in Trinidad, with the highly irresponsible breeding of dogs. It is a very serious problem.

In Britain there are all breeds which are registered; whether it is this one or that one, and your animal would carry a certificate of breeding. One can identify a Staffordshire Bull Terrier by its pedigree: who the father and the grandfather were and so on. Here we are dealing with something that approximates this, but it may have been crossed with Rottweiler. Sen. Dr. McKenzie was just telling me that she has seen them crossed with an ordinary “pot hound.”

I really cannot help in this.

Sen. Prof. Spence: Mr. Chairman, it seems to me that we will have to be exclusive in this legislation. That is, we will have to exclude anything that has any pit bull blood. That is the only way of doing it, and we will do it by DNA testing. We now have the facilities here for determining whether a dog has any pit bull genes in it. That is the only way to go. Otherwise we will have to be trying to decide by external characteristics, which are not necessarily related to the psychological makeup of the animal. We must have an objective test and the objective test has to be DNA testing.

Sen. Prof. Kenny: Mr. Chairman, I would just like to help briefly on this. A pit bull raised under one set of conditions would be like any household pet. But there are pit bulls that are raised—one can see them in public places—where they are given aggression training. We are dealing now with something that is not a pure breed, whose parents are not well-known and we are dealing with dogs being raised in entirely different environments. I sympathize with people who have a pit bull from a puppy and it is a housedog. But there are people who take these dogs and they train them to be aggressive.

2.55 p.m.

Sen. Prof. Ramchand: I think that is a serious problem here. We know that any dog can be a dangerous dog. We also know that certain breeds of dogs tend to be dangerous, so I think we need to prepare a definition of “dangerous dog” that would recognize we are saying that any dog can be dangerous, but some breeds tend to be more so. I am wondering whether we would say something like:

“dangerous dog’ means a dog of a breed about which there is clear evidence of unpredictable, uncontrollable and dangerous behaviour in public or private places?” [*Laughter*]

Yes, but if it turns out that the moon is acting up and all pothounds become dangerous dogs, we put them on the Schedule.

Hon. Senator: What about Dr. Keith Rowley and Imbert?

Sen. Prof. Spence: We are really talking about two different things. We are talking about an individual dog which may be dangerous; that is not what this Bill is trying to deal with. This Bill is trying to deal with animals that have a genetic make up that predisposes them, if trained in a certain way, to do certain things. That is all we can do in this Bill. If we want to deal with an individual dog that may become dangerous, that has to be a different Bill. Let us not lose sight of what we are trying to do here by trying to do everything.

Sen. Daly: Mr. Chairman, I heartily endorse what Sen. Prof. Spence has said. We have a problem with pit bulls, let us deal with pit bulls. I support amending Schedule 3 so that it simply says, “Pitbull Terrier or any dog bred from a Pitbull Terrier...”. In most circumstances, it would not be controversial from a practical point of view whether it is a pit bull or a pit bull derivative. If the police shoot the wrong dog they can establish it by DNA. I nearly used unparliamentary language. [*Laughter*] We are really making a meal of something that is very simple. I do not know if you want me to hold up the newspaper again.

What do you think the parents of this 10-year old boy would think listening to this? We want to get rid of Pitbull Terriers and, therefore, we should say, "Pitbull or any dog bred from a Pitbull Terrier". If in rare circumstances there is some controversy about whether the police shoot the wrong dog or you licensed the wrong dog, well, I understand that you can get DNA from a corpse and we can pay compensation to the owner of the dog far more easily than we can rectify this boy's life! We are losing all sense of proportion!

Sen. Prof. Kenny: Mr. Chairman, if I may help here, I would go along with that amendment, but I think that if we want to refer to the pit bull, we remove the word "dominant" and use the words "physical characteristics", because a pit bull is one with a wide jaw with heavy musculature and thick body. When you say "dominant" it has no meaning, but from the physical appearance of a dog people say, that is a pit bull or pit bull type, and that would solve the problem, possibly.

Sen. Prof. Ramchand: Mr. Chairman, I really believe that we want to legislate specifically against pit bulls and dogs bred with pit bulls, but it is only because we have this issue about the Brazilian Dog and the Japanese Dog here, that we are recognizing that there are other breeds to which we may want the legislation to apply. I do not regard that as a priority, but I want to know if we can make provision so that in future we may include those dogs under "dangerous dogs".

If we pass this legislation about pit bulls, the owners of the Brazilian Dog and the Japanese Dog would still be free to have their dogs in public. [*Crosstalk*]

Mr. Chairman: Hon. Senators, while clause 3 refers to the Schedule, I think we can safely say that Schedule 3 would be amended to accommodate some change. So shall we move on and at the appropriate time in the Schedule we will go to any other details that we wish? Is that okay?

Sen. Daly: Mr. Chairman, I am raising this for the consideration of the draftspeople. Do we not now have, in light of the amendments, to define "permitted premises"? Do we not need to have a definition of "permitted premises"? That crops up later on about keeping a dog under proper control.

Mr. Maharaj: The amendment to clause 11(5) states:

"In this Act 'permitted place' means private premises into which a dangerous dog is allowed with the concurrence of the owner or operator of the premises."
[*Crosstalk*]

Question put and agreed to.

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

Clause 4.

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

Sen. Prof. Spence I think there is going to be a consequential amendment to clause 4, taking into account what we have done elsewhere, and that is, the licence is going to have to depend upon somebody certifying that the dog has been neutered. It is in the original Bill; just go back to the original Bill.

Mr. Maharaj: Mr. Chairman, in any event I accept that.

Mr. Chairman, I beg to move clause 4 be amended as follows:

“Insert after paragraph (b) of clause 4(4) the following new paragraph:

- (c) a certificate in the prescribed form verifying that the dog in respect of which the licence is to be issued is neutered.”

Sen. Prof. Spence proposed amendment is as follows:

“In subclause (10)(b) delete the word ‘inner’ and substitute the words ‘pinna of the’.” *[Interruption]*

Mr. Maharaj: I was just checking to make sure that the policy of insurance is also in clause 4(4)(b).

Question put and agreed to.

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

Clause 5.

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

Mr. Chairman: We have a proposed amendment by Sen. Prof. Spence.

Sen. Prof. Spence: Mr. Chairman, I will withdraw my amendment because the Attorney General has taken care of it.

Amendment withdrawn.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by Sen. Prof. Spence.

Sen. Prof. Spence: Similarly, Mr. Chairman, that was taken care of in the Attorney General's amendments.

Amendment withdrawn.

Sen. Prof. Ramchand: Are we leaving it at \$50,000?

Mr. Maharaj: I heard an enquiry from Sen. Ramchand about the fine of \$50,000. This has to do with a person who does not keep a dog in accordance with the provisions of the Act; the fine is \$50,000 and imprisonment for one year. I do not know if Senators feel that it should be increased, bearing in mind that the other range is \$100,000. I think we could leave it at that and see how it works.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 8 be amended as follows:

“In subclause (1) insert after the word ‘dog’ in the first place where it occurs the words ‘or dangerous dogs’ and delete the word ‘that’ and substitute the word ‘each’.”

I did say on the floor of the House that I wanted to ensure that this sum of money from the insurance will be in respect of each claim and I am not too sure. If you give me a minute—*[Interruption]*

Mr. Chairman, so that Senators would understand the effect of the amendment, it would read:

“Subject to this Act a person who owns or keeps a dangerous dog or dangerous dogs shall have in force in relation to each dog, a policy of Insurance in the sum of not less than two hundred and fifty thousand dollars or such sum as the Minister may prescribe, or such other security as the Minister may by Order require.”

Forgive me, I wanted to ensure that although the insurance is for \$250,000 for each dog, the policy must be one to cover for each claim at least \$250,000, so that if you would just forgive me for a moment I want to—*[Interruption]*

3.10 p.m.

Mr. Maharaj: Mr. Chairman, I wonder if we could return to clause 8.

Mr. Chairman: Hon. Senators, there is a request for us to defer clause 8 for the time being. Is that agreed to?

Assent indicated.

Clause 8, by leave, deferred.

Clauses 9 and 10 ordered to stand part of the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 11 be amended as circulated.

“Delete clause 11 and substitute the following new clause:

- | | | |
|---------------------------------------|-------|--|
| Prohibition
from certain
places | 11(1) | A person who owns or who for the time being is in charge of a dangerous dog shall keep that dog under proper control in permitted premises. |
| | (2) | A person who owns or who for the time being is in charge of a dangerous dog shall not allow that dog to enter a public place or a place which is not a public place where it is not permitted to be. |
| | (3) | A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year. |
| | (4) | This section does not apply to a dangerous dog being used for a lawful purpose by a constable or a person in the service of the State. |
| | (5) | In this Act ‘permitted place’ means private premises into which a dangerous dog is allowed with the concurrence of the owner or operator of the premises.” |

What it does is delete the existing clause and strives to cover the expression of views that these dogs should be kept out of a public places. I take Sen. Daly's point about the words "permitted place" and there seems to be some confusion with the words "permitted place" and "permitted premises".

Sen. Daly: Mr. Chairman, may I raise what I assume to be a few drafting problems. While I am fairly hawkish about pit bulls, basically, we are saying that these dogs should only be in private premises. I think that is what we are saying, and private premises of two types, one that is owned by the owner of the dog, or some other private premises where he has permission. I think that is what we are saying. The example that springs to my mind is the vet, because if the dog is sick and he wants to take it to the vet, of course, to get the dog to the vet, he is going to have to take the dog to a public place.

The other problem is I do not understand clause 11(2) which states:

"...or a place which is not a public place where it is not permitted to be."

The drafting seems a bit odd. That is my view.

Mr. Maharaj: What will happen, if the car is a private property, it has to go to a public place to get to the vet and if, for example, a person does not own a car and decides to take the dog, he is going to have problems so it may be if you want to own a dangerous dog, you will have to bring the vet to your home.

Sen. Daly: In which case, why are we legislating in clause 11(5) that "...a dangerous dog is allowed with the concurrence of the owner or operator of the premises." That supposes other premises.

Mr. Maharaj: I think that was in anticipation of going to the vet or something like that.

Sen. Daly: Too bad for them. My view is that the policy here should be "...a person should keep the dog in proper control in his private premises." Then we will not have all this difficulty about not permitted to be and so forth.

Mr. Maharaj: I agree with that. I agree that these dogs are not to be taken away like ornaments and given to the neighbour to keep, or to a dog show *et cetera*. These dogs are to be kept at the person's home, and if they become ill, the vet has to go to see them there. I am in total agreement with that.

Sen. Daly: I am suggesting that clause 11(1) should simply reflect two things: that you have to keep the dog in your private premises, and you are not allowed to take the dog in a public place.

Mr. Maharaj: I am in total agreement with that.

Sen. Daly: So whether it is your premises, your “nenen” premises, it does not matter. This is really the equivalent of banning smoking in public places. You just cannot do it.

Sen. Prof. Spence: Do you have any idea if it is going to be around for another 10 years, so if you buy a dog, you have to transport it from where it is now to where it is going to be. I am not trying to soften it, I am very happy with how it has gone.

Sen. Daly: Do not buy a cigarette, do not buy a dog.

Mr. Maharaj: Mr. Chairman, when you look at the evil that you are trying to prevent, the only reason you are permitting the existing dog holders is because they already own the property and the aim is to prevent people from owning this property again and people will have to make decisions.

Sen. Rev. Teelucksingh: Mr. Chairman, may I ask a question about clause 11(4), could you unravel this for me? Are you saying that a constable or a person in the service of the state can have a dangerous dog? The clause states:

“This section does not apply to a dangerous dog being used for a lawful purpose by a constable or a person in the service of the State.”

There is an awkwardness there, because you have defined dangerous dogs to mean the three at the back.

Mr. Maharaj: It is private security firms. In the light of what we have just discussed, this will be deleted. The culture for this legislation has to be that the persons who own these dogs can own them; they can keep them, they will have to neuter them; for whatever reasons they get ill, the vet will have to come home because we want to encourage getting rid of the breed.

We are going to redraft it. Mr. Chairman, it may mean rewriting clause 11.

Delete clause 11 and substitute the following new clause:

11(1) A person who owns a dangerous dog shall keep that dog under proper control in his private premises only.

Delete clause 11(2). The new 11(2) would be what is now 11(3) which states:

11(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year.

Delete clauses 11(4) and 11(5).

In other words only the owner can have a dangerous dog and he must keep it in his private premises.

Question put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clauses 12 to 14 ordered to stand part of the Bill.

Clause 15.

Question proposed, That clause 15 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 15 be amended as follows:

15 Delete clause 15 and substitute the following new clause:

“Injury or death
by dangerous dog

- 15(1) Where a dangerous dog injures a person, the owner of the dog or the person who for the time being is in charge of the dog commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for five years.
- (2) Where a dangerous dog kills a person, the owner of the dog commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for ten years.
- (3) The Court, before which a person charged with an offence under this section appears, shall take into consideration before passing sentence all the circumstances surrounding the loss of control of the dangerous dog by the person charged.
- (4) This section does not apply where the person who is injured or killed was in the process of committing a criminal offence.”

Dangerous Dogs (No. 2) Bill
[MR. R. L. MAHARAJ]

Tuesday, April 18, 2000

This is to create specific offences for injury or death by a dangerous dog.

Sen. Daly: Mr. Chairman, the way this is drafted, what is the *actus reus*? I do not know how to put that in non-legal terms, but the Attorney General understands what I am saying. Is it just the injury? That cannot be, that is the result. Surely what we want to say is what we really want to penalize the person for is causing injury, it is not mishandling any more. I am not a draftsman, but surely we need to say:

“Where a dangerous dog injures a person, the owner of the dog or the person who for the time being is in charge of the dog commits an offence and is liable...”

I am suggesting if the injury is the result of a failure by the owner or person in charge to keep the dog under control in permitted premises; is that not the *actus reus*? The injury is the result.

What I had suggested respectfully was that the draftspeople look at the amendment we did to causing death by dangerous driving. It is not the death that is the offence, it is the causing of the death by a motor vehicle. I do not think we have an *actus reus* here.

Mr. Maharaj: What we want to say is if a dangerous dog injures a person, because this is going to be a strict liability matter. So where a dangerous dog injures the person, the owner of the dog—

Sen. Daly: The injury is the act of the dog, not the owner. There has to be some act by the owner that makes him criminally liable.

Mr. Maharaj: Then you will be requiring it is no longer strict liability. If the dangerous dog is supposed to be on the premises, because even if the dog bites someone on the premises where the dog is kept, the offence is committed.

Sen. Daly: I am not sure about that.

Mr. Maharaj: With the exception of such person committing an offence. Under subsection 4 which states:

“This section does not apply where the person who is injured or killed was in the process of committing a criminal offence.”

So we could put “a trespasser” or something like that.

Sen. Prof. Ramchand: Mr. Chairman, should there not be an additional clause to the effect that if a dangerous dog escapes and a brave policeman seizes it

before it does any damage, an offence has been committed, the dog was allowed to escape and although it did no harm, the offence of allowing the dog to escape has been committed.

3.25 p.m.

Mr. Maharaj: Mr. Chairman, let us take, for example, the first one, where a dangerous dog injures a person—and it has been drafted on the basis that you want it to be wide—the owner of the dog, or the person who, for the time being, is in charge of the dog, commits an offence and is liable on summary conviction to a fine of \$100,000.

Sen. Daly: [*Inaudible*] I am not a criminal lawyer.

Mr. Maharaj: I am told that he commits an offence.

Sen. Daly: Oh, I see. Fine.

Mr. Maharaj: But the second one, under clause 15(2),

“Where a dangerous dog kills a person...”

I think that you wanted to put “kills the person or causes the death of that person”—

“...the owner of the dog, commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for ten years.”

Mr. Chairman, I think for safety in this subclause (2) it would have to be “the owner of the dog or the person who for the time being is in charge of the dog.”

Sen. Daly: Mr. Chairman, all I am doing is seeking the assurance of the Attorney General’s advisers that we have an *actus reus* here, once they say we do, then I am fine.

Mr. Maharaj: I think what happened is that the mere fact of the dog biting and killing would be the offence. Otherwise what would happen is that it can be difficult for strict liability.

Sen. Daly: Mr. Chairman, I say this, but it does not apply to boxers and Cabinet Ministers. [*Laughter*]

Mr. Maharaj: It probably only applies to dogs in the Schedule.

Sen. Prof. Ramchand: I am still not satisfied on the point I am raising. If a dangerous dog is permitted to escape but is apprehended before it causes injury or death, what do we do?

Mr. Maharaj: No offence.

Sen. Prof. Ramchand: No offence.

Mr. Maharaj: It is covered but just give me one minute. With respect to clause 13, Mr. Chairman, to help Sen. Prof. Ramchand, it would be a violation of the amended clause 11. A person who owns a dangerous dog shall keep that dog under proper control in his permitted premises and if you contravene it—

Then there is another section, clause 13, if it escapes and it does injury to someone.

Sen. Prof. Spence: Mr. Chairman, before you put clause 15, this section does not apply. *[Discussion]*

Sen. Daly: Thou shalt not steal.

Sen. Prof. Spence: Especially in a country where it is the culture to take other people's mangoes.

Mr. Chairman: If a fellow goes to steal a mango, is it a criminal law?

Sen. Prof. Spence: I do not know if there is anything we can do about it. I am just unhappy, and it makes me feel uncomfortable.

Mr. Maharaj: According to the section, what we want to prohibit is that the owner of the dog must not allow the dog to escape to cause an injury to anyone or to escape to cause a death to anyone. And we are saying in clause 4, if the person who was injured or killed, was in the process of committing an offence the offence would not be committed but—

I am sorry—the offence would be committed but it would be a defence to the owner that the person was on the premises committing an offence.

Sen. Prof. Spence: Is that not a defence that is allowable without putting it into the Act?

Mr. Maharaj: It may be that what we should do is probably redraft it to say, "it shall be a defence" instead of saying—you see you want to send, with the legislation, a very strong signal.

Sen. Prof. Spence: What I would like to ask more applies to clause 16(2) than to this one.

Mr. Maharaj: Okay.

Sen. Prof. Spence: If I see a man out in my yard picking mangoes and I shoot him, am I not still guilty of murder?

Mr. Maharaj: Yes. As a matter of fact, quite recently on the newspaper—

Sen. Prof. Spence: Precisely. Therefore, I do not see how we can allow clause 16(2).

Mr. Maharaj: Can we come to clause 16(2). Mr. Chairman, can I in respect to clause 15(4)?

This section does not apply where the person who is injured or killed has committed an offence or was in the process of committing a criminal offence at the premises.

Sen. Daly: Mr. Chairman, suppose I go to my neighbour to complain about his loud music—unaware that he has a pit bull?

Mr. Maharaj: Not in the premises. But you would not be committing an offence.

Sen. Daly: So then if his dog bites me if I go on his premises for some purpose—

Mr. Maharaj: You are liable. He has invited you in so—

Sen. Daly: Okay, fine.

Sen. Montano: Mr. Chairman, with all due respect, this is unreasonable force especially if you keep the word “killed” inside there. I mean a bite is one thing, but to be killed is another thing. It is unreasonable force. That is exactly the point that is going on here in the case at hand. If the fellow gets shot while he is stealing something, that is unreasonable force. That is old precedent in law. So I would not mind if you said “he was injured” but not “killed”. That is unreasonable force.

Mr. Maharaj: Yes, but if the dog kills someone who was stealing, it should not be a defence to the person that the—*[Discussion]* Would it satisfy Senators if I draft to the effect that it shall be a defence to an offence under this section, if the person who is injured or killed has committed or was in the process of committing a criminal offence?

Assent indicated.

Sen. Prof. Ramchand: Just a question for my information.

Mr. Maharaj: It shall be a defence for a person charged under this section, not so? *[Interruption]* No, but he would have to prove it as a defence. He is assuming that he would be charged and the court would listen to all the facts and the circumstances.

Sen. Montano: I accept that. But the point still is that this is unreasonable force to stop an intruder. To bite him is one thing but to kill him is another. That is the point.

Mr. Maharaj: How could you regulate that with the dog? Would you be able to tell the dog do not kill him? *[Laughter]*

Sen. Montano: That is exactly the point.

Mr. Maharaj: First to begin, he has no right to be there.

3.35 p.m.

Sen. Montano: That may be so but does he have a right to lose his life? Are we saying it is okay for him to lose his life as a result of this?

Mr. Maharaj: If a person goes into someone's yard and the person is there, and the dog that you have there as a watchdog attacks, injures and kills the person, do you want to put it as a liability of the owner that if the dog injures or—
[Interruption]

Sen. Montano: Not injures; I am not saying injures, I am saying killing. It is unreasonable force.

Sen. Daly: A dog cannot reason it out like a human being.

Sen. Montano: That is exactly the point. What we are doing here is giving someone a licence to hold what is tantamount to a firearm, but the firearm is going to go off by itself.

Mr. Maharaj: No, Mr. Chairman. Let us take, for example, a man has private property on which he has this dangerous dog. The man has his fruit trees, *et cetera*, and people are going there to steal his fruit and the dog injures or kills the person. Should the owner of that land be liable after the person has gone onto the premises to steal?

Sen. Montano: No. What I am suggesting is very simple and it is this. While he can put up a notice on the fence stating that there are dogs on the premises and, "Do not come on the premises", and there are warnings and so forth, the point is, and it is an old principle in law as far as I am aware, that one cannot use unreasonable force in defence of one's property. Having a pit bull to defend your property I am saying is unreasonable force. To have a dachshund or a pompek or even a Rottweiler might not be unreasonable force because I have heard of no instance where anybody was killed by a pompek. The pompek can bite. It can give you a bad bite. That is the point.

Mr. Maharaj: Mr. Chairman, if that is correct here it is the owner has his property and has to put a sign outside. So the person who is stealing, or who is going into that yard without any justification, knows all that, yet you want to put a liability on the owner that if somebody steals and the dog kills or injures—all right, or the dog kills—he would be criminally liable and he would not have a defence?

Sen. Dr. Mc Kenzie: Mr. Chairman, I remember reading in the newspapers about two years ago of someone who had gone into calypsonian Cro Cro's home when he was abroad and coming back home the same night. They went into his premises and were waiting for him. I am sure the hon. Minister of National Security would remember this. They shot and killed the dog and waited for Cro Cro to come back from the States with all his whatever, and they had that picture in the newspapers. So, just as they walked with a gun to shoot the dog, if they had met Cro Cro would they not have shot him as well?

Sen. Prof. Ramchand: Mr. Chairman, that is what I was going to say. Why are we presuming that the intruder is only coming to steal "zaboca"? He could kill you, he could rape your wife or your daughter.

Mr. Chairman: I thought the issue was raised by Sen. Prof. Spence in respect of children and I was thinking of minors, but we have grown it into everybody, anybody.

Sen. Prof. Ramchand: So what are little children doing climbing my wall?

Sen. Prof. Spence: You have identified a more severe form of the problem. That is that the kid may not be able to read. But I do not think we can—the fact of the matter is that we want to get rid of these dogs eventually, so in 10 years' time the problem will solve itself. We have to put up with some inconvenience in the meanwhile.

Mr. Maharaj: But, Mr. Chairman, remember, this is not going to be an open yard. This is going to be an enclosed yard. There will be certain conditions attached, so a child will have to actually jump and climb over. It is not an open yard that we are dealing with.

Sen. Prof. Spence: I think we have to pass this one in clause 15. Clause 16(2), I think we could come to a—[*Inaudible*]

Sen. Prof. Ramchand: Mr. Chairman, I just have to ask something for information now. If I went to visit my friend who owns a pit bull and I said, "Is it safe to come in?" and my friend says, "Yes". I then say, "You sure you are

holding the dog?”, and he says, “Yes.” I then go in there but during the course of my visit I am attacked by the pit bull. What is my position? [*Interruption*] Civil action, is it? Because I am there with the permission of the owner.

Mr. Maharaj: According to this section, it is if you are there, have committed an offence or are in the process of committing a criminal offence. If the owner permits you to come, you are not committing any criminal offence, you are an invitee, you are entitled to be there because he has invited you there. It is only if, whilst you are there, you decide, for example—not you necessarily but somebody there is going to commit rape or steal or whatever it is and the dog gets away and you are in the process of committing the offence or you have just completed committing the offence, then the person will have a defence.

So, it would read:

“It shall be a defence for a person charged for an offence under this section to establish that the person who is injured or killed has committed or was in the process of committing a criminal offence.”

Mr. Chairman: Hon. Senators, I shall read the whole proposed amendment because of the changes. The proposed amendment to clause 15 is:

“Delete clause 15 and substitute the following new clause.

- 15(1) Where a dangerous dog injures a person, the owner of the dog or the person who for the time being is in charge of the dog commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for five years.
- (2) Where a dangerous dog kills a person or causes the death of a person, the owner of the dog or the person who for the time being is in charge of the dog commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for ten years.
- (3) The Court, before which a person charged with an offence under this section appears, shall take into consideration before passing sentence all the circumstances surrounding the loss of control of the dangerous dog by the person charged.
- (4) It shall be a defence for a person charged for an offence under this section to establish that the person who is injured or killed has committed or was in the process of committing a criminal offence.”

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Mr. Chairman: There is a proposed amendment also by the hon. Attorney General.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 16—[*Interruption*]

Sen. Prof. Spence: Mr. Chairman, are we on clause 16?

Mr. Maharaj: Yes, that is where we are.

Sen. Prof. Spence: Mr. Chairman, I am a little uncomfortable with clause 16(2) because here you are not just letting the dog attack the person but you are actually inciting him to do it. If you have a pit bull that you know is a killer, and you incite that pit bull, then you are like the man who would shoot the criminal he sees out in his yard.

Mr. Maharaj: I am sorry, Senator?

Sen. Prof. Spence: Are we dealing with clause 16(2)?

Mr. Maharaj: Yes.

Sen. Prof. Spence: This, to my mind, is comparable to the man who sees somebody stealing his fruit and shoots that person from the window. Because, here you are not just allowing the dog under its own volition or its own will to attack, you are actually inciting the dog to attack. Under clause 16(1) you are actually inciting the dog to attack.

Sen. Daly: Mr. Chairman, if we are confining these dogs to private premises now, do we need to bother with this?

Sen. Prof. Spence: Well, it bothers me.

Sen. Daly: Well, do we need to have this incitement provision? If we are having them confined, well this inciting might have been more relevant if they were going to be in the park tied to the child's swing.

Mr. Maharaj: I take Sen. Daly's point but I think we still have a situation where, even on private premises, there could be somebody inciting a dog to attack. The proposed amendment, Sen. Prof. Spence, is that, in addition to other penalties which are under the Act—[*Interruption*] I am not following what you—there is an amendment to clause—[*Interruption*] The amendment is to insert after the word, "liable", the following words:

in addition to any other penalties he may incur under this Act."

So it should read:

“A person who incites a dog to attack another person commits an offence and is liable, in addition to any other penalties he may incur under this Act, on summary conviction to a fine of twenty-five thousand dollars and imprisonment for one year.”

Sen. Prof. Spence: No, Mr. Chairman, that is all right. I was just a bit concerned about the exemption in subclause (2).

Mr. Maharaj: The section shall not apply where that other person is on the premises with the intention of committing an offence and incurs damage by being bitten by a dangerous dog.

Sen. Prof. Spence: This is where you actually incite the dog—*[Interruption]*

Mr. Maharaj: I understand what you mean.

Sen. Prof. Spence:—not that the dog attacks. I say it is comparable to your seeing a man out in the yard and shooting him rather than just threatening him with the—*[Interruption]*

Sen. S. John: No, but if you see a man with a gun then what do you do? I do not mean to—*[Interruption]*

Sen. Prof. Spence: I think your point is well taken. Therefore, it seems to me we have to amplify the clause and say:

“...except in cases where the person is threatened with injury.”

Mr. Maharaj: They must be threatened with injury? Suppose, for example, the owner is in the yard and there is someone stealing, and there is even the fear that the person may attack the owner, and the owner incites the dog to attack the person, I mean, that is the whole purpose of having a dog.

Sen. Prof. Spence: Yes, but really we are saying in this Bill, “You should not have a pit bull for defence purposes”. That is the eventual aim.

Mr. Maharaj: Yes, but we are also saying that thieves and people who go in the yard unlawfully must know that there are risks.

Sen. Prof. Spence: Yes, and the risk would be an Alsatian pinning them down. Could we not treat clause 16(2), at the minimum, the way we treated clause 15 whatever it is, where it is a defence?

Mr. Maharaj: All right, I will go with that. It shall be a defence. Mr. Chairman, what Sen. Prof. Spence wants us to agree to, which I—it just means that we shall have to write:

“It shall be a defence to a person charged for an offence under this section to establish that the person on the premises was there with the intention of—”

I will have to write it out. Do you want me to write it out and we will come back to it? Mr. Chairman, we will come back to that.

Mr. Chairman: Is it agreed that we will revert to clause 16(2) later on? We will defer it for the time being?

Clause 16, by leave, deferred.

3.50 p.m.

Clause 17.

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

Mr. Maharaj: Mr. Chairman, this is the section that says, any other type of dogs that present a serious danger to the public, the Minister may, by order impose in relation to that dog—the same restrictions will be added to the schedule. I think the Minister may, by order, amend the schedule and an order made under the section shall be subject to affirmative resolution of Parliament. So we could leave it like that.

Question put and agreed to.

Clause 17 ordered to stand part of the Bill.

Clause 18 ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the Attorney General.

Mr. Maharaj: Mr. Chairman, I wish to amend clause 19 as follows:

“Delete subclause (1) of clause 19 and substitute the following:

- (1) A constable or an officer of a local authority duly authorised to exercise the powers conferred by this section may—
 - (a) seize a dangerous dog or a dog which appears to him to be a dangerous dog which is in a public place or a place where it is not permitted to be; or

(b) kill such dog.”

Sen. Daly: Mr. Chairman, should we have a separate clause without the limiting words “kill such dog”. Secondly, do we want to put any conditions on the killing? All things being equal, we would like to encourage them to seize rather than kill. Should we have, “kill such a dog if there are threatening circumstances.”

Mr. Maharaj: So that if the dog is in a public place, it means that the owner was in breach and the dog can be a danger to health, life and so forth. It may be that many officers may not want to seize, they may want to kill the dog. I do not think that you could blame them. It may be that the dog is not doing any harm and it is just sleeping, but it can do harm if it is awake. So I think there is some sympathy for these dogs but, unfortunately, I do not have any.

Sen. Daly: Just as a matter of principle, we just do not want shooting. Should we just always remind the policemen that it is a serious action and say, “kill such a dog if it presents a danger to life”. I just do not like the idea, although I suggested it, I did say with conditions.

Mr. Maharaj: I understand that but you realize what difficulties that would pose. Then the policeman would not kill the dog at all.

Sen. Daly: If he sees it going to bite the child.

Mr. Maharaj: If the dog is sleeping, I would not expect the policeman to kill the dog, but if the policeman awakes the dog it can be dangerous. I think that we have to understand this. I spent some time last night, reading about these dogs and these are really—*[Interruption]* I think administratively, the police can be told certain things, but I do not think we should put it in.

Sen. S. John: In any event, it would be dangerous for a policeman to control such a dog whether it is sleeping or awake. *[Laughter]*

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

Sen. Prof. Spence: Do we still need clause 20, in view of the fact that we are saying vets have to come to the home?

Mr. Chairman: Just let me propose it please.

Clause 20.

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

Mr. Chairman: Yes, Sen. Prof. Spence.

Sen. Prof. Spence: Do we still need clause 20.

Mr. Maharaj: I agree, in light of what we did earlier we will have to delete clause 20. I propose an amendment that we delete clause 20, because we are no longer taking them to vets. They would be increased in status and the doctors will have to go home to see them. *[Laughter]*

Question put and agreed to.

Clause 20 deleted.

Clause 21.

Question proposed, That clause 21 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 21 be renumbered as clause 20.

Question put and agreed to.

Clause 21, renumbered clause 20, ordered to stand part of the Bill.

Clause 22.

Question proposed, That clause 22 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 22 be renumbered as clause 21.

Question put and agreed to.

Clause 22, renumbered clause 21, ordered to stand part of the bill.

Mr. Chairman: Are we ready with clause 8?

Mr. Maharaj: Are we ready with clause 8?

Sen. Daly: Mr. Chairman, there is one other point that I would like to raise, it is in relation to a public place. I think that is clause 11. Sen. Prof. Kenny tells me that it would not be possible to neuter a dog by a house call. *[Interruption]*

Sen. Prof. Kenny: So that for a period of three months when we are neutering and spaying the dogs bitches, that process will have to be done in a clinic.

Sen. Daly: So the suggestion is that we put one qualification on not allowing the dog to enter a public place, and the qualification would be other than for the purpose of complying with section whatever.

Mr. Maharaj: Within three months of the coming into force of this Act. Yes, well it follows.

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Sen. Daly: Other than for the purpose of complying.

Sen. Prof. Spence: Does that mean that you would have to put back in the old clause 20 with that three months time-frame?

Mr. Maharaj: No. Yes, because the person would be in charge of the dog.

Sen. Daly: Then we can simply say, shall not include a veterinary surgeon, who is keeping a dangerous dog in his professional capacity for the purpose of compliance with—on behalf of a client for the purpose of compliance with.

Mr. Maharaj: I was not aware that this had to be done. I thought that was a quick operation. *[Laughter]*

4.00 p.m.

Sen. S. John: It may be, too, that three months may not be sufficient because we do not know how many dogs there are, and whether these vets could take care of all of them within three months.

Sen. Daly: It is about 4,000 of them. There are at least 4,000 of them.

Mr. Maharaj: Mr. Chairman, probably we could redraft. We could do the part with clause 20 in its redrafted form. We could say:

“Any reference in this Act to a person who for the time being in charge of a dangerous dog shall not include a veterinary surgeon who keeps a dangerous dog in the professional capacity for the purpose of compliance with section 3(b)(1).”

Clause 3(b)(1) is the—

Mr. Chairman: You are going back to clause 20?

Mr. Maharaj: Yes. Because, remember we have to take into consideration clause 20, but we have not passed clause 3(b) yet, so we would probably start with—

Mr. Chairman: That is kind of jumping. We were going back to clauses which were deferred, which would have been clauses 8 and 16. Now, let us go back to clause 8.

Clause 8 reintroduced.

Mr. Maharaj: What we can do with clause 8(1), I can read it for you, Mr. Chairman and then I can pass my manuscript to you. Is that all right?

Mr. Chairman: Yes.

Mr. Maharaj: We are deleting clause 8(1) and substituting the following new clause 8(1):

“Subject to this Act, a person who owns or keeps a dangerous dog or dangerous dogs shall have in force in relation to each dog a policy of insurance that provides coverage in respect of each claim for injury or death caused by a dangerous dog in the sum not less than two hundred and fifty thousand dollars or such sum as the Minister may by Order require.”

Mr. Chairman: Hon. Members, this is the proposed amendment to clause 8:

“Subject to this Act, a person who owns or keeps a dangerous dog or dangerous dogs shall have in force in relation to each dog a policy of insurance that provides coverage in respect of each claim for injury or death caused by a dangerous dog in the sum not less than two hundred and fifty thousand dollars or such sum as the Minister may by Order require.”

Sen. Alfred: Mr. Chairman, could you repeat just the part about policy of insurance about each?

Mr. Chairman: I will read it again:

“Subject to this Act, a person who owns or keeps a dangerous dog or dangerous dogs shall have in force in relation to each dog a policy of insurance that provides coverage in respect of each claim for injury or death caused by a dangerous dog in the sum not less than two hundred and fifty thousand dollars or such sum as the Minister may by Order require.”

Sen. Prof. Spence: Mr. Chairman, it is not only each dog, but each claim.

Mr. Maharaj: Yes.

Sen. Prof. Spence: So if the dog bites three people, insurance coverage has to be \$750,000.

Mr. Maharaj: Yes.

Sen. Prof. Spence: But would any insurance company make an open-ended policy like that?

Mr. Maharaj: They would have to have public liability to cover that and they may probably put a maximum of a million dollars or something like that, because you see what can happen, a dog can bite and I think if you want to enjoy the luxury of having this dog, you should be able to afford the luxury of providing the protection.

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Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 16 reintroduced.

Mr. Maharaj: Can I read it for you and then pass this to you?

Mr. Chairman: Yes, sure.

Mr. Maharaj: Clause 16(2):

Delete subclause (2) and substitute the following:

“It shall be a defence to a person charged for an offence under this section to establish that the person who incurs damage by being bitten by a dangerous dog was on the premises with the intention of committing a criminal offence.”

Could you permit me? [*Pause*] It has to have some of my handwriting in it. It should read now:

Clause 16(2) delete subclause (2) and substitute the following:

“It shall be a defence to a person charged for an offence under this section to establish that the other person on the premises was committing a criminal offence or had intention of committing a criminal offence.”

Now I do not know if you, Mr. Chairman, can read my handwriting.

Mr. Chairman: I am going to propose it, without reading it, as you have read it.

Mr. Maharaj: Okay. I shall read it slowly.

“It shall be a defence to a person charged for an offence under this section to establish that the other person on the premises was committing a criminal offence or had intention of committing a criminal offence.”

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 11 recommitted.

Question again proposed, That clause 11 stand part of the Bill.

Mr. Chairman: Sen. Daly, you were raising something on clause 11(1).

Sen. Daly: Yes, Sir. The part where he is not allowed to have it in a public place. I think it is 11(2).

Mr. Maharaj: Is it clause 11(2)?

Sen. Daly: Or perhaps we need, as a matter of drafting—I am not a draftsman—to have a separate section saying that the section does not apply where the dog is being—I cannot think of a word. But, it does not apply where you are taking the dog for the purpose of complying with; it does not apply in circumstances where the owner—

Sen. Cuffy Dowlat: You ensure compliance with the provisions of the Bill.

Mr. Maharaj: What the draftsperson had done, but we have not dealt with new clause 3B as yet—have we dealt with new clause 3B?

Mr. Chairman: No.

Mr. Maharaj: If we could deal with clause 11 after we deal with new clause 3B. What about the Schedule?

Mr. Chairman: We will revert again to clause 11 later on. We will go to new clause 1A.

New Clause 1A.

Mr. Maharaj: Mr. Chairman, I propose a new clause 1A which would be inserted after clause 1 as follows:

“Act inconsistent with Constitution 1A. This Act has effect even though inconsistent with sections 4 and 5 of the Constitution.”

New clause 1A read the first time.

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

Mr. Maharaj: Mr. Chairman, this is to bring the Bill in conformity with the requirements of having a specified majority. Apart from the Preamble which states what the position is, this clause which is common in all similar pieces of legislation, says that it shall have effect even though it is inconsistent with sections 4 and 5. So, I beg to move that it be added.

Question put and agreed to.

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

Question put and agreed to.

New Clause 1A added to the Bill.

New Clause 3A.

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Mr. Maharaj: Mr. Chairman, I propose a new clause 3A which would be inserted after clause 3 as follows:

- “Importation prohibited 3A.(1) No person shall import into Trinidad and Tobago a dangerous dog, or the semen or embryo of a dangerous dog.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for two years.”

New clause 3A read the first time.

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

Mr. Maharaj: Mr. Chairman, this clause is to give effect to the will of the Senate that the importation of these dangerous dogs be prohibited, and that the semen and embryo of dangerous dogs be prohibited from importation and to provide a penalty to anyone who contravenes this provision.

Question put and agreed to.

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

Question put and agreed to.

New Clause 3A added to the Bill.

New Clause 3B.

Mr. Maharaj: Mr. Chairman, I propose a new clause 3B which would be inserted after new clause 3A as follows:

- “Neutering and prohibition on breeding 3B.(1) A person who owns a dangerous dog shall ensure that that dog is neutered by a veterinary surgeon within three months of the coming into force of this Act.
- (2) No person shall breed or breed from a dangerous dog.
- (3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for two years.”

New clause 3B read the first time.

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

Sen. Alfred: Mr. Chairman, somebody was suggesting that perhaps it should be six months instead of three, considering that there are about 4,000 dogs, whether with the insurance and licensing, one would be able to complete the whole procedure. It is just a thought.

Mr. Maharaj: Why do we not put it for three and if we have to come back, we come back.

Sen. Alfred: Okay.

Mr. Maharaj: I give that undertaking that if it is not working, we come back.

4.15 p.m.

Sen. Mahabir-Wyatt: There is a small amphibious animal called a newt, which swims in swampy water. I do not think that we are going to apply newts to dogs. If you look at the notes in the margin it speaks about the “newtering of dogs.” I think that it is not appropriate.

Mr. Maharaj: Mr. Chairman, I could not understand the silence of Sen. Mahabir-Wyatt in this debate, but I now understand that she had this important point to make. *[Laughter]* I wish to assure her that although the typographical error was in the marginal note, in the body, it was correctly spelt. I do appreciate the—

Mr. Chairman: Treat it as typographical.

Question put and agreed to.

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

Question put and agreed to.

New Clause 3B added to the Bill.

Mr. Chairman: Sen. Daly raised something.

Mr. Maharaj: Yes, we have to do clause 11.

Clause 11 recommitted.

Question again proposed, That clause 11 stand part of the Bill.

Mr. Chairman: We shall now reopen clause 11.

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Mr. Maharaj: What we have done in clause 11(1), for your consideration, Mr. Chairman, is after the words “premises only” insert the words “except for the purpose of compliance with section 3B(1)”

Sen. Daly: It is merely to ensure that you do not commit an offence.

Sen. Prof. Spence: Mr. Chairman, I am all for reducing the population of pit bulls as quickly as possible, but should we also make an exception if somebody is changing from one house to another, if that person is moving out? I am not pushing it.

Mr. Maharaj: We will put that in the regulations. *[Laughter]*

Question again put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Mr. Maharaj: Mr. Chairman, we still have to go back to clause 20 with respect to the exemption for the vet.

Mr. Chairman: Hon. Senators, I need your assent for the reinstatement of old clause 20, and to propose an amendment. Do I have your consent?

Assent indicated.

Clause 20 recommitted.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 20 be amended as follows:

“Delete the words ‘emergency care or treatment’ and substitute the following: ‘compliance with section 3B(1)’”

The whole clause should read:

“Any reference in this Act to a person who for the time being is in charge of a dangerous dog shall not include a veterinary surgeon who keeps a dangerous dog in a professional capacity for the purposes of compliance with section 3B(1).”

Question again put and agreed to.

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

Mr. Chairman: As a result, we renumber the following clauses to 21, 22 and 23.

Question put and agreed to.

Schedule.

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

Mr. Chairman: I think there are some proposed amendments to come.

Sen. Prof. Kenny: Mr. Chairman, I beg to move that the Schedule be amended as follows:

“Replace the word ‘dominant’ and substitute the word ‘physical’ characteristics of that dog.”

There is the general form of the pit bull. When you use the word “dominant” it does not necessarily mean that particular physical form. I think that would answer the question raised by Sen. Daly who just simply wanted to say, “any dog bred from the pit bull terrier”. If the—*[Interruption]*

Mr. Maharaj: Stop right there.

Sen. Prof. Kenny: We could stop there?

Mr. Maharaj: Yes.

Sen. Prof. Kenny: Excellent.

Mr. Maharaj: When I said “stop right there”, Mr. Chairman, I am very sorry, I did not mean to muzzle you—*[Laughter]* I meant that we should—or to neuter anyone. We can delete in number 1 of the Schedule the words after “Terrier”. The same applies to number 2. In respect of “Fila Brasileiro”, delete the words thereafter. Also after “Tosa” we delete the words.

The Schedule should be:

“Dangerous Dogs

1. Pitbull Terrier or any dog bred from the Pitbull Terrier.
2. Fila Brasileiro or any dog bred from the Fila Brasileiro.
3. Japanese Tosa or any dog bred from the Japanese Tosa.”

Question put and agreed to.

Schedule, as amended, ordered to stand part of the Bill.

4.25 p.m.

Preamble

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

Mr. Chairman: Hon. Senators, there is a proposed amendment by the hon. Attorney General for the Preamble to the Bill and that has been circulated.

Mr. Maharaj: Mr. Chairman, I beg to move that the Preamble be amended as follows:

“Insert a Preamble as follows—

‘WHEREAS it is enacted *inter alia* by subsection (1) of section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

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

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

Mr. Chairman, just for the record, this Preamble was necessary. It is a requirement of the Constitution that if we are passing a Bill which is inconsistent with sections 4 and 5, it must state in the Preamble that this is so. The purpose of this is to give notice to the whole world that we are passing such a Bill.
[*Interruption*]

Sen. Alfred: Mr. Chairman, there is just a small typographical error in the second paragraph after the word “House” there should be a colon instead of a full stop. After the words “all the members of that House”, there should be a colon.

Mr. Chairman: We will treat it as typographical.

Question put and agreed to.

The Preamble, as amended, ordered to stand part of the Bill.

Mr. Maharaj: Mr. Chairman, with the consequence of the Preamble being approved, the certificate at the end would, obviously, be amended accordingly.
[*Interruption*]

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

Senate resumed.

Bill reported, with amendment.

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

Mr. Chairman: Hon. Senators, this is a Bill, the passing of which requires a specified majority, so a division is required to be taken and I will ask the Clerk to take the division.

The Senate voted: Ayes 27

AYES

Mark, Hon. W.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Gillette, Hon. L.

Gangar, Hon. F.

Cuffy Dowlat, Hon. C.

Tota-Maharaj, Mrs. V.

Hamel-Smith, P.

John, S.

Gray-Burke, Rev. B.

John, W.

John, Miss J.

Cowie, D.

Cabrera, V.

Montano, D.

Jagmohan, M.

Alfred, Miss C.

Shabazz, M.

Dangerous Dogs (No. 2) Bill

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Yuille-Williams, Mrs. J.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K. [*Desk thumping*]

Question agreed to.

Bill accordingly read the third time and passed.

ARRANGEMENT OF BUSINESS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, the Leader of the Government Business has told me that there is a simple motion for the amendment of the Maintenance Orders. They were very consequential amendments; typographical and so forth, from the other place, so they are just going to take a few minutes.

Agreed to.

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) BILL

House of Representatives Amendments

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That the House of Representatives amendments to the Maintenance Orders (Facilities for Enforcement) Bill listed in Appendix II be now considered.

Question proposed.

Question put and agreed to.

Clause 8

House of Representatives amendment read as follows:

‘Schedule

(section 33)

First Column Enactment	Second Column Extent of Amendments
Matrimonial Proceedings and Property Act, Chap. 45:51	In section 37 delete the words ‘Maintenance Order (Enforcement) Act’ and substitute the words ‘Maintenance Orders (Facilities for Enforcement) Act, 1999’.
Attachment of Earnings (Maintenance) Act, 1988 Act No. 14 of 1988	In Schedule 1 item 10 delete the words ‘Maintenance Orders (Enforcement) Act, Chap. 45:53’ and substitute the words ‘Maintenance Orders (Facilities for Enforcement) Act, 1999’.”

Mr. Maharaj: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment. It was making clear that in respect of this piece of legislation they applied in relation to the pieces of legislation which were on the left side of the column. Therefore, under the Matrimonial Proceedings and Property Act it meant that this piece of legislation would apply in respect of Orders made under that.

Question proposed.

Question put and agreed to.

Mr. President: Hon. Senators, we will suspend for tea at this stage and return at 5.15 p.m.

4.38 p.m.: *Sitting suspended.*

5.17 p.m.: *Sitting resumed.*

PRISON SERVICE (AMDT.) BILL

Order for second reading read.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move,

That a Bill to amend the Prison Service Act to introduce a different retirement age for prison officers and to provide for the enhancement of superannuation benefits and for related matters, be now read a second time.

Mr. President, the matter before this honourable Senate is one that is long outstanding, it has been around for close to 10 years, and this particular Bill really represents a continuation of the Government's agenda to bring about changes in the public service of Trinidad and Tobago. It is all part of the Government's thrust towards introducing modern, human resource management practices in our public service.

This particular amendment comes on the heel of a number of important pieces of legislation that were brought to this Parliament and successfully passed in both Houses. I refer specifically to the Protective Services Compensation Act of 1996 which provided improved compensation for officers in the protective services who were injured in the course of their employment.

We also piloted and successfully passed the Law Reform Pensions Act of 1997, the Fire Service (Amdt.) Act of 1997, and we recently promulgated the Fire Service's terms and conditions of service regulations 1998, and all these measures were designed to transform or assist in the transformation of the public service into a more efficient service relevant to the needs of the people of the country of Trinidad and Tobago.

This particular measure, the Prison Service (Amdt.) Bill, seeks to implement agreements that were arrived at with the various associations representing prison officers in Trinidad and Tobago, both the first and second division officers and it is to implement agreements arising out of these consultations and discussions with the Chief Personnel Officer back in 1990 to do two things: one, to implement or establish priority for prison officers with the other protective services. And we talk about priority in the context of superannuation benefits as well as retirement because right now as we speak, members of the police service and the fire service enjoy certain superannuation benefits that their counterparts in the prison service do not enjoy. So the prison officers are now eligible on retirement, to the same pension that civil servants enjoy, 66 and two-thirds, that is what their maximum is all about, whereas their counterparts in the police and fire service get up to 85 per cent of their pension on retirement.

In addition, there is a situation where the prison officer cannot retire at the age of 55, whereas if you are a police officer, or a fire officer you can go at the age of 55. The prison officers still operate under the civil service rules and regulations and, therefore, this is an outdated arrangement and since 1989/90 they reached agreement with the CPO to really rectify and regularize this particular situation where they can go at the age of 55, and they can apply to the Public Service Commission to go at an earlier age, 50 years, if they so desire. Right now they

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cannot apply to go at age 55, however, their counterparts in the fire service and police service can do so.

We are talking roughly about 2,000 prison officers in the Prison Service of Trinidad and Tobago, and as I said, what we are trying to do in this simple, but very important, piece of legislation is to establish—

Sen. Mahabir-Wyatt: Mr. President, I wonder if the Minister can tell us how many of those 2,000 prison officers are of the female gender, and whether this has been taken into account in drafting the Bill.

Sen. The Hon. W. Mark: I do not have the numbers at the moment in terms of the number of female officers, but what I can tell you is that whatever is passed will be enjoyed by all persons in the prison service, female or male. Maybe before the end of the debate I will get some figures for you in terms of women. I know that the overall prison service population is around 2,000 at this time.

The first objective, as I said, is to deal with establishing priority in the system. The second objective of this legislation is to provide an appropriate legal framework to accommodate what is called prison service rules re: terms and conditions of employment.

Mr. President, the prison service does not have its own body of rules dealing with terms and conditions of employment and when we promulgated, at another level, the fire service's terms and conditions of employment in 1998, it was the first time since the fire service was established in Trinidad and Tobago that the firefighters, as they are now called, have their own body of rules dealing with terms and conditions of employment and, as I said, that is all part of our arrangement and efforts to introduce into the public service, modern human resource management practices where we are seeking, not only to decentralize our operations, but to give authority to those persons who are in charge of those operations on the spot and, therefore, do not have to refer to the civil service regulations as they had to before these terms and conditions of service regulations were promulgated.

What we are trying to do in this piece of legislation is to establish a legal framework to establish later on, and we are hoping by the end of this year that the prison service would have its own terms and conditions of employment regulations. That is the second objective of this particular measure that is before us.

As you know, the first major legislative review relating to this particular service was done in 1966. Prior to this, the prison service used to be governed under what is called the West Indian Prison Service Act of 1838. So we are talking about bringing our prison service up to modern standards and levels and this represents a major review since the last one was done in 1966 in Trinidad and Tobago.

If we go to the Bill, we will see for instance some of the measures that we are proposing. Clause 4 deals with definitions, and clause 9 of the Bill introduces a number of sections; 14A, 14B, 14C and 14D. Clause 14A(1) states:

“A prison officer holding an office in the Second Division shall retire from the Prison Service on attaining the age of fifty-five years but may with the approval of the Public Service Commission be permitted to retire on or after attaining the age of fifty years.”

This is the point I was making earlier. They do not have the right at this time to retire compulsorily as their counterparts in the police and fire service at the age of 55 and as Sen. Mahabir-Wyatt will know—because she does a lot of work with the police—that prison work is extremely stressful. In fact, they intimated to me that based on recent studies, that particular area of work has now assumed critical proportions in terms of priority treatment. It is almost the number one stress killer in terms of jobs in the world today. Being a prison officer is a very serious matter.

What we are attempting to do in clause 9 is to introduce the following sections which would give effect to what I have just said so that a prison officer who wishes to go at age 50 can now apply to the Public Service Commission to have that particular application given favourable consideration.

5.30 p.m.

It does not mean to say that he would automatically get through, but he can make the application at the age of 50 and hope to be considered. Right now he can make it at the age of 55 and hope to be considered, as well, by the Public Service Commission. But with this legislation automatically at the age of 55, he would retire, and at the age of 50, he could make an application to the Public Service Commission to go. Mr. President, the fact of the matter— *[Interruption]*

Sen. Shabazz: Mr. President, through you, I just want to ask the hon. Minister a question. If an officer asks to retire and hopes that it could be considered, could the hon. Minister explain that a little better for me, please?

Sen. The Hon. W. Mark: Mr. President, in other words, under the law that we are debating in Parliament now, once it is passed, at the age of 55 one has to leave the Prison Service. It is compulsory retirement. However, at the age of 50 you can make an application to retire on many grounds, and when you submit that application to the Public Service Commission, the Public Service Commission will sit and determine, given the facts before it, whether it would grant your application to retire at the age of 50, because it is optional. *[Interruption]*

Sen. Shabazz: The option is not yours.

Sen. The Hon. W. Mark: The option is not yours per se. The option lies in the hands of the Public Service Commission. They will determine whether you go at the age of 50, but you must go at the age of 55. The Public Service Commission has no choice in that matter. At the age of 55 you leave. Right now they cannot leave at the age of 55. They have to apply to the Public Service Commission for consideration to leave at the age of 55. The compulsory age of a prison officer right now is 60. They die very fast, I understand, when they leave at that age.

Sen. Shabazz: Can an officer retire right now?

Sen. The Hon. W. Mark: He could retire but he may not be able to get his benefits. That is the problem.

Sen. Alfred: Mr. President, I am going back to the same question perhaps in a different form. As a public servant one can now retire at age 50. As far as I know, one does not make the application and the Public Service Commission would say that you cannot go. So why should this apply in the case of a prison officer? That the option is with the Service Commission and not with the person who desires to go at 50?

Sen. The Hon. W. Mark: Mr. President, all I am saying is that under the current rules—*[Interruption]* we are going through with the rules now in terms of the clauses, to indicate to you what will now obtain once we pass this law.

If you look at subclause (2) under clause 14(a) or clause 9, you will see it reads:

“A prison officer holding an office in the First Division shall retire from the Prison Service on attaining the age of sixty years,”

With respect to First Division you must go at the age of 60,

“but may—

- (a) retire voluntarily at any time on or after attaining the age of fifty-five years; or
- (b) subject to the approval of the Public Service Commission retire at any time, on or after attaining the age of fifty years.”

Based on our work here we have estimated that when people are going to retire—because once this Bill becomes law a number of prison officers who have attained the age of 55 and who are still in the system and are over 55, automatically have to leave the system. The prison authorities have been anticipating this legislation. This legislation has been in draft form for some time, and they have taken certain steps. I will give you an example of what I am talking about, Mr. President. It is anticipated as an example on the passage of this Bill some 80 prison officers—*[Interruption]*

Sen. Shabazz: Mr. President, it is about 88.

Sen. The Hon. W. Mark: Mr. President, we have about 80 so far, maybe, the hon. Senator has eight more. They are going to retire in the year 2000. That is the information we got from the prison authorities. We have also been informed in the year 2001 that 35 will go. In the year 2002, 36 will go.

The prison authorities anticipating this measure have taken certain steps to ensure that there is a smooth transition in terms of the exit of these officers who would have gone beyond 55 and they would now have the privilege, under this legislation, to now leave the service—which many of them would now like to do, Sir.

So what we have been doing at the Public Service Learning Centre which falls under my Ministry, is that we have been running a lot of courses for these prison officers, preparing them for retirement. In-house service is also being provided by the prison authorities in terms of counselling services to these prison officers. There has been established in the prison service a special administrative unit for the necessary preparation of pension and leave records. All these things are necessary to ensure that there is a smooth transition in this particular exercise.

Mr. President, if you go through clause by clause you will see exactly what is being attempted in this legislation. If you look at clause 14B it tells you, for instance;

“Where a prison officer holding an office in the Second Division retires in accordance with section 14A(3), any period of pensionable service which may have accrued to him after the age of fifty-five years and up to the date of

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retirement shall be taken into consideration for the purpose of calculating his superannuation benefits, but such benefits shall not exceed the maximum benefits payable under the Rules specified in the Fifth Schedule and the officer shall be required to pay contributions in respect of any such period.”

Mr. President, under the police and the fire pensions are contributory. You make a contribution. I have some specific figures here as an example. Just to recap what I said earlier, the prison officers at present, are eligible for a maximum pension of 66 2/3 of their pensionable emoluments. This, as I said, would be increased to 85 per cent of pay upon retirement. The officers’ accrual rate would increase from 2 per cent of their annual pensionable emoluments, to 2.5 per cent. That is what is being advanced here. As I said, they will have to make a contribution to their pension, Sir. I will get the exact figure.

Superannuation benefits would be on a contributory basis as I said, and are designed to bring the prison service on par with other protective services. In this regard, officers of the police and fire services are now required, at present, to make a nominal contribution of 1.25 per cent of their salary. The same would be applied to prison officers. They would make a contribution of 1.25 per cent of their salary towards their pensions.

This measure and the various clauses that I have outlined are designed to ensure that the prison officers are able to enjoy the same kind of privileges and superannuation benefits as their counterparts. The various clauses seek to outline how this is actually going to be achieved. If you go to the Fifth Schedule you will see, for instance, exactly some of the sections that would deal with the entitlement. If you look at Rule 1, it deals with definitions; Rule 2 shows that pension is not an absolute entitlement, and it goes on.

5.40 p.m.

So, I would not want to detain the Senate too long on this matter because I have a detailed brief on it. Suffice it to say that the purpose of this legislation is really to accomplish two major objectives, parity and to lay the legal framework to introduce, in the not too distant future, terms and conditions of service regulations for the Prison Service of Trinidad and Tobago.

Sen. Mahabir-Wyatt: Can I ask a question? Mr. President, through you, when the Minister talked about parity of service and he just referred to Regulations 9 and 11, I notice under Regulation No. 9 it refers to an instance where a prison officer has left Trinidad and Tobago and deserted leaving his wife and child in Trinidad and Tobago, and there is a provision for the wife and child.

Regulation No. 11 deals with widows and dependants. Since prison officers of both genders contribute, does this mean that if a female prison officer deserts Trinidad and Tobago, leaving her husband and child, this would apply to the husband as well? When you speak of benefits to widows and dependants, does this also, in the case of female prison officers, apply to their husbands and dependants? I just do not know about the civil service. I mean, is there gender equity here?

Sen. The Hon. W. Mark: Mr. President, this particular question that has been raised by Sen. Diana Mahabir-Wyatt is a very important one because when that happens and let us say for instance someone deserts the country, a prison officer, male in this instance, this particular rule 11 and, as you said, 12, gives for instance the President the authority to take action. We are about to circulate an amendment which would ensure that when the President does that it must be subject to section 134 of the Constitution. Section 134 of the Constitution deals with the issue of the property of people in terms of pension rights and not to allow, for instance, any arbitrary decision to be taken without the Service Commission giving approval to such an arrangement. So if you look at 134 of the Constitution you will see exactly what I am referring to, Mr. President.

The particular matter that you raised there, you were talking about if a female were to leave, whether, for instance—*[Interruption]*. No, no, what I will do, Sen. Mahabir-Wyatt, is that there is, in fact, an area that is of concern to us and I think it is important that we share it with you. For instance, rule 11, as you mentioned a short while ago, provides for the payment of survivor's benefits to the widow and children and, in specified circumstances, the mother of an officer who dies as a result of injuries he or she would have received in the execution of his or her duties.

Now, in the specific area that you have mentioned, I think that I will need to get some clarification on that one, because the one that I have here is a bit different to—*[Interruption]*. No, no, I will need to get a bit of clarification. In the committee stage we will have some clarification on that. I think there is a little discrepancy in that particular area in terms of applicability to the widow in that instance.

Sen. Prof. Ramchand: So, Mr. President, is the Minister looking for the word, “spouse”, rather than “wife” or “husband”?

Sen. The Hon. W. Mark: Mr. President, the point that Sen. Mahabir-Wyatt raised is a very important one because in none of the regulations governing the various services is there a provision that would allow, let us say, the widower of a female officer to benefit and it is a matter that we were looking at very carefully

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but, because of the fact it does not obtain in the other services, it would be difficult for us to make an amendment in this instance because to do that we believe there will be need to have an omnibus kind of approach. [*Interruption*] Yes, but this is a cost factor that we have to consider very, very seriously and, as I said, it affects a number of the services.

It may appear to be discriminatory but the point about it is that it is not something that has escaped us. The question here is that, in addressing it, we will have to take into account, Mr. President, all the services, not only the prison service but the fire service, the police service, the civil service and the teaching service and that is why I say that it is a point well taken. We have taken note of it and it is something that we are looking at to bring maybe future legislation to Parliament to correct this particular lacuna that exists currently in the legislation. So I just wanted to raise that particular point.

So, Mr. President, as I said I did not want to burden the honourable Senate with a detailed contribution on this particular matter. Suffice it to say that this is a very important piece of legislation. It represents the culmination of a struggle that has been going on for over 10 years by the Prison Officers' Association, First and Second Divisions, in order to bring their colleagues on par with their counterparts in the fire and police services. Because of the importance of this measure I think that we, the Opposition and I am sure the Independents, would have no difficulty in giving full support to this particular measure that is now before the Senate. Mr. President, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Danny Montano: [*Desk thumping*] Mr. President, for once the Minister is right in that we have no particular objection to the piece of legislation before us, but we do have one or two concerns as a result of the consequence of this coming into law. He started to talk a little while ago about the retirement age being reduced to 55—that is one of the key objectives of the Bill—with the option to retire at 50. What he indicated was that, as a result of this, it would be mandatory that in the year 2000, as a result of this measure, at least 80 officers will exit the system. But my information is that, in fact, many more officers will reapply, those who are between the age of 50 and 55. We know that at least, I think he said, 35 of them will reach the age of 55 next year so it could be quite a few who will, in fact, make the application.

Now, somewhat sensibly the Bill has said, “Well, the commission reserves the right to refuse the requirement of those officers”. But the fact remains that, from

what I have learned, there is going to be a bit of a crisis and the crisis stems from the way that the whole system is running at this time; and it is this. As I understand it, officers within the prison service are entitled to write an examination every four years. As they write the examination the grades that they get on the examination are used as their entitlement for promotions. Now, I am advised that no examinations have been held for the past 12 years. So that it means that any of the officers who have joined within the past 12 years have had no opportunity for advancement and the officers who wrote 12 years ago on that list are gradually being used up, and they go further and further down the list as officers leave or retire as the case might be.

What is happening is that, as I understand it, there is a serious morale problem in the prison service largely because of this. I mean, there are other factors that I will talk about in a moment. However, the result is that officers who are now eligible for promotion—and there are going to be significant opportunities as the older fellas retire, there are going to be at least 80 of them going this year—as the other fellas are moved up the younger fellas have not had the opportunity to write an exam and to compete head to head with some of the older fellas.

What is happening is that the promotions that will be taking place are not actually going to be done on the basis of merit because a large pool of them have not had any opportunity to write the exam to be measured as to their fitness for advancement. That is a very serious issue and it is going to create a significant amount of discontent as these officers move out of the service and the opportunities are created. So it is something I think, notwithstanding the assurances of the Minister, that needs to be looked at very carefully and that these examinations need to be brought back into the service at the earliest opportunity.

Now, Mr. President, I mentioned that this lack of opportunity is seriously affecting the morale, attitudes and loyalty of the prison officers. I do not want to really get into the escape attempts and so on, but the fact of the matter is I have spoken with a couple of the officers in the service and I have found that their conditions, as the Minister alluded, are perhaps the worst that anybody could possibly imagine, having to work in that kind of environment.

In Port of Spain, Sir, I am advised that there is an average of about 800 inmates. It can swell to as much as a thousand, but on average there are about 800 inmates. The facility was designed for 300. I am advised that there are approximately 120 officers on duty during daylight hours, that is from about 8 o'clock in the morning to about 4 o'clock in the afternoon, and about 50 officers on duty during the night shift. That is 50 officers to monitor 800 inmates during

the night shift. That is an enormous responsibility under the most onerous of conditions.

Mr. President, I am advised also that in the cells for convicted persons there are between five to seven inmates in one 10 by 6 cell and that is how they live. In the Remand Yard it swells to between 11 and 13. They always, apparently, keep it at an odd number. There are no toilets in the cells. They have to use a bucket. What has to happen is that the guards have to sit there, or stand there, in fact, all night long and they are expected to walk up and down on a regular basis and check on all of the cells every few minutes and so on. Can you imagine what that place must look and smell like? They have to work in those conditions day after day, night after night.

Mr. President, the Minister himself acknowledged the stress of these workers. I do not think that any of us here, sitting in an air-conditioned room—we have just had a luxurious tea—can really fully appreciate the kinds of conditions these men and women have to go through. It is an awful situation and the reality is that most of the officers are suffering from serious stress disorders. There is no psychological counselling for the officers on duty, none whatever. So they just have to deal with the problems on their own.

Furthermore, I have been well advised that each officer has a significant mental and emotional transition to make when he leaves the prison and starts to go home.

5.55 p.m.

He has to make a huge adjustment in terms of how he speaks to anybody and how he treats people. I am well advised that many of the officers are forced to stop at bars on the way home to have a few drinks in order to get themselves down to some level of humanity, and the mothers and the children get the brunt of it afterwards. That is an awful situation.

Mr. President, I am not laying blame at the feet of anybody. The fact of the matter is that this issue has been coming up for the last hundred years or more, but the reality is that we are now in the year 2000 and I consider it unacceptable to allow that kind of thing to continue. The prison officers themselves receive almost as much punishment as the inmates when they have to work in that kind of environment.

Mr. President, you should also know that of all the members of the public service, I am advised that prison officers work a 44-hour week; not a 35, 37 or 40-

hour week. They are the only ones who actually work 44 hours a week. Notwithstanding all of that, I am sure that one can tell that the theme of my contribution is to talk about the unsung heroes of the prison service, and that is precisely what I intend doing.

I am certainly not going to criticize the guards for the escapes that have been taking place because the reality is, I think they are doing a pretty good job under the most onerous and terrible of conditions. With the kind of crowding that exists in the prisons, the mere fact that we have not had significant prison riots is an indication of the vigilance and alertness of the officers on duty on a daily basis. You could just imagine what men would be like in that kind of crowded situation where tempers could flare; yet they are able to hold it.

Mr. President, these officers have to be commended because they are protecting us at the end of the day. They work very long shifts. The evening shift, for instance, is required to assemble in Port of Spain at half past eight in the evening; they are posted at nine o'clock and are there until six o'clock in the morning. Under the regulations that the Minister mentioned, which came from 1838, they get a 20-minute snack break, that is all. From 9 o'clock at night until 6 o'clock in the morning they get a 20-minute snack break and are expected to literally stand for the entire shift. It is almost inhumanely possible to do that. It is exhausting and I think that while this Bill has a great deal of merit, and it is timely, there is more which can and must be done for these persons.

Mr. President, I am also advised that in Port of Spain, for instance, the shift runs from 1 o'clock in the afternoon to 9 o'clock at night; then from 9 o'clock to six o'clock and then from 6 o'clock to one o'clock. If you work from the shift from 1 o'clock in the afternoon until 9 o'clock, and live some distance outside of the city and you are rostered for duty at six o'clock in the morning, you end up having to sleep in the prison itself. There is no dormitory in the Port of Spain prison for officers. Nothing! There are some old mattresses, which the officers pile up on some crates or boxes to sleep. If, as happens, there is a crisis during the night and they are sleeping there, they are called upon to and must respond to the crisis. They must put their lives in jeopardy and receive no pay while they do that, notwithstanding the fact that they were not rostered. The mere fact that they are there, they are required to serve and if they do not serve they can be charged and disciplined. This is an extraordinary situation.

The other matter is that—particularly at the crowded facilities at Port of Spain—there is a significant health crisis taking place. Of course, this has a serious impact not only on the prisoners themselves, but also on the officers. The

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officers have significant exposure to TB, Aids and Hepatitis. Hepatitis B, C and D can be transmitted by a cough, a touch, the exchange of sweat from the skin, and some of these can be deadly. The officers can be inoculated against Hepatitis B, but I am advised that apparently the inoculation is a series of three injections; if they get one they run out of the dosage; and if they get two they run out but nobody ever gets the full three measures. Nobody is ever properly inoculated against Hepatitis B. They are exposed to hepatitis and Aids.

Mr. President, I am advised that the prisoners who have TB are isolated but the prisoners' records are confidential so anybody who comes into the prison, the officers themselves do not necessarily know who is infected with what. The fact of the matter is there are fights in the prison—I am not saying riots—and the officers have to get involved. When there is fight there is blood splashing all over the place and the officers do not know who is infected with Aids.

The other harsh reality, of course, is that some of the young men who are brought into the Remand Yard are there with prisoners who are, in fact, HIV positive. They are then interfered with and the next thing, for some relatively simple offence, he has effectively received a death sentence. The officers are equally exposed, but they face it day in and day out.

Mr. President, what was described to me in terms of the Port of Spain facility, particularly—and from my discussions with the late Archbishop because he was one who used to attend to many of the prisoners in all of the facilities—is that we are still back in the 19th Century and what we have here seems to be a little better than the infamous Devil's Island. I find it difficult that as a modern society today we can really put people in things like that. There is nobody that I know who treats animals the way that we seem to treat the prisoners here. Why are we doing that? Then we expect decent young men to come and look after them in that kind of facility? What do you think is going to happen when the fellow goes home? Do you really feel that he can go home and live a normal life when he has to work in that kind of horror? I hardly think so. I do not know how they do it. If it is that the Minister thinks that as a result of the 80 officers who are resigning there will be a flood of applicants, I do not know that they are really going to get the applicants and keep them when they have to work in that kind of environment. It is a terrible thing.

Mr. President, I did make one simple promise to a couple of the young men that I spoke to. I promised them that I would publicly thank them for their loyal and dedicated service. [*Desk thumping*] Everything that we have heard so far in the media completely ignores the plight of these young men and women who are

working diligently and loyally for all of us and they need to be recognized and they need to be thanked. [*Desk thumping*]

Mr. President, my purpose here this afternoon was to draw to the attention of the Parliament and the Government to the crying needs of the prison officers and while we can support the measure in this legislation, with the greatest of respect, Sir, it needs to go very much further. We support the measure and we look forward to improvements in the prison service.

Mr. President, thank you very much.

6.05 p.m.

Sen. Dr. Eric St. Cyr: Mr. President, I really want to speak to one point, but before I do that, let me raise a couple minor matters.

I note that the last phrase of clause 9(3) says:

"...such officer shall retire from the Prison Service with immediate effect."

I was wondering, although that is the objective, whether there was any room for any flexibility that persons there might, if they chose, continue as if the old rules applied. You see, somebody may have married recently and have small children, so I was just wondering if there is any room for flexibility there.

The point I really want to speak to, though, Sir, concerns the rules. My first point is: I wondered whether rules should be enshrined in law or whether, in fact, they should not be made as regulations subject to affirmative or whatever resolution. But, if we put these rules in law and we need to vary them, we then need an amendment.

The issue I want, however, to deal with, is the issue of inflation and pensions. That is the point I want to speak to and I am sorry that the hon. Minister of Finance, Planning and Development is not with us. I know he has been addressing the area of pension reform. It seems to me that where someone retires on a pension determined like this, and lives 30 years, such a person could be living in penury.

I know some very distinguished high level public servants who might have retired in the day when a top pay was TT \$1,000 and where a generous pension was \$500—that is 30 years ago—and there is no automatic built-in inflation corrector, so such accretions to those basic pensions are granted *ex gratia* by the state. In fact, I understand, one such person's pension is less than \$2,000 and I

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would think, since not many people live 30 or more years after retirement, the number of survivors should be sufficiently small for us to do far better than we do now, and my proposal would be to automatically index the pension of the retiree to the salary of the post from which the person retires. You would have built-in there an automatic corrector for inflation.

The same matter arises also. It comes up in the rules under rule 4(6)(b) where it says:

"if the President so requires, any gratuity received in respect of the earlier period of service or such part as the President may determine, shall be deducted from the gratuity which the officer is to be paid on the basis of the final computation."

What we have there is, we are subtracting some very big dollars in terms of purchasing power, from some dollars substantially reduced in purchasing power. I am using that to illustrate the problem of indexation of pensions for inflation and I am noting that it is particularly severe where a person lives many years after retirement.

That apart, Sir, I am generally supportive of the Bill. I see that a contributory factor is novel, but it does seem to me that this would be to the general good and I support.

I thank you, Sir.

Sen. Muhammad Shabazz: Mr. President, as has been said by Sen. Montano, really and truly, we could have no real problem in supporting this Bill. We think it is a very good idea and it is probably coming at an appropriate time. What we do know is that there are certain problems and certain things that the officers are really interested in at this point in time.

We heard Sen. Mark speak about the 80 people who are supposed to be retiring, but I would like to put that in its right perspective. These 80 people are between the ages of 55 and 60, so really and truly, as soon as this Bill is passed, they have to go home. Of course, they agree and they are cool with that.

Now, their problem is: Are they going to have the same problems as people have been having to get their pensions and their gratuities? They would like to know, since it is already known that they are going home, that their money is there, waiting for them. Their main problem, they claim, is an administrative problem. They have problems, for instance, as when they apply for their pensions,

although it is coming up, some people are waiting eight months, nine months and a year for pension and for gratuity. Listen to the problems that imposed.

A man is accustomed to working, getting his salary and going home. Now, he has retired. There is no salary but he has to wait six or seven months to get his pension. The hon. Minister spoke about stress, so the situation, again, has become more stressful. Not only that, they are claiming that since it is known, it should be easy. There should be some system in ministries to ensure that their money is paid to them as soon as they are leaving. There is no such system. Even if there is a system, what happens?

A man is now told when they are checking through that he had sick leave 20 years ago, so they are now going to check out that sick leave because they must have everything correct to make payment. Whilst the man paid his pension and, again, it is difficult to say, "Well, you are blaming this Government", but it is the administration in place now and these are the things it needs to look at.

You see, the thing about being in government which is something we need to look at, everybody could place the blame on everybody else's doorsteps, and everybody does what is required, but when governments come into power, they come into power with the aim of doing certain things and, really, it is no excuse when they are not done.

We expect when we come back into power next year that whatever has been done, we will accept the blame and the responsibility for that. I do not want to be sitting there on that side, looking across at Wade Mark and saying, "When you all were in power for the last five years, you all did not do it."

We heard a contribution today similar to that, a kind of because we say you should have done better, you have to talk about when we were there, who was the Minister and what the Minister did, bringing it down to a whole level of pettiness. It is not supposed to be that way.

The fact of the matter is these people have to wait seven and eight months to get their pensions. They have families to take care of. Now that you know, I want to ask that once we make this Bill law, that is one of the first things you do. You make sure that you get to your department because somebody has to be caring and somebody has to be concerned, whether it is the Minister of National Security or the Minister of Public Administration. Ensure that these people are paid their money. As a matter of fact, it would be such a nice gesture to hand these people their money on the same day they are leaving, if you are still in power.

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Secondly, besides the administration being a bit tardy and the records not being up-to-date, there are other problems with which these people are faced. They said besides sick leave, besides these small things, sometimes a man may have acted 10 years ago and that is now showing up. They felt that if these records were kept properly, when they reached to this point in time, we would not have that problem.

As a matter of fact, there is the retirees association which has been making recommendations and asking for certain things to happen to ensure that all retirees throughout Trinidad and Tobago be paid their pensions and gratuities very early. It is something that you need to look at. It is important. Nobody wants to know that he or she worked to age 60 and to age 55 and he or she cannot get his or her money when it is time to go home.

There is another situation at which they have been looking. Eighty-eight people are going to leave the system. What arrangement has Government made, or is making, to quickly replace these people in the system? Because you are talking about stress. As a matter of fact, we have been told that the prison service is short by as much as 500 people to work the shift to keep it up. Now, 80-plus more people are leaving, what is your recruitment policy for now and the next six or seven months that you would be in power? What is your recruitment policy? How are you going to—because you recognize that the people are under stress and you are going to be taking people out of the system, not putting people back into the system and readily you are going to be creating more stress for those who stay in the system.

Mr. President: There is need for a Procedural Motion.

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 continue to sit until the conclusion of the matter now before the Senate.

Question put and agreed to.

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Sen. M. Shabazz: Mr. President, I was on the question of what system is being put in place with respect to the retirees, the people who are retiring. What system is being put in place?

Sen. Montano made the point that whereas we are running and seeing a number of new police stations going up, with the position comfortable for them: What is happening with the prison service?

Sen. Montano made the point: prison officers working at nights have to sleep on boxes.

6.20 p.m.

With respect to the dormitory situation, why did the Government not look at that situation over the last four years? That is something the Government really needs to look at. Because as you said: “The Minister of Public Administration has the most stressful job.” The Minister did not say in Trinidad and Tobago or the Caribbean, he said: “one of the most stressful jobs in the world.” If that is one of the most stressful jobs in the world you, as the Minister of Public Administration, working with the Minister of National Security, should really be looking into there and try to do something to change the situation or make the situation far better than it now is.

Sen. Montano just told the Minister that many people here would not understand what that prison system is like. I understand it. I have been there on numerous occasions, not as a prisoner, but as a visitor. I have been there as a police officer, and seeing the conditions inside the prisons really is not very nice.

We have been to Carrera Island last year for their calypso competition. There are young people down on that island. Do you know what is sad? There is no sporting equipment for people serving 30, 25 or 15 years’ imprisonment. We sent cricket bats, cricket balls, a matting and a number of different sporting equipment. As a matter of fact Sen. Montano and I are looking forward to getting a table tennis board. As the Minister of National Security, please save us that. Please send a table tennis board with equipment to Carrera.

Sen. Brig. Theodore: Send it and I will send you a thank you note.

Sen. M. Shabazz: I know that. I got from them. I prefer that from you. Please send it down. Mr. President, please, through you, to the Minister of National Security, the Carrera Island Prison needs a table tennis board for the prisoners and the prison officers to play, to have some fun, to recreate. Recreation in the sense of recreating themselves and getting a certain kind of self esteem to make them better people. Besides sending me the thank you card, send the tennis board “nah”. If you do not send it I will again push on Sen. Montano and probably ask

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around in the Senate for a collection to send that board down there. I would try to do it as a corporate thing; all of us doing it together.

Sen. Brig. Theodore: Unified thing.

Sen. M. Shabazz: Unified, nice word.

The Minister spoke about the prison and the stress. Remember the People's National Movement built the prison up there. Mr. President, do you know what is a sad thing? People always accuse this Government of their friends and their people taking all the contracts and doing all that. Do you know what is the biggest problem with the prison? It is the contract with the gate. The prison gate up there is not closing at times. It cuts off just like that. The prison officers have to use force and they say that it is very heavy.

I could say again, and I could say it safely: it is one of their financiers who was involved again, in the building of that gate and the question of the maximum-security gate. Problems. Nearly every contract the Government touches from our time straight to their time is giving a lot of problems. We ask the Government to look at the prison in a very serious way and do something very positive.

With respect to vehicles in the prison, the Government bought 100 vehicles for the police officers. How many are down now, about 58 or 67? Sixty-seven vehicles are down from the last 100 vehicles the Government bought and the prisons do not have proper vehicles. We are talking about medical conditions. Prisoners and prison officers ill and cannot get tablets; health—well it is a little worse now with the nurses.

It was a sad thing when Sen. Mahabir-Wyatt asked the Minister what he was doing about the female officers and he said it was a question of cost why the Government did not look into it. I find that sounds so sad—*[Interruption]* It sounds sad if a prison officer—*[Interruption]* You did not look at that aspect of it. It makes me feel that the Government does not look at things which women are heavily involved in. I am not telling the truth? Maybe that is why the nurses are on the street today, because the Government is not looking at things that women are heavily involved in. *[Desk thumping]* I feel that is the truth.

Sen. Mark: I will respond to you after.

Sen. M. Shabazz: You need to look at that. Because your answer—although you smiled and you could put it in another way—sounds crass, bad and uncaring: “because of a cost, we did not look at it.” It is a female involved. When you should really be taking care of her more, you seem to be doing that less. It is a sad

indictment on what this Government is doing and how the Government does what it does. We cannot blame everybody on that side but most of them.

One of the officers—I would like to quote him—said: “Stress must be coupled with bringing service up to strength.” Both of them go hand in hand. One cannot have a stressful job, in a stressful situation, under stressful conditions, and still do not have anyone there to help man the situation. What was the biggest achievement in the prison? The Government’s biggest achievement is that it hung 10 persons. That is its biggest achievement. What could the Government say that it has done in the prisons and for the prisons besides hanging 10 persons and 10 persons that “yuh” hang—at the end of the day—just like that, this was a big thing—all of a sudden stopped. I am not advocating that the Government goes forward with it, but you, all of a sudden stopped. In truth and in fact that is the Government’s biggest thing.

What are we seeing happening today? I am not making any excuses for the prison officers. When the men escaped on death row, they said that area is not made up as a condemned prison area. The Government is now talking about taking the people up to the new prison. It is not made up as a condemned area. While the Government is glad to lock up people, what about the witness? If a man is a witness how could he feel so safe? I am not saying—Alcatraz. A man escaped from Alcatraz. People, really, will escape from any prison, but the thing is happening so often here that the Government needs to look at it. Maybe the situations that we have outlined here, if you could look at them, would help you to deal with that situation much better.

Witnesses in cases are not feeling safe, because of the way people are escaping from prison. Families having to hide: wives, mothers, because of that same escape situation that the Government seems to be doing absolutely nothing about.

Mr. President, there are a number of other things that need to be done. We need to see this situation taken in a very serious way. We need to see what is happening in the prisons; not only for the prison officers, although we say yes, we commend the Government for bringing this Bill to the Parliament. We commend the Government for ensuring that the prison officers could go home earlier. The Government needs to do something to strengthen the Prison Service.

There are a lot of other things, a lot of other retirement programmes. We look at the Trinidad and Tobago Electricity Commission’s Programme (T&TEC). What is the Government doing for the retirees?

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Mr. Minister of National Security, through you, Mr. President, you know I love to tell you about the Special Reserve Police Officers (SRPs). Maybe the Minister would make a note and say something again. What about these SRPs who have to retire? The T&TEC people with the provident fund—I keep hearing this, and it is a situation that we will address soon. We keep hearing about the police force, the firemen, and now the prison officers. A situation which the Government needs to look at very carefully and effectively is really the army/coast guard situation. The Government needs to look at better conditions, better salaries—everything, which we are going to deal with. That is the truth, but the Government needs to look at that.

Every time I talk about the army although, in truth and in fact, I would like to say that the hon. Minister of National Security is a nice and pleasant person, it hurts me to think that he is an ex-commander of the army and he seems to have so many problems in the army. It is hurtful. However you appeal to him, he always says: “Yes it is going to be done.” Sometimes he may reach out, but not sufficiently. He needs to reach out a lot more for the protective services in this country.

6.30 p.m.

Mr. President, having said this, I would just ask them to work on it. We are giving the Bill our support; we already said that. I know that when the Minister of National Security gets the opportunity again he would say what the People's National Movement did or did not do and why we should not have done that this way, but this is, indeed, serious business affecting the security of our country. I ask the Minister to be serious; if he wants to assist public servants and people in a serious way, here is an opportunity to do it.

Let him tell us how he proposes to deal with the prisons and if he could give that kind of information I, too, would be willing to sit here and respect his contribution.

Thank you, Mr. President.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. President, I would just like to intervene and make a few comments on this Bill, with particular reference to what was said by Sen. Montano. I must say that as the person responsible for the prisons, I am very glad to hear Sen. Montano say what a good job the prison officers are doing. I know he sought to emphasize the disadvantages under which they work. This is a matter that we are aware of and are trying to address.

The shortage among the prison officers is simply 116, not 500 or 800. Again, it is because people make up numbers as they go along, it seems, but the important thing is that the prison system, I am afraid, is really working in the past. Although we have a maximum-security prison which has, I would say, about 700 prisoners right now, the way the prison officers have to work in Port of Spain, it gives very little relief. Even if we reduce the prison population by another 800 in Port of Spain, what the Commission tells me is that the same number of prison officers would be required the way the place is constructed. This is unlike the maximum-security prison, which is an electronically operated, high-tech prison and would require less people; but over the last three years, officers have been trained to man the maximum-security prison.

Where we are today, is to see why more prisoners cannot be sent to the maximum-security prison. I may as well say now, Mr. President, I did check when the suggestion came up about moving the Death Row prisoners to the maximum security prison; that is not a practical exercise, because the cells at the maximum security prisons are made to hold a minimum of three prisoners. They could hold up to four by putting an extra bunk. Each condemned prisoner has a cell of his own, and we have over 40 condemned prisoners. If we take 40 cells away from the maximum-security prison, if we multiply that by three, you are taking away that much more.

In any case, we envisage that with the transfer of more prisoners—our target date is over the next six months—to the maximum security prison, it will certainly make the crowding situation in Port of Spain far more manageable; in fact, it should even it out. I will try to get some numbers and come back here at an appropriate time and give this Senate an idea of what the prison population is, *vis-à-vis*, the prison officers.

I myself have complimented the prison officers on the way they carry out their work. It may seem somewhat contradictory to say that we have no shortage of recruits to be prison officers. Prison officers, in the main, tend to stay in the system for many, many years, virtually up to retirement. That is why this Bill brought by my colleague is very useful because police and fire officers already enjoy these benefits of an earlier retirement age and there is the possibility that the way the retirement system goes, that if you retire before the mandatory age you do not get your pension; you have to wait. For somebody to leave a job and then have to wait for his or her pension is not going to work. But to have these men and women stay on, on a compulsory basis, for that extra five years could be very

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problematic for the individuals. As we all acknowledge the prison system is a very stressful one. I am glad to say that to date they have been working very well.

I am not too bothered by the comment that prison officers who work certain shifts, as mentioned by Sen. Montano, in Port of Spain, and decide to stay over at the prison that they would be required to serve if something happens because they are there. Well, obviously, you are a member of the prison service, you are on spot, and you are like a reserve. This is something that used to happen at police stations.

I recalled that years ago, perhaps, when Sen. Shabazz himself was in the service, officers, single officers particularly, remained at stations at night. They were not rushing to go home because that was their home; they were police officers. As young officers they remained there with their friends and the people from their batch; they spent more time at the station. What that did for the police service was to give them that many more officers who could respond in the event of a problem. Of course, they did not get overtime for sleeping there, although we know that at some stage, at least, many years ago, that officers who stayed over at the station would put it down in their diary as part of their ongoing duties. That really created some problems with overtime, and I believe that has stopped. So police officers who leave duty, do not hang around, they go home.

Another problem we are trying to deal with that was brought to my attention, is that, these officers do not go home in uniform, so you could see more police on the road; they hang up the uniform in the barracks and go home in civvies. So, there is a problem and I am glad to hear that officers are prepared to stay over at the prison. I quite appreciate that accommodation should be looked at. I am glad that these points came out, because I am quite prepared to address many of the situations that came up here this evening to see how we can make the accommodation and the arrangements under which these prison officers work, much better.

As we all know, dealing with prisoners is certainly something that is designed for people with a particular type of training. The training that is now given to prison officers includes training in psychology, dealing with the prisoner and speaking with the prisoner. I think I said a couple years ago, that it is no longer a baton and physical activity, as far as prisoners are concerned, but it is more counselling and trying to talk to the prisoner until you can get that fellow unto somebody who can, perhaps, deal with his problems. Again, this is not a guarantee, we cannot say that everybody would respond to a prison officer speaking to him, and not every prison officer would think that talking to a

prisoner is the way to go. Nevertheless, we have changed the training system and what we are attempting to do now is establish a training school for prison officers.

In the past, they were actually using the compound of the maximum security prison to do their training and they would pass out at the Golden Grove Prison, which is the minimum security prison. Now that the maximum security prison is being occupied, it is no longer available, so we are making arrangements to get a venue where they can do their training and where the entire training network can be set up.

I was glad to hear Sen. Shabazz talk about retirees receiving their benefits. I am sure he is simply echoing what we all would like to see happen. It is difficult for somebody who is accustomed to drawing a certain remuneration every month, to leave the job. Unless something is waiting for him outside in another place, that person would then be without an income. So the matter of payment of benefits is surely something Sen. Mark would have noted as well, very much as I did.

We know that there is stress, but it is difficult to say that it is unacceptable. Stress affects different people differently and one cannot simply make a blanket statement; it is a stressful job. I think that the very positive manner in which prison officers carry out their duties and most of the time when I meet and speak with them, they are very positive. I think that most of them are coping but, of course, we have to deal with the few who cannot.

Regarding this whole issue that came up with the police service, some time ago, concerning a psychiatrist to work with the police and welfare officers when Sen. Mahabir-Wyatt spoke of an employees' assistance programme; as we know, Sen. Mark is developing a programme right now and we have to wait until we get some guidance. We are putting in place in-house measures and small teams to be, at least, the first contact should something be a problem, as far as prison officers go. The same applies to the police and the Defence Force. Again, it is not as sophisticated as we would like it. We are recruiting people and, in fact, right now we are looking at the contract for Dr. Bonterre to see whether or not he should be assisted, because we would like to keep him on.

As far as a medical facility goes at the prisons, we are also negotiating with the North West Regional Health Authority to get another doctor on contract. There are doctors who work at Port of Spain and Golden Grove, but then, with the advent of the maximum-security prison where there is an infirmary and a small medical facility with several beds, we need to get another doctor. Again, slight problem; I cannot go to the Ministry of Health and say, "Send me a doctor." We

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have to go out and negotiate with the regional health authority to get one of their doctors to go out and do the work.

Again, it is not something that we have ignored and we are certainly not waiting for a riot or something to go awry at the prison before we do something about it. It is quite easy to anticipate. As we know, the situation has been developing over time and that is the very reason the maximum-security prison was built. As I have always said, I would much prefer if we do not have to build any more jails, but that new systems are put in place to reduce the incidence of crime. I will keep saying that, because I feel it is the only way to go.

Sen. Shabazz mentioned that we are not doing anything about their pay, but I remember only the year before when the negotiations were completed that there was a buy out for the years 1990—1995 and the prison, police and fire services went on new rates for 1996, 1997 and 1998. This was negotiated by this Government and it was not that the matter was being ignored and allowed to continue, but we felt that there were certain things that needed to be addressed immediately and brought under control before the situation got worse. When we are dealing with people it is important that we look after their welfare, pay and general well-being. This is all part of the job.

As I said earlier, I am glad to say that we have no shortage of recruits for the prisons and we are going to continue trying to give them the best training we can. Based on the points raised today, I would certainly be looking into the points raised concerning the sporting equipment at Carrera Prison. I welcome and would certainly join with anyone who wishes to assist to make their conditions better. We are trying to get another doctor and concerning the matter of infection, I trust that the doctors would deal with matters like that.

I am certainly concerned about the fact that no promotional exams have been conducted, according to Sen. Montano, and that people do not get the full series of hepatitis injections. The fact that people do not get the full series of hepatitis injections; you need to take three over a six month period, and one by itself is not enough. If you take two it is not going to work, you must get all three.

All in all, I appreciate the points that were raised today and I welcome the comments, and I will certainly be looking into these matters.

Thank you.

6.45 p.m.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I take this opportunity to thank all my colleagues on the Opposition and the Independent Benches who spoke on this very important matter, and to add to what Sen. Brig. The Hon. Theodore, our National Security Minister, has said on some of the points that were raised.

Mr. President, I think it is a bit misleading to indicate that prison officers work a 44-hour week, it is not a fact. Prison officers work a 40-hour week in Trinidad and Tobago, any hours after 40 hours are subject to overtime payments, so I think it is important that we advise some of our colleagues. It is important that we know this.

Exams, as was mentioned by the Minister of National Security, are set by the service commissions. Promotions are made by the Public Service Commission and based on some of the concerns expressed about the gaps that have emerged in holding these exams and the problems of promotion, I wish to inform Senators that I meet with the Public Service Commission every two months in discussions with them because, as you know, my ministry is a very major, central, human resource agency and the Public Service Commission is almost the key human resource management agency in the public service of Trinidad and Tobago. We meet, collaborate and exchange ideas on a number of issues that affect us in the whole thrust towards public service transformation, so I will certainly raise these issues at the next meeting about the examinations not being held regularly and the question of promotion.

Mr. President, one of the things we had been advocating is a system of meritocracy in our public service and to get rid of, or to reduce, and eventually eliminate completely, the principle of seniority, and that seems to be still imbedded in the regulations that govern promotional opportunities in our public service. If there is a system based on merit, a lot of the discrimination about which people complain, and a lot of difficulties that people confront would be addressed much more speedily, and as we said, even though this Government is responsible for the delivery of goods and services to the people who would have elected us, we do not have control over the human resource base in the public service of Trinidad and Tobago and that is an area which we are discussing with the Public Service Commission to see to what extent they can delegate more authority to line ministries in terms of promotion, and discipline. Give authority to those people who are responsible for managing those ministries—in this instance,

the permanent secretaries, heads of departments and the technical officers—so that they can take decisions on the spot.

Mr. President, sometimes it pays to be punished in the public service. I know of about five cases where, by the end of this year, five persons are going to be graduating. Some with MBAs and some doing external degrees and they are on suspension in the public service. For six, seven and eight years they are on suspension with full pay in the public service: first degree, second degree and doing external law degrees as well. So we are concerned about these things because people in this country are demanding value for their money. They do not want the shabby kind of treatment to which they have grown accustomed, their expectations are very high, and they demand service, but we do not have control over our human resources and that is an area we are looking at and discussing with the Public Service Commission.

I make reference to a point that Sen. Dr. St. Cyr made which is very important, and it is the principle of indexation and inflation versus pensions. It is an area, as he has also pointed out, that is at least being addressed by the Government. The Minister of Finance has already indicated to this country that we want to reform the entire pension system in this country. He has gone through the first phase in terms of revising the rates, contributions and benefits that people enjoy under the National Insurance System, and the second phase is the one that he is addressing now, and of course, we have to hold discussions with all the relevant parties including the unions that represent public officers in the system. That is an area that we are in fact, paying attention to, but the question of indexation is very important because we know for a fact that even retirees who left the public service are under severe stress and the Minister of Finance, as you may recall, made some efforts—maybe limited—to see how we could at least provide some assistance to these retirees. People who are great principals, and who have made great contributions to our country are on meagre pensions, and as Sen. Dr. St. Cyr has said, the cost of living, hard times and so forth, given the rate of pension that they enjoy, erode the ability to live a decent life in this country. So it is an area about which we are concerned and the Minister of Finance is, in fact, addressing that particular matter in trying to upgrade and bring into being a comprehensively reformed pension arrangement in Trinidad and Tobago.

In terms of the rules, Sen. Dr. St. Cyr raised the question that he is of the view that rules ought not to be in legislation, they should be in regulations. All we are trying to do here, is to bring the prison officers on par with what exists in other services. If one looks at the Police Service Act, the Fire Service Act, one will see

the same rules being appended in terms of a schedule. So it is already in existing legislation, but I think what he was advancing is whether, for instance, they need to be there at all and whether they should be placed in a body of regulations, but that is a matter we can always revisit in the future.

The question that Sen. Shabazz raised that when people leave they should enjoy their pensions immediately. Mr. President, I went on record as saying I want to open a new chapter in industrial relations in the public sector. When, for instance, an industrial agreement expires, we can have one being triggered immediately, but we do not have a firm. Government is not a corporation, it is not a business in that strict sense and whereas, I thought I would have had some revenue and the Minister of Finance would have been able to help me so I could have had my negotiations concluded, the price of oil collapsed from \$14.00—\$15.00 last year to about \$8.00—\$9.00 and that really torpedoed my whole plans to have negotiations started very early in 1999 so that we could have concluded those negotiations by the end of 1999. It is something I would have liked to see, but I am not in control of some of the major factors that impact on our livelihood and advancement as a nation.

One of the things we are trying to do because the public service is still manually driven in many respects, and the Minister in the Office of the Prime Minister, Sen. Gillette, is into a process where we are seeking to purchase a communications backbone for the entire public service where we could begin to connect all our offices and the introduction of a Human Resource Information System that can deal with providing up-to-date, speedy information so that people can take decisions quickly so we will know in advance, long before Sen. Shabazz retires, or anybody else, so that they can prepare for their retirement.

There are slippages taking place from time to time, but the Comptroller of Accounts, Treasury Division, I must say have been doing a fairly good job in the circumstances with which they are faced. For instance, while there may be some complaints here and there, the bulk of the public officers, and you are talking about close to 70,000 public officers, not to mention the 35,000 daily-rated workers in the system, do receive their retirement benefits relatively on time, but some, I must admit, go months after. There are some cracks, but as I am saying, as we revolutionize our system and put technology into that system, we would be able to deal with more efficiency and speed in the delivery of services because the decision-making process would be much speedier than it obtains now.

We had inherited a manual system and for 35 years the PNM was there and did nothing about the system. We are now seeking to introduce a proper, modern,

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public service in terms of what we want to establish. I agree with Sen. Shabazz that we need to ensure that our retirees—it does not matter whether they are prison officers, police officers, fire officers, army personnel—must be compensated and receive their superannuation benefits upon retirement. We have no problem with that, but the whole system of succession planning in the public service: leave, administration, retirement benefits, are going to be much more easily addressed and administered when we introduce our Human Resource Information System (HRIS) in the public service of Trinidad and Tobago.

I want to tell you that some millions have been allocated in this year's budget under my ministry to purchase the HRIS system. So Sen. Shabazz, you will be around in Opposition when that system comes into being in the year 2001. *[Laughter]* I agree that we have to deal with these matters as quickly as possible.

Mr. President, I also want to add to what my hon. Colleague, Sen. Brig. Theodore has said. We have taken a decision to introduce a public service wide Employee Assistance Programme (EAP) and we have contracted Petrotrin, which is the leading agency in our country that deals with EAP. They are well-recognized regionally and internationally and we have given them a consultancy contract to do that feasibility study on the introduction of a public service wide Employee Assistance Programme. It has cost taxpayers about \$360,000 and within a period of about four months, we are going to have a report, not only for monthly-rated workers, but also daily-rated workers in the system. We want to look at the emotional, psychological, and mental stresses that people experience, we want to deal with that in our public service. That is on stream.

Mr. President, I deal with one final issue that was raised by Sen. Shabazz. Sometime ago there was an article in one of the newspapers in which the distinguished Leader of the Opposition made a statement and it was almost repeated here this afternoon when Sen. Shabazz raised the question about nurses, and we do not care about nurses, females and so forth, because of the point made earlier by Sen. Mahabir-Wyatt.

7.00 p.m.

Mr. President, it is wrong to say that these public officers have been working on 1983 salaries. This is what, for instance, is being peddled here in the society, by somebody who is preparing himself for the prime ministership of this country. He said he wants to be Prime Minister but is misleading the country. Because it is wrong to tell the country that policemen, teachers, fire officers, prison officers, civil servants, daily-rated workers and members of the statutory agencies of this

country have been working on 1983 salaries. When, Mr. President, the evidence is clear.

In 1987, the Industrial Court Special Tribunal awarded a two per cent increase to public officers. It was effected in 1989. Okay. That was for the period way back that public officers did not receive payment, I think, between 1987 and 1989. And they got a two per cent award or increase. It was the PNM government that refused to provide that special tribunal award package to civil servants. They did not apply that to civil servants. It is when we came into office that we applied the special tribunal award to civil servants in this country. In addition to applying that civil service tribunal award to civil servants in this country, this Government, in less than two years, was able to settle three different collective agreements: 1990 to 1992; 1993 to 1995; 1996 to 1998, costing this country close to \$1.2 billion in cash and bonds. We did that in two years!

So public officers—whether you are a policeman, a fire officer, a prison officer, a teacher, a firefighter, a civil servant, got increases in salary for the period 1990 right until 1998. We are now into a new round of negotiations for 1999 to 2001. So it is wrong! It is misleading! It is dangerous to go about peddling that kind of misinformation that policemen and teachers would shortly be joining nurses on the streets of Trinidad and Tobago because they are working on 1983 salaries. I find that is destabilization tactics on the part of the Opposition. Trying to inflame the population with misinformation when they know that that is not so. But that is the Opposition. I just thought I should make that point because it is not fair to the Government and the country for a responsible Leader of the Opposition to be going about the place saying that people have not received increases in salaries since 1983 when he knows differently.

I think that I have said enough on the matters before this honourable Senate. Again, I would like to thank everyone for intervening and making their contribution. In so doing, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 9 ordered to stand part of the Bill.

Sen. Dr. Cyr: Mr. Chairman, I was just asking whether clause 9(3) is intended to be as strict and as tight as that, on proclamation, all persons 55 and over, shall retire.

Sen. Mark: Mr. Chairman, the prison authorities have been preparing for this measure for at least one to two years now. So they have put certain systems in place to facilitate these officers movement out of the system. I want to tell you that because of the stressful nature of the job in question, a lot of these officers are very anxious to go. They are waiting on this Bill to be assented to for them to leave. The point about it is that what we understand—based on our investigations and what we know taking place in the system—is that steps have been taken, and measures have been put in place to ensure that it is a smooth transition when officers who would have really reached age 55 and beyond in the system, now want to leave the system. They are anxiously looking forward to this measure.

Sen. Dr. St. Cyr: I receive what you said but suppose there is one person 55 years and over, who would like to continue to 60 as the rules now permit, would he be allowed?

Sen. Mark: This is what I am saying, the prison officers have been informed of this development. They have been crying for this since 1989, so they are aware of this measure. When you reach the age of 55 or 60 to retire there can be no equivocation about your remaining.

7.10 p.m.

There is no transition period. You leave at age 55, you leave at age 60 and what we are saying, Mr. Chairman, is that this matter is long in the making and they are anxiously looking forward to have this promulgated into law so that they can move on to a new vista in life.

Sen. Dr. St. Cyr: Not wishing to prolong it, Sir, there is an element of retroactivity in it. All I was wondering is, I am just making sure that we know what we are doing. I thank you, Sir.

Sen. Rev. Teelucksingh: It is a concern but we have noticed, Mr. Chairman, that there are people who are anxious to go on retirement and we find them being contracted and they come back. Now, are you saying for sure to all of these officers that, “If even, after retirement, you are interested in coming back, we do not have a contract system no matter how precious your experience might be”?

Sen. W. Mark: Mr. Chairman, it all depends on the circumstances because there are public officers who retire from the service and they come back in on

contract. So if for instance the prison service deems it fit to bring somebody on contract, they would be free to do that. But I get the impression, from what Dr. St. Cyr is saying, is that he wants to know whether, for instance, there could be flexibility as it relates to the 55 year period in terms of the age limit whether, for instance, the person if he or she wants to stay two months after age 55, or if the person is 56 and he or she wants to stay two months later, whether the person could stay. The policy in this Bill is that once this Bill becomes law, those people leave the system and if they want to come back in on contract, that is a matter for the Prisons Authority and the Ministry of National Security.

Sen. Dr. St. Cyr: I hear and I receive but there is a little retroactivity because, as of now, the retirement age is 60 and you are changing it to 55 and you are applying it, so you are actually changing the conditions of service of people now. Although it is to their benefit I am just saying, should there be somebody who says, "Hear me, my terms now enable me to go to 60. Do I have the flexibility?", what then?

Sen. Mark: Mr. Chairman, all I am saying is, this matter was the subject of widespread consultation with the associations representing the First and Second Division officers of the prison service and they are in full support of this measure, so they have done their work. The prison authorities, from what I have been informed, Mr. Chairman, have done their work and they have established an administrative arrangement to deal with this issue. So I understand what Dr. St. Cyr is saying. If the prison authorities wish to have these people back on contract it is a matter for them and the Ministry of National Security.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clauses 10 to 12 ordered to stand part of the Bill.

Clause 13.

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

Sen. Dr. St. Cyr: Sir, I was just asking, I see that we are bringing this under the Salaries Review Commission. Is this the method by which posts are brought under the Salaries Review Commission, by legislation, or is it in the Constitution?

Sen. Mark: I am informed, Mr. Chairman, that the offices that are being prescribed to go under the Salaries Review Commission are already under the purview of the Salaries Review Commission.

Question put and agreed to.

Clause 13 ordered to stand part of the Bill.

Clause 14 ordered to stand part of the Bill.

Clause 15.

Question proposed, That clause 15 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the Minister.

Sen. Mark: Mr. Chairman, I beg to move that clause 15 be amended by inserting after the word, "President", the words, "subject to section 134 of the Constitution".

Mr. Chairman, under rule 12(1) I did indicate earlier on that under section 134(1) of the Trinidad and Tobago Constitution, there is a provision that if one is going to withhold or reduce in any amount or suspend any benefits to which the section applies, that the powers shall not be exercised without the approval specified in subsections (2) or (3). In subsections (2) and (3) of this section 134(1) of the Constitution, the service commissions do have a role to play in granting approval to the President before reducing or suspending pensions of persons. So, in this regard, Mr. Chairman, we are proposing that we amend rule 12 by inserting, after the word, President, the words, "subject to section 134 of the Constitution". So that, for instance, whatever the President is doing he would have to be guided by section 134 of the Constitution and be subject to that section.

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

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

Senate resumed.

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

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, before moving to adjourn this honourable Senate, I take this opportunity on behalf of our Senators here, on the Government Benches, to wish

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families of our Senators opposite, Independent and Opposition, and all our friends on this side, a very happy and holy Easter.

We also want to take this opportunity to extend, on behalf of all our Senators here, like you, greetings to Sen. Nafeesa Mohammed and her new baby boy. We wish him the best of health and the best in the future.

I also would like to inform fellow Senators that we are going to be dealing with the Civil Aviation Bill at the next sitting of the Senate. We are also going to be dealing with the Plant Protection Bill and the Education (Amdt.) Bill on which we had started debate. I know the President has advised me that there is some matter that we have to address and we shall be addressing that matter before we continue with that debate, Mr. President. So I want to inform fellow Senators that those are some of the matters that we are going to deal with when we next meet.

I beg to move that the Senate do now adjourn to Tuesday, May 2, 2000 at 10.30 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.20 p.m.