SENATE

Tuesday, May 16, 2000

The Senate met at 10.32 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 granted to Sen. Philip Marshall during the period May 14, 2000 to May 31, 2000.

SENATORS' APPOINTMENT

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

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MRS. LAILA SULTAN-KHAN VALERE

WHEREAS Senator Philip A. F. Marshall is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, LAILA SULTAN-KHAN VALERE, to be temporarily a member of the Senate, with effect from 15th May, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator A. F. Marshall.

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 May, 2000.

OATH OF ALLEGIANCE

Sen. Laila Sultan-Khan Valere took and subscribed the Oath of Allegiance as required by law.

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the honourable Senate to introduce a new Dangerous Dogs Bill, 2000 and in accordance with Standing Order 61 seek the withdrawal of the previous Bill.

Mr. President, as you would recall the Government had introduced a Dangerous Dogs Bill which underwent major amendments in this Senate, and as a result of that development, a new Bill was passed in this Senate and in the other place which required a specified majority. As such, the previous Bill that was introduced would have to be withdrawn under Standing Order 61 of the Senate.

Mr. President, I so move.

Question put and agreed to.

DANGEROUS DOGS BILL

Bill to provide for regulating the keeping of dangerous dogs which present a serious danger to the public; to make further provision for ensuring that such dogs are kept under proper control and for connected purposes, brought from the House of Representatives *[The Minister of Public Administration]*; read the first time.

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

Question put and agreed to.

PAPERS LAID

1. The Annual Report of the Venture Capital Incentive Programme for the financial year ending September 30, 1999. *[The Minister of Public Administration (Sen. The Hon. Wade Mark)]*.

2. Second Status Report on the Implementation of the Death Penalty in Trinidad and Tobago March, 2000. *[Sen. The Hon. W. Mark]*

3. Report in respect of the activities and the audited financial statements of the University Students Guarantee Loan Fund for the year ended December 31, 1998. *[Sen. The Hon. W. Mark]*

4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Programme of Institutional Strengthening of the Women's Affairs Division of the Ministry of Culture and Gender Affairs for the year ended December 31, 1996. *[Sen. The Hon. W. Mark]*

5. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Deposit Insurance Corporation for the year ended September 30, 1999. *[Sen. The Hon. W. Mark]*

6. Report of the Auditor General on the public accounts of the Republic of Trinidad and Tobago for the financial year ended October 01, 1998 to September 30, 1999 and on other selected audit activities. *[Sen. The Hon. W. Mark]*

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper in the name of Sen. Prof. Julian Kenny:

Queen's Park Savannah
(Extension of Paved Area)

12. A. Could the Honourable Minister of Culture and Gender Affairs inform the Senate whether the National Carnival Commission was granted approval to extend the paved area in the Queen's Park Savannah to the west and south west of the Paddock Area by the Town and Country Planning Division as required under the Town and Country Planning Act, Chap. 35:01, Section 8.

B Could the Honourable Minister also inform the Senate:

i. whether the National Carnival Commission was granted a licence under the State Lands Act, Chap. 57:01, to dig and remove material from the Queen's Park Savannah;

ii. of the estimated volume and commercial value of the material dug and removed and the details of its disposal.

Queen's Park Savannah
(Boundaries of)

13. Could the Honourable Minister state of Culture and Gender Affairs:

a) the precise boundaries of that portion of the Queen's Park Savannah over which the National Carnival Commission has been given authority;

b) the nature of the transfer of authority and the terms and conditions of the transfer of authority;

c) whether curbs and drainage systems have been incorporated into the newly paved area;

d) the total area now paved and the costs of this paving?

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, if I may, with agreement, we are seeking the deferment of questions Nos. 12 and 13 for one week.

Questions, by leave, deferred.

10.40 a.m.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the honourable Senate to deal with Motions 1, 2 and 3, but I would like to go to Motions 2 and 3 first, and then refer to Motion 1 before referring to "Bills Second Reading".

Question put and agreed to.

DISTRIBUTION OF ESTATES BILL
House of Representatives Amendment

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I beg to move that the House of Representatives amendment to the Distribution of Estates Bill be now considered.

Question proposed.

Question put and agreed to.

House of Representatives amendment reads as follows:

3 Delete clause 25(3) and substitute as follows:

"(3) A surviving cohabitant claiming a share of the estate of an intestate under this section shall, within twenty-

eight days of the death of the intestate, file with the Registrar of the Supreme Court a notification of interest as the surviving cohabitant and, within three months thereafter or such other time as the Court considers appropriate having regard to all the circumstances, obtain an Order from the Court affirming the cohabitational relationship with the intestate and stating the quantum of the share of the estate to which the cohabitant is entitled.

(4) The Rules Committee shall make rules for matters arising under this section.".

Sen. Kuei Tung: Mr. President, as you are aware, this matter had already been dealt with by this honourable Senate and, on being sent to the other place, clause 3 had been tightened to allow for some flexibility by the court. Therefore, I beg to move that this Senate agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

SEXUAL OFFENCES (AMDT.) (NO. 2) BILL
House of Representatives Amendments

The Minister of Finance (Sen. The Hon. B. Kuei Tung): Mr. President, I beg to move that the House of Representatives amendments to the Sexual Offences (Amdt.) (No. 2) Bill be now considered.

Question proposed.

Question put and agreed to.

House of Representatives amendments read as follows:

18 Insert after proposed clause 31 the following new clauses

"Obstructing prosecution

31A. Where a person prevents a minor from--

(a) giving a statement to the police; or

(b) testifying,

in proceedings relating to a sexual offence, he commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for a term of ten years.

Admissibility of minor's statement

31B. (1) Without prejudice to any other written law, where the Court is satisfied that a minor is being prevented from giving evidence and where a statement is made in any written form or manner by a minor, or written in any form or manner by another person on behalf of the minor, and upon the dictation of the minor, that statement may be admissible in a trial as evidence of any fact of which direct oral evidence or the minor would be admissible.

(2) The Court may admit into evidence the following statement made by a minor:

(a) a statement made to and written by the police;

(b) a statement made in the form of a statutory declaration;

(c) a statement written by the minor herself;

(d) a statement written by another person on behalf of a minor who cannot write.

(3) The following provisions shall have effect in relation to any written statement of a minor tendered into evidence under this section:

(a) the minor shall state her age and that an adult of her choice was present with her when it was made;

(b) if the statement is written on behalf of a minor, it shall be signed by both the minor and the person who wrote it and it shall be dated'

(c) if the statement is written on behalf of a minor who cannot write, the person who wrote the statement shall read it to the minor before she puts her mark or

thumbprint on it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and that she appeared to understand it and she agreed to it;

(d) if the statement is written on behalf of a minor who cannot read, the person who wrote the statement shall read it to her before she signs it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and she appeared to understand it and she agreed to it;

(e) if the statement refers to any other document, the copy of the statement given to any other party to the proceedings shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect the document or a copy of it.

(4) The prosecution shall give a copy of the statement to any other party to the proceedings ten clear days before the prosecution tenders it into evidence.

(5) Any document or object referred to and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in Court by the witness.

(6) A minor whose written statement is tendered in evidence under this section shall be treated as a person who has been examined by the Court.

Statements in Documents that appear to have been prepared for purposes of criminal proceedings or investigations

31C. (1) Wihout prejudice to any other written law, where a statement referred to in section 31B, appears to the Court to have been prepared for the purposes of--

(a) pending or contemplated criminal proceedings; or

(b) a criminal investigation,

the statement shall not be tendered in evidence in a trial without leave of the Court, and the Court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice.

(2) In considering whether the admission of a statement under subsection (1) would be in the interest of subsection (1) would be in the interest of justice, the Court shall have regard—

(i) to the contents of the statement;

(ii) to any risk of unfairness to the accused, or if there is more than one accised to any one of them, if it is likely that the statement can be controverted and the person making the statement does not attend to give ort\al evidence in the proceedings;

(iii) to any other circumstances that appear to the Court to be relevant.

(3) A written statement mentioned in this section shall be tendered in evidence by the prosecution anytime before the prosecution closes its case against the defendant—

(a) if the statement is written by the minor, by the prosecution submitting the statement to the court; or

(b) if the statement is written on behalf of a minor, by calling the person who wrote the statement to put the statement into evidence.

(4) Where a statement is tendered into evidence under subsection (2), it shall be read to the Court, and the defendant is entitled to challenge its admissibility before it is admitted into evidence.

(5)Where the defendant exercise his right under subsection (4), the Judge or Magistrate shall conduct a *voir dire* and decide whether the whole or any part of the statement is admissible into evidence.

False written Statements Tendered Evidence

31D. A minor who, in a written statement tendered in evidence under section 31B wilfully makes a statement in those proceedings which he knows to be false or does not believe to be true commits an offence and is liable on summary conviction to commital to the Youth Training Camp or some other similar institution for one year.

Sen. Kuei Tung: Mr. President, as you are aware, the Sexual Offences (Amdt.) (No. 2) Bill was passed in this honourable House on Tuesday, December 17, 1999. Since that time, this Bill had been considered by the other place and it was found that these amendments became necessary for the Bill to be more explicit in the way it dealt with minors. The procedures, therefore, in terms of this amendment have been spelt out in clear and explicit terms to ensure that the procedures are well known and understood so that there will be no ambiguity.

The language used here is fairly simple and I wish to recommend it to this honourable House. I, therefore, beg to move that this House agree with the House of Representatives in the said amendments.

Question proposed.

Sen. Mahabir-Wyatt: Mr. President, the hon. Minister of Finance has just said that the reason for this amendment is to make sure that there is no ambiguity in dealing with minors when it comes to sexual offences, but I am afraid that the actual wording of this amendment has produced more ambiguity than existed before. I hope that we can do something to sort this out this morning.

It is necessary to have something in the Act to deal with violence against minors, and the police have had really great difficulty, particularly because where it comes to sexual offences against minors, very often the parents of the children tell the children not to report it. I want to make it quite clear that I am talking about the mothers of the children. Very often, they are the ones who refuse to allow any statement to be made in reference to the offence that has taken place against their children. They usually refuse to allow this out of fear, but sometimes, there are other reasons. They just want to protect the child against having to go to court. There are many reasons but, as a result, there is a very high incidence of recidivism in sexual offences. This is known throughout the world.

10.55 a.m.

Someone who is a child sexual molester very rarely stops at one child. One of the reasons why we need to have something very clear and unambiguous—just as the hon. Minister said, in relation to dealing with minors and statements by minors—is because we have to overcome the social reluctance that people have, for whatever reasons—sometimes for very good, protective, maternal reasons—not to report such instances. Because it means that other children are going to suffer the same thing.

Having said that, I would like to just go right through this, if I can, and comment. To start off with the new clause 31A. I want to emphasize that in the new clause 31A we have a statement saying:

> "Where a person prevents a minor from—
>
> (a) giving a statement to the police; or
>
> (b) testifying,
>
> in proceedings relating to a sexual offence,…"

We are talking here about a sexual offence, so there is no ambiguity there. I just want to mark that point, because further down it does become a bit murky.

When you get to new clause 31B(1)—I know this goes against all my principles to bring this up, but I have been arguing for years that insofar as legislation is concerned, we should not have that totally illogical rule, that the male contains the female, because as far as I know, no male has ever contained a female, whereas every male, at some time or another, was contained in a female before birth. However, having said that, the normal language of legislation is to use the term "he", which implies "she" as well. I would prefer that we use he and she. However, in new clause 31B(1), all the way through, it is assuming that only girls are victims of sexual offences. Mr. President, this is not so, we have many, many instances of boys; minors from as young as two years old, being sexually molested. If you just look, for example, at the bottom of page 2, new clause 31B(2)(c) states:

> "a statement written by the minor herself;"

It means you are excluding boys because, according to the legal niceties of drafting, "her" does not include "he", although if you spell it out, it obviously does. However, this also happens under new clause 31B(3), which states:

> The following provisions shall have effect in relation to any written statement of a minor tendered in evidence under this section:
>
> (a) the minor shall state her age…with her when it was made;
>
> (c) if the statement is written on behalf of a minor who cannot write, the person who wrote the statement shall read it to the minor before she puts her mark…on it."

We will have to change this all the way through or put "his or her". I would prefer, Mr. President, if we put "his or her", or some neutral term. I know that I cannot change the world and the legislative procedures overnight, but it means that if it is not changed, it is going to exclude a whole lot of children who are being sexually abused.

I also want to raise a question in relation to new clause 31C(1)(b). Let me just try to be very unambiguous as to why I am concerned with this. New clause 31C(1)(b) says:

> "…where a statement, referred to in section 31B,…"

Can I just remind you that 31B is talking about sexual offences? New clause 31C(1)(b) says:

> "…appears to the Court to have been prepared for the purposes of—
>
> (a) pending or contemplated criminal proceedings; or
>
> (b) a criminal investigation,
>
> the statement shall not be tendered in evidence in a trial without leave of the Court, and the Court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice."

I want to know why this is necessary. What else would a statement such as is envisaged by this amendment, in other words the statement done by a minor or on behalf of a minor, in a case of a sexual offence, what is it going to be used for, other than being tendered in evidence in a trial, in a criminal investigation, or in contemplated proceedings? The implication is that the court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice. The implication here is that there are other purposes, other than the interest of justice, for which these statements can be used. I do not understand what other purpose there could possibly be. It is laying open the possibility that no action would be taken in relation to a sexual offence. This, surely, is not the intention of the provision, but this is what it is implying: that the court can refuse to give leave in a sexual offence. That cannot be the intention, because all legislation that we have been dealing with for sexual offences in children is very protective of children in trying to make sure that action is taken. I wonder if we could look at the wording of this and see if we can do something with it.

Also in new clause 31C(2)(ii), the court will not allow this to be taken in evidence. The court has to have regard:

> "…to any risk of unfairness to the accused…"

This is somebody who is accused of committing a sexual offence.

> "…or if there is more than one accused to any one of them, if it is likely that the statement can be controverted and the person making the statement does not attend to give oral evidence in the proceedings;"

If the person who is making the statement is a child of four or five and, for whatever reason, it is decided that the child is not going to give oral evidence in the proceedings, this means that the judge can then decide not to use the statement, which seems to be contradicting the purpose for which the statement was being given in the first place.

The other statement here is:

"…if it is likely that the statement can be controverted…"

Well, I do not know of any case that has ever gone to court on a charge of child sexual abuse, where the accused does not try to controvert the statement. They always try to say: "I was not there, I was with my mother, or I was at my grandmother's home cooking a meal." Of course, they are going to try to controvert the statement. This seems to me to be contradictory as well.

If we can go on to another ambiguity, Mr. President, that is in new clause 31D. I have to be very careful on this as well, because this refers back to new clause 31A and 31B. New clause 31D states:

> "A minor who, in a written statement tendered in evidence under section 31B wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true commits an offence and is liable on summary conviction to committal to the Youth Training Camp or some other similar institution for one year."

May I remind this Senate that new clause 31B talks about a "statement made by a minor": and a "statement made to and written by the police". It could be that, although this statement is tendered in evidence in the name of the child, it was not written by the child, but by a police officer. Does that child—if something is false in that statement—may I just repeat that very often children who are victims of child sexual abuse are intimidated by their parents or people in the community? It has not been unknown, if the child has been assaulted by a friend or family member of the police officer who takes the statement, that it may be distorted, and the child can be intimidated into giving a statement that he or she does not believe to be true, because someone that he or she regards as being in authority over him or her tells him or her to do it. Your mother tells you to say it, so you say it. Your father tells you to say it and he says: "If you do not say it, I am going to kill your cat", or the police officer, or whoever, tells the child what he or she is trying to say is not it and the child does not believe that it is true, but the child was intimidated so the child is going to do it.

11.05 a.m.

This section says that you can put a minor—do not forget that we have children who are sexually abused from the ages of 18 months and up, and a minor is anybody under 18 years in this country. So you may be talking about a four-year-old who is very verbal and articulate, but cannot write, who is giving a statement which is taken either by a police officer, a statement made in the form of a statutory declaration, a statement written by the minor himself or herself, or a statement written by another person on behalf of a minor who cannot write. We are saying if the child knows that what he is saying is not true, then you can send this child for one year to the Youth Training Camp.

Mr. President, I do not know if you have ever been to the Youth Training Camp, but I hope you will take my word for it when I tell you it is no fit place for a five-year-old child. When you talk about some other similar institution for a year, for a child who is already sexually abused and the child is intimidated, I will suggest that is not consistent with the care and protectiveness which this Senate, this Government, and I am sure this country want to afford to children.

I think we are going to need to take a look at the wording of this amendment because there are many ambiguities in it, and while I do admire the intention which reflects the sort of violence against children within the society, I would also like to mention that when we are looking at violence, we also have to look at it in a larger context.

There is violence against the elderly as well as violence against the young and I mention with a great deal of concern the reports which have been coming through the press lately about violence against a 91-year-old woman whose only offence apparently, was that she is the mother of a politician. I appeal to all political leaders of all political parties in Trinidad and Tobago to join together and make a public denunciation of any kind of violence on political grounds. Not only to protect Mrs. Cudjoe, but also to return to Trinidad and Tobago some level of stability as we face election year. I think it is absolutely shameful that the only people who have turned up to protect and guard Mrs. Cudjoe are members of the Muslimeen, and I think we can do better than that in this country. All Members of Parliament and members of all political parties should make a definite effort to condemn all forms of political violence.

Thank you, Mr. President.

Sen. Dr. Mc Kenzie: Mr. President, there is a little inconsistency which I observed. I understand the word "she", but when I looked at clause 31(d) it was changed from the word "she" to the word "he". So probably only the boys will go to jail at the Youth Training Centre. The other points were raised by Sen. Mahabir-Wyatt.

Sen. Kuei Tung: Mr. President, not being a legally trained person, I was a bit taken aback by the language myself. I expected that these amendments would have said "he" and apparently try to be explicit enough to say that we are dealing basically with young females. I am not capable of saying whether it should be "he" or "she" or "she" or "he", but I did recognize the inconsistency that Sen. Dr. Mc Kenzie spoke about, and I realized it was flip flopping. I thought that second one on the last page of the amendments was typographical and it should have read: "which she knows to be false."

I also did not believe, and I am seeing these things as I said, not being a legal officer. I did not believe that a person at the age of 3 or 5, as Sen. Mahabir-Wyatt stated, can willfully make a statement. I assume that you had to be at the age of reason, but again, as I said, I am not here to argue with the legal court and I am certain that no court is going to take a three, four or five-year-old, whether male or female and send that child to the Youth Training Camp or any other such institution.

I imagine they had to find a way where there are persons who are above the age of reason who would want to make a false statement and a way had to be found to deal with it.

Mr. President, I propose that this honourable Senate defers this matter until the Attorney General comes. I really cannot think of any circumstance, and I know the Senator is very convincing in her arguments under which the court would not allow the evidence to be admitted and I really do not know what the Attorney General had in mind when he did it. I really did not think there would have been this kind of discourse.

I beg to move that this matter be deferred to another Sitting of the Senate.

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, before we go on, I would like to defer Motion No. 1 to a later stage of the Sitting, and I have agreement from both sides to take Motions Nos. 7 and 8 which are on the Supplemental Order Paper, later on in the Sitting also.

Hon. Senator: You are confusing the Senate.

Hon. W. Mark: No, I am not confusing the Senate, I am just saying that we would defer Motion No. 1 at this time, which is the Community Service Order Regulation to a later period in the Sitting and also on the Supplemental Order Paper, Motions Nos. 7 and 8 which deal with some limited amendments to the Civil Aviation Bill and the Deoxyribonucleic Acid (DNA) Identification (No. 2) Bill.

We will deal now with Bill No. 1.

Motion made, That Motions Nos. 1, 7 and 8 be deferred to a later stage of the proceedings.

Agreed to.

FINANCIAL (MISCELLANEOUS PROVISIONS) (AMDT.) BILL

Order for second reading read.

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. President, I beg to move,

That a Bill to amend certain legislation of a fiscal nature and to provide for related matters be now read a second time.

Mr. President, the Bill now before this House had been passed by the other place with amendments. It contains legislative proposals intended to tighten existing legislation to make it more efficient and provide mechanisms to facilitate growth in the financial and social sectors.

Hon. Members would note that there were no Provisional Collection of Taxes Order following upon the passing of the Appropriation Act for the financial year, 1999/2000. As you know, this was so because this administration had been careful to ensure that there were no new taxes imposed, nor that existing taxes had been increased. There is therefore, no requirement to bring this Bill before this House within a certain specified time-frame. The Bill simply seeks to tidy up the existing financial legislation to make it more efficient and effective.

Mr. President, the Lower House made some changes to the Bill and I will attempt to provide explanations to those areas when I come to deal with them in the course of this presentation. I therefore propose to deal with the Bill clause by clause and offer certain explanations as they become necessary.

Part 1 of the Bill is self-explanatory. Part II of the Bill, the Provident Fund Act, Chap. 23:57, is to be amended. This Senate will no doubt recall that in 1998 the new financial year, for the purposes of the Constitution and the Interpretation Act, now commences on October 01 and ends on September 30.

Under the Provident Fund Scheme, daily-paid government employees and the Government are required to contribute to the Provident Fund. In each year, interest is added to the contributions made on account of the daily-paid employee. At present, section 31(2) of the Provident Fund Act stipulates that this interest can only be added to the capital remaining in the employee's account on December 31, of each year.

Mr. President, the annual accounts of all transactions of the Provident Fund are dealt with as part of the public accounts of Trinidad and Tobago and are prepared by the Comptroller of Accounts. The financial statements of that fund are submitted by the Comptroller of Accounts to the Auditor General within a period of four months after the end of each financial year. As I have mentioned earlier, the financial year for the Government now ends on September 30. However, because of the special wording of section 31(2) of the Provident Fund Act, the comptroller in the preparation of the public accounts of the state cannot add the interest accruing to depositors of the Provident Fund as of September 30. The Comptroller of Accounts has to wait until December 31, before adding such interest. This means that whereas the financial statement to the capital as at September 30 is added to the capital on another date, that is the subsequent December 31.

To remove this anomaly, it is proposed that section 31(2) of the Provident Fund Act be amended to coincide with the new financial year, so that the interest can be added to the capital on the last day of each financial year for the purpose of the preparation of financial statements by the Comptroller of Accounts. It is further proposed, that section 31(2) of the Provident Fund Act be amended so that the expression "financial year" is referred to instead of stating the date on which the interest is to be added to the capital belonging to a depositor. The amendment in this form will allow for any further changes to the expression "financial year" in the Constitution to apply automatically without the need for consequential changes to be made to the Provident Fund Act.

Mr. President, you will also observe that section 3 of the Provident Fund Act uses a calendar year for the basis of calculating a depositor's non-effective year of service. In this regard, this Senate should note that a non-effective year appears when a depositor has worked for less than 200 days in a calendar year and this period is excluded for the purposes of calculating the service of a depositor. In light of the fact that the financial year is no longer the same as the calendar year, it is proposed that the computation of the service of a depositor for a non-effective year be amended to coincide with the new financial year.

The period of account between January 01, 2000 and September 30, 2000 during which the depositor has worked less than 150 days—that is a non-effective year—shall be excluded in the computation of the service of a depositor. Thereafter, any financial year commencing October 01, 2000, in which the depositor has worked less than 200 days will be excluded in computing the depositor's service.

Mr. President, it is proposed that amendments to the Provident Fund Act, Chap. 23:57, be retroactive to January 01, 2000.

I shall now deal with the amendments to the Housing Act which is to be found in Part III of the Bill. The general purpose of this amendment is to provide a mechanism for returning certain moneys to the Consolidated Fund. By the former section 17(1) of the Housing Act, the Treasury had established a fund known as the Mortgage Insurance Fund. I have referred to section 17(1) as the former section 17(1) since this provision, as well as sections 14, 15, 16 and 18 of the Housing Act, have since been repealed.

11.20 a.m.

All insurance fees received by the National Housing Authority, from whom owners pursuant to sections 14 and 15 of that Act, were required to be paid in to the Mortgage Insurance Fund.

By section 12 of the Housing Act, the National Housing Authority was made the guarantor of mortgages. In the event the house owner defaulted in his mortgage payment, his house could be put up for sale by the lending institution.

Section 13 of the Act required the National Housing Authority to pay over to the mortgagee the difference between the net amount realized in the sale of a house, and the amount owing under the mortgage.

Section 16 of the Act also required the National Housing Authority to purchase any house where it was put up for sale by the mortgagee, in the exercise of its powers of sale under the mortgage. The moneys for such purchase were to come from the Mortgage Insurance Fund. The Mortgage Insurance Fund has never been utilized, and the Trinidad and Tobago Mortgage Finance Company Limited has advised that all mortgages covered by the fund have been fully redeemed.

In fact, the fund was effectively closed off by an amendment to sections 12 and 13 of the Housing Act in 1980 and, subsequently, by the repeal of sections 14 to 18 of that Act in 1981. You will note that moneys standing in the account of the Mortgage Insurance Fund may only be withdrawn from that fund in accordance with the provisions of the Housing Act. Since all the mortgages covered by that fund have been fully redeemed, no money can lawfully be withdrawn. However, because the Mortgage Insurance Fund was not established under section 43 of the Exchequer and Audit Act, Chap. 69.01, there can be no automatic absorption into the Consolidated Fund of the sums outstanding on that fund pursuant to section 43(4) of that Act.

Clause 3 of the Bill, therefore, seeks to amend the Housing Act to allow for the absorption into the Consolidated Fund of the principal and interests standing to the credit of the former Mortgage Insurance Fund. *[Interruption]*

Sen. Montano: Mr. President, I thank the hon. Minister for giving way. I have two questions: one, what is the amount of the fund that we are dealing with at this point? Two, when the transfer is made into the Consolidated Fund, does this form part of your revenues in your annual budget?

Sen. The Hon. B. Kuei Tung: Mr. President, I have not got the amount at hand but I will try and get the amount during the course of the debate. But I will imagine that once you transfer the amount from the Mortgage Insurance Fund to the Consolidated Fund, it will be regarded as revenue at the time when the transfer is made.

I will now turn to Part IV of the Bill which seeks to amend sections 5(A)2, 8(1), 10, 10(b) and 33(2) of the Income Tax Act. Further amendments to this part of the Bill were made in the other place. At clause 5(a) of the Bill, the amendment to section 5(a)(2)(d) of the Income Tax Act is intended to plug a loophole which now exists in the law. The current section 5(a)(2)(d) states:

> "That the business levy provisions shall not apply to the gross sales or receipts of the business or of a person who had not been in that business for a period of three years from the date the business was registered."

The Board of Inland Revenue has reported that there is scope for abuse by persons, particularly sole traders who would continually change the names under which their businesses are registered in order to benefit from the three-year business levy exemption. Even though the person may have continued in the same line of business, he may decide to change the registered name of his business so that the business levy exemption provision would apply. To avoid this problem, it is proposed that section 5(a)(2)(d) be amended, so that the business levy exemption would only apply to the gross sales or receipts of the business of a person for a period of three years following the commencement of the trade, business or profession.

Businesses are required to notify the Board of Inland Revenue of the date on which they had commenced the business operations. The three-year exemption will, therefore, be reckoned from the date stated in the records of the Board of Inland Revenue as the commencement date of the trade, business or profession, and not the date on which the business is registered at the Registrar of Companies.

I now move on to clause 5 of the Bill which seeks to amend section 8(1) of the Income Tax Act. Section 8(1)(p) of the Income Tax Act currently exempts from tax the interest on savings or other accounts held with financial institutions and payable to a resident individual who has attained the age of 60 years. The Income Tax Act also exempts from tax interest payments made on bonds and other similar instruments payable to a person who has attained the age of 60 years.

Several senior citizens have included their spouses named in the investments solely for survival benefit purposes. However, because of the current formulation of the legislation, the interest derived from these investments is subject to the payment of tax, due to the fact that one of the owners of the investment may be under 60 years. To avoid having to pay the tax these 60-year-old taxpayers will have to remove their spouses or other names from their investments, which course of action could defeat the purpose of the names being put there in the first place.

It is proposed that the Income Tax Act be amended so that when investment is held by spouses, one of whom has attained the age of 60 years—and I want to repeat—it is only in the case of spouses: so that if it is an older person and a grandchild, it will not qualify. The interest paid or payable in respect to such investment will be exempted from the payment of income tax on the following conditions.

It must, however, be shown to the satisfaction of the Board of Inland Revenue that the funds comprising the account or used to purchase the investment have derived from sources belonging to the spouse who has attained the age of 60 years. In other words, it is incumbent upon the person making the claim to show proof of where the sources came from, and that it was not being used as a tax evasion measure.

The proposed amendments concerning the investment income of our senior citizens are to be found in clause 5(b) of the Bill. The proposed amendment relating to spousal investments also take cognizance of common-law relationships, which are now an accepted phenomenon in our society. For all intents and purposes, the parties in a common-law union function as husband and wife, and the law needs to recognize the realities of our social structure.

It is, therefore, proposed that section 8 of the Income Tax Act be amended so that the expression "spouse" would be defined to include a person in a common-law relationship. A person who lives with a joint-owner of the account as husband and wife, although not legally married to that person would be considered as a spouse for the purposes of the exemption in section 8(1)(p). The proposed amendment to section 8 of the Income Tax Act is to be found at clause 5(c) of the Bill.

We would recall that the Finance Act 1998 introduced a new section 10(4) of the Income Tax Act to provide for a deduction of up to eighteen thousand dollars with respect to mortgage interest and tertiary education expenses. The Board of Inland Revenue has noted that since the introduction of this provision, there has been a great deal of uncertainty as to its effect. In other words, whether the provision for tertiary level expenses apply only to spouses who jointly own property, it is also unclear whether a single person with a child can claim these expenses.

This was clearly not the intention of Government. At clause 5(d) of the Bill, the provisions relating to mortgage interest and tertiary education expenses have been placed in separate provisions to allow for greater clarity. Clause 5(d) is one of the areas that has caused some difficulty in the other place. In particular, the wording of section 10(4) at clause 5(d)(i) of the Bill and the new subsections 10(9) and 10 at clause (5)(d)(ii) created some concerns in the minds of some Members in the other place. I would describe what is intended—and you can judge for yourself whether the language of the provision pays out that intention.

When one examines the existing provisions of section 10(4). The reason for the proposed amendment would become more evident in the minds of hon. Senators. The actual wording of the existing section 10(4) reads as follows:

> "(4) Where a person and his spouse occupy as a residence land and improvements owned by both spouses jointly, or where that person, a spouse, a child, or children of both spouses are receiving tertiary education at institutions approved by the Ministry of Education, a deduction under subsection 3 (a) in respect of the residence or reasonable expenses incurred in respect of tertiary education shall be allowed accordingly, and that the aggregate deduction is limited to eighteen thousand dollars in respect of each spouse."

11.30 a.m.

In other words, when the existing section 10(4) refers to that person and his spouse, it appears that only persons in a marital arrangement who jointly own property can claim tertiary education expenses. This was never the intention, Mr. President. It was intended that any person, whether or not married, who incurred tertiary education expenses should be allowed these expenses in ascertaining his chargeable income.

Mr. President, in order to create greater clarity, the draftsman has segregated the provision dealing with the interest deduction from the provision dealing with tertiary educational expenses. The proposed section 10(4) has returned to the place where it was before the amendment in the Finance Act of 1998, but with one exception. The words, "or by both of them in such proportion as they may determine" have been added in the proposed section 10(4) to clarify the point that, as between themselves, the spouses can determine how much each is to claim on the property. In other words, for joint spousal owners, one spouse can, for instance, claim $5,000; the other spouse $13,000.

If the existing subsection (4) had to be dissected, it would be seen that the joint spousal owner who occupies the property at his residence can claim two sets of deductions. The first deduction is a deduction under subsection 3(a) in respect of the residence. Under subsection 3(a) the deduction shall not exceed the sum of $18,000 in respect of that particular residence. As between spouses, a total deduction of $18,000 only can be claimed. However, because the language of the existing subsection (4) does not permit an apportionment to be determined by the spouses, each spouse will have to claim 50 per cent of the expenses if each was to make a claim in respect of the interest deduction. The total interest claimed per household cannot exceed $18,000.

Mr. President, the second deduction that may be claimed by spouses who are joint owners and occupiers of their marital residence are reasonable tertiary educational expenses. There is, however, the proviso that each spouse is limited to an aggregate of $18,000. If there were only tertiary educational expenses to be claimed, each spouse could claim $18,000. Given the fact that subsection 3(a) is limited to $18,000 per residence, the proviso in subsections cannot be construed to mean that each spouse can claim $18,000 where, for instance, there are no tertiary educational expenses to be claimed. In that case, either one spouse can claim the full amount or alternatively the claim will be apportioned equally. If, on the other hand, there were claims for an interest deduction of $18,000 as well as the tertiary education expenses of $18,000, one spouse can claim the interest and the other the tertiary expense. If both claimed the deduction of $9,000 each for interest, both can also claim $9,000 for tertiary education.

At a later stage of this Bill I will seek to make a further amendment to the proposed section 10(4) which is before this House. I will propose that subsection (4) be further amended in the following manner. The words, "by either one of them at their option or by both of them in such proportion as they may determine", should be replaced by the words, "by each spouse in such proportion as they may determine". Additionally, I shall propose that the words, "in the respect of each spouse" appearing at the end of the proposed section be deleted and be replaced by the words, "in respect of that residence", to make it abundantly clear that the claim is limited to $18,000 per household where the spouses jointly own and occupy the property as a residence.

Mr. President, you will also note that in the Finance Act of 1997 a new subsection (4A) was introduced and later amended in 1998. This subsection (4A) of section 10 currently states as follows:

> "(4A) The deduction referred to in subsection (4) may be claimed by each spouse where the spouses are joint owners and mortgagors or co-mortgagers of the property or for tertiary education as if it were a deduction for expenses incurred in the production of income."

A person who jointly owns with his spouse a property, which is occupied as a residence, is currently limited to a deduction of $18,000. As I have stated earlier, under the proposed reformulation of section 10(4), the claim under that subsection is limited to $18,000 in respect of this residence. However, under the existing section 10(4A), the spouses who are both joint owners and mortgagors of a property used as their residence can each claim $18,000 in arriving at their

respective chargeable income. In other words, as between themselves both spouses can claim, in the aggregate, $36,000 actually incurred in respect of that residence if they are both joint owners and mortgagors of the marital home.

Perhaps for clarity section 10(4A) should have opened with the words, "Notwithstanding subsections 3(a) and (4)", to give recognition to the fact that subsection (4A) is at variance with these other subsections and that, should the factual situation fit the circumstances outlined in subsection (4A), the provisions of subsection (4A) will prevail over subsections 3(a) or (4). In other words, notwithstanding the fact that both subsections 3(a) and (4) would limit the interest claimed in respect of a particular residence to $18,000, where the spouses are both joint owners and mortgagors of a property used by them as a residence, both spouses can each claim $18,000 under subsection (4A). Of course the $18,000 each could only be claimed if there were actual expenses amounting to at least $36,000. In other words, you could not claim what you had not spent. At a later stage I will, therefore, seek to make the necessary amendments to subsection (4A).

Although section 10(4A) is not part of the Bill before this House, this amendment is necessary if any sense is to be made to the other amendments contained in the Bill. In subsection (4A) the words, "or for tertiary education", should also be deleted given the fact that the provisions dealing with tertiary education expenses have been segregated. Mr. President, the draftsman will refer to the proposed changes to section 10(4A) as consequential amendments. Another consequential amendment should be made to section 10(3) where the words, "subject to subsections (5), (5A), (5B) and (9)" are referred to. You will recall that section 10(3) deals with the interest deductions in respect of properties. In light of the general delinking of the provisions relating to interest deductions from tertiary education expenses, it will be necessary to exclude from subsection (iii) the reference to subsection (9).

Prior to the Finance Act of 1998 subsection (9) limited the deductions which could be claimed in respect of house interest, National Insurance, widows and orphans, deferred annuities and pension funds to $18,000. That subsection (9) was deleted in the 1998 Finance Act and is now to be replaced by the provision dealing with tertiary educational expenses. At a later sage I will therefore propose that section 10(3) of the Income Tax Act be amended by deleting the words "(5B) and (9)" and substituting the words, "and (5B)".

Mr. President, if I appear to be somewhat lengthy in my explanation of these provisions, I beg your indulgence. Taxing legislation is not easy to understand. In order to unravel the intentions of the legislators it is sometimes necessary to take it step by step. But more than that, we have a practice in Trinidad, Mr. President, whereby the circumstances that are anticipated never seem to be sufficient. We seem to come up with some very creative tax filing by the accountants in Trinidad and Tobago. In the Bill before this House the draftsman has separated the provision dealing with a single person claiming tertiary educational expenses from the provision dealing with a married couple claiming those expenses. The reason for this segregation is because of the tax treatment given to single persons as against married persons.

In the case of single persons, the proposed section 10(9) states that the aggregate deduction that may be claimed in respect of interest deduction and tertiary education expenses cannot exceed the sum of $18,000. Under the proposed subsection (9) where a claim is also made under subsection (3)(a) the aggregate deduction under subsections (3)(a) and (9) is limited to $18,000. Mr. President, it will be good to examine subsection (3)(a) which reads as follows:

> "(3) Subject to subsections (5), (5A) and (5B) and (9), where land and improvements thereon—
>
> (a) are used by or on behalf of the owner,
>
> for the purpose of a residence, there shall be allowed a deduction of a sum not exceeding eighteen thousand dollars in respect of interest paid on a loan or overdraft wholly and exclusively used in respect of the land and improvements as if it were a deduction for expenses incurred in the production of income."

Sen. Mahabir-Wyatt: Mr. President, I wonder, with your indulgence—this is very complicated and it is way out of my field—could the Minister of Finance explain to me what is meant by "a residence" in subsection (4), where a person and his spouse occupy as a residence "land and improvements"? Are you talking about improvements to the land or improvements to the residence? And, what is improvement to the land? Would that be like building drains and retaining walls? What does it mean? I do not understand it.

Sen. The Hon. B. Kuei Tung: I would imagine, Ma'am, that the language sounds a little confusing but the whole intent is to claim interest expenses with respect to constructing a property for the purposes of a marital home, so that the language used talks about a residence as land and improvements. It assumes that

you are talking about a home at the end of the day and it tried to capture all of the circumstances under which a residence, land or its improvements, are involved. I am not sure if I have made it any simpler for you.

Sen. Mahabir-Wyatt: The part about the residence I understand, but I am not sure—[*Interruption*]

Sen. The Hon. B. Kuei Tung: Well, I do not think one can be separated from the other. I think the phrase "residence land or improvements" is intended to capture all circumstances where—you see, we have strange situations now where, if we only had land it would be simpler, but there are condominiums which do not have land attached. So I imagine the draftsmen are trying to make sure that they consider all the circumstances of a residence. A residence can have no land, you know, and it may sound awkward to say you have a residence without land, but you may be entitled to a condominium which has no land attached to it, which means it is a high-rise apartment. I imagine that they are talking about improvements on land and so on, things of a structural nature, not improvements in terms of painting. That is not allowed. The allowance is for the construction of the property.

Sen. Dr. Mc Kenzie: Thank you, Mr. President. Thank you, Mr. Minister. Mr. Minister, I am a bit confused, especially when you just mentioned the comparison with the condominiums, because there is a problem from which a number of us suffered in 1997, where a spouse owned the land, both parties—you met somebody with their land, okay, you got married and both of you constructed the house. Your mortgage statement says, "Mr. and Mrs. paid so much money", but when you make the claim, because the land tax receipt is in one person's name, the claim is disallowed. So what, Sir?

Sen. The Hon. B. Kuei Tung: Thank you very much, Senator. It is precisely those kinds of—[*Interruption*]

Sen. Prof. Ramchand: Mr. President, before the hon. Minister answers I have something on the same point about the improvements. Would the legislation now permit someone who already has a residence and who does improvements to that to claim the relief? I mean, someone builds, so they get the building relief and everything, but the property is existing now, and two years later one is making an improvement.

Sen. The Hon. B. Kuei Tung: Bear in mind that the claim is not for the amount or the principal amount used, it is for the interest that would have been paid in borrowing money from a bank or a lending institution. So let me move

away from the fact—I do not want to give the Senate the impression that the improvements or the cost of the improvements—the cost of the house is not even allowed either. The interest that you pay is allowed up to a figure of $18,000 per taxpayer. But we have tried to amend it to allow where there are two taxpayers, a husband and wife working, they get some measure of relief. That is what we had attempted to do over the years, which created confusion.

One of the things that we attempted to do was to ensure in the first case, as far as possible, that the husband and wife—or forget the husband and wife—the two taxpayers who are claiming were both owners of the land. We did not want the situation to arise where one person owned the house and another person was claiming, so we tried to avoid that. In the other case we had the situation where both persons owned the land. I imagine that what one had to do was ensure that one had evidence that both parties owned the property, so we tried to ensure that both parties owned the property and that both parties were also the mortgagors.

So we asked you to meet two criteria in the first instance; one, that you both, as taxpayers, owned the property and, secondly, that you were also co-mortgagors. Now, we are trying to clean this all up because a number of circumstances—this particular measure got confused because we tried to keep two deductions in one area.

11.45 a.m.

We tried to tie mortgage interest and tertiary allowance because we assumed that a taxpayer would not necessarily have both circumstances and we tried to accommodate both. We tried to accommodate the taxpayer who is a homeowner, and we also try to accommodate a professional who may not be a homeowner and has no interest claiming, but who has a son or daughter at tertiary education to allow them.

The building blocks that the Government tried to build in terms of ensuring that we encourage certain things was homeownership and pension if you recall that we also allowed it. That is one provision which is a bit too broad, and the third one we introduced recently was the question of allowance for tertiary education. Again, because of our push that we want to help people or make tertiary education as affordable as possible, it ended up being a little confusing and because people began to file their returns, the circumstances were so wide and varied, we began to realize that the people we intended to help were not getting the help and that is the purpose of us coming here.

Mr. President, there is also the question of loopholes. There are some people who are trying to claim things that are not really there and all of that. So I am trying to find a form of wording. The first approach I got was to try to de-link the mortgage interest from the tertiary education so that it does not become confusing. One is using different pros and cons for two different deductions and one might end up being confused because one was applied to the wrong one and so on. That is the purpose for some of my changes here. I am sorry about the language. I really cannot defend the language but I am trying to make sure that the intent is communicated effectively, and I hope that you will help me in arriving at it.

Mr. President, to answer the Senator's question, if you did not have a mortgage but you owned a home and, therefore, had no mortgage to pay you could not claim interest. If after that you came along now and borrowed money to do substantial improvements, that interest on those borrowings is allowable provided that you can satisfy the Board of Inland Revenue, it is a mortgage. One cannot just go and borrow money on an overdraft and there is no mortgage. A mortgage must exist first because this is a mortgage interest deduction.

Mr. President, I am really sorry to have to take you through all of this, but it is a pity that the number of scenarios that have come up since have been so intricate and complicated. I hope that I may be able to communicate to you effectively some of the problems the Board of Inland Revenue has had trying to deal with these measures.

Mr. President, clause 10(3)(a) covers a number of scenarios. It treats with a single person as well as a married person who does not jointly own property with his spouse. It also covers a person who jointly owns a property with another person who is not his spouse. Again, another set of circumstances that have turned up. In such cases, the deduction limit is $18,000.00 and cannot be apportioned at the person's option because again it was intended to be spouses. One had to be husband or wife or in a common law relationship which existed to be able to benefit from it. So if a gentleman owned a property—and had no mortgage—with another lady who is not his spouse, maybe a cousin, family or friend as the case may be, it really was not intended to capture that kind of circumstance. The person who had that property could only claim up to $18,000.00 but the other person could not claim.

The reference in the proposed clause 10(9) to subclause (3)(a) is therefore appropriate, so that the aggregate deduction for house interest and tertiary expenses should not exceed $18,000.00.

Mr. President, the proposed clause 10(10) deals with the case of married persons. One will recall that the original intention as espoused in the existing clause 10(4) is that each spouse should be entitled to claim the sum of $18,000.00 in respect of tertiary educational expenses. As between spouses, the total deduction for tertiary education that can currently be allowed is $36,000.00. This is unfortunately not reflected in the language of the proposed clause 10 subclause (10).

The use of the words "either spouse at their option" in the proposed subclause (10) would limit the tertiary educational claim to only one spouse. This is not the intention. At the appropriate time, I will move an amendment to clause 10(10) so that the words "by either spouse at their option" are deleted and substituted by the words "by each spouse". That would make it clearer. The words "by either spouse at their option" meant that only one spouse can claim. If I say "by each spouse" then both spouses can claim.

Mr. President, in addition the words "under subclause (3)(a)" appearing in the proposed subclause (10) are not appropriate where the claim is made by a person who occupies a residence which is jointly owned with his spouse. These words are also not relevant where a person occupies a residence which is jointly owned and mortgaged with his spouse.

The words "subclause (3)(a)" wherever they appear in the proposed subclause (10) should therefore be substituted by the words "subclause (4) or (4A)" respectively. Again, I will seek to make these changes at a later stage of the Bill which is before us.

Finally, it was also agreed in the other place that, for the avoidance of doubt, it should be made clear that a person cannot claim a deduction under both subclauses (9) and (10).

Mr. President, I will now deal with clause 5(e) of the Bill. Government recognizes its inability to adequately provide for all aspects of our existence and uses its taxing powers to encourage its social and economic partners to engage in certain activities which will bring growth and development to the country. The incentive to employers to train or re-train their employees is intended to develop the human resource potential in our country. You will recall that the year of income 1998 saw the introduction of an allowance of 150 per cent of the expenditure incurred by an employer towards training and developing employees.

Within recent times, the private sector has been offering scholarships to qualified nationals of Trinidad and Tobago to pursue selected undergraduate and post-graduated degrees at local and foreign educational institutions. Many of these selected nationals are not employees of the donors so that contributions towards the scholarships are not allowed as deductions in arriving at the chargeable profits of the donors.

In keeping with the Government's emphasis on and commitment to education and in order to encourage potential sponsors to participate in the sponsoring of bright, deserving nationals, the legislative proposal at clause 5(e) of the Bill is presented before this Senate. It is proposed that the amount paid under the tertiary education scholarship granted to a national by a person carrying on a trade, business, profession or vocation be allowed as a deduction in ascertaining the chargeable profits of the sponsoring business. However, the allowable expenses should only be in respect of educational institutions and areas of study which are accredited by the Ministry with responsibility for education. In order to limit any possible abuse, it is proposed that where scholarships are granted to family members of the grantor, there should be no deductions on the value of those scholarships.

The new subclauses 10(b)(2) and (3) are to be inserted to allow for such deductions by sponsoring businesses. It is proposed that this amendment to the Income Tax Act, Chap. 75:01, take effect from January 1, 2000.

Mr. President, the legislative proposals at clause 5(f) of the Bill will be considered in greater detail when I am dealing with amendments to the Insurance Act.

Mr. President, I will now turn to Part V of the Bill. The proposal underlying the amendment to section 10F of the Corporation Tax Act is intended to stimulate the market for trading in tax exempt bonds or other similar debt securities. The proposed amendments to the Corporation Tax Act are also contained in a Bill entitled "The Corporation Tax (Amdt.) Bill 1999" which is before this Senate. The Corporation Tax (Amdt.) Bill has since been withdrawn in the other place and will also be withdrawn in this Senate since the provisions of that Bill are now part of the Bill which is currently being debated by this Senate.

Mr. President, the proposed amendment to the Corporation Act would allow the expenses incurred in investing in tax-exempt debt securities as a deduction in ascertaining the chargeable profits of the taxpaying investor. This proposal is intended to benefit only corporate taxpayers. Although a relatively small

amendment it has far-reaching consequences and is intended to facilitate further growth and development in the financial sector. This Part of the Bill seeks to address the uncertainties in the law, which have hampered development of initiatives in the banking and insurance sectors.

The general proposition under the existing law is that, a taxpayer can, for the purpose of ascertaining his chargeable income, claim as a deduction all outgoings and expenses wholly and exclusively incurred in the production of income from a particular source. The test as to what deductions may be allowed in arriving at the chargeable income of a taxpayer is a strict one and many items of expenditure fail to pass this test.

In fact, it has been disputed whether the expenses incurred by a taxpayer in earning tax-exempt interest income, derived from bonds and other debt securities, may be deducted by the taxpayer in ascertaining his chargeable income.

11.55 a.m.

As a result, many institutional investors are not attracted to the idea of investing in tax-free interest coupons derived from bonds and other debt *sec*urities. The reason for this is that these investors are uncertain as to whether they can deduct the costs incurred in acquiring the tax-free interest coupon in arriving at their chargeable profits.

Mr. President, we will note as well that this dispute is further fuelled by the fact that there is an expressed provision in the Income Tax Act, which specifically allows for the deductibility of expenses incurred in earning tax-exempt income.

Section 45 of the Income Tax Act applies the provisions governing allowable deductions to certain tax-exempt income under section 42 of that Act, which relate to housing.

In other words, the expenses and outgoings incurred in the production of tax-exempt income from premia and rents derived from the letting of newly constructed houses will be allowed as deductions in arriving at the chargeable income of the owners of those houses. This provision was enacted in 1988.

In addition, Mr. President, the expenses relating to the earning of tax-exempt income derived from interest on and the service charge payable under a loan guaranteed by an approved mortgage company for the construction of a house, are also allowable as a deduction in ascertaining the chargeable income of the person earning the tax-exempt interest and service charge.

Given the specific provisions in the taxing statute where it is intended that expenses should be allowed against tax-exempt income, there is some ambiguity as to whether the expenses which are not expressly allowed can, in fact, be deducted in ascertaining the chargeable income of the recipient of that income.

Mr. President, the experience of financial institutions in placing tax-exempt bonds on the market is not very encouraging since many of the providers of long-term funding are themselves non-taxable or low-taxable entities and find tax-exempt bond issues very unattractive. It is felt that market activity in respect of tax-exempt bonds will increase if corporate taxpayers are allowed to deduct the expenses incurred in earning the tax-exempt income from their other sources of income.

Mr. President, capital market development, as well as financial sector expansion, has been emphasized in the medium-term policy of this Government. This development is to be facilitated by formulating and implementing policies that encourage new entrants into the domestic market and increase the number of financial instruments available for investment.

Several financial products are also being developed to facilitate beneficiaries in the manufacturing and housing sectors. Government, as facilitator of further growth and development in the economy, will continue to develop the legislative framework necessary to encourage financial growth. By the proposed amendment to the Corporation Tax Act, the cost of acquiring tax-exempt incomes derived from debt securities will be allowed as a deduction in ascertaining the chargeable income of an investor. This proposed amendment is intended to benefit only corporate taxpayers.

Mr. President, the transaction involves, to a very limited extent, the stripping of securities. For instance, bonds may be stripped so that the holders of these bonds sell the interest income derived from these bonds to institutional investors. We may have what is referred to in the financial sector as “bearer bonds”, that is bonds with interest coupons attached to the bond and is a negotiable instrument which may be sold to a corporate investor. The owner of those bonds may enter into a contract with the corporate taxpayer so that the interest payable under the bonds is now to be paid to the corporate taxpayers.

The consideration under the contract will, under this new amendment to the Corporation Tax Act, be allowed as a deduction in ascertaining the chargeable profits of the corporate taxpayer. The question as to the deductibility of expenses only becomes an issue in respect of tax-exempt income because of the ambiguity

in the existing law. These expenses would ordinarily be allowed as a deduction were the income not exempt from taxation. It must be emphasized that this amendment will not do away with the requirement to satisfy the Board of Inland Revenue that expenses are wholly and exclusively incurred in the production of the tax-exempt income.

Mr. President, the uncertainty in the law is preventing many corporate taxpayers from investing in several financial instruments because they are not sure whether the costs related to the investment would be allowed as a deduction by the Board of Inland Revenue. As a responsible Government, we cannot ignore what is happening in the market and it is important that quick responses are given where appropriate.

The proposed amendment to the Corporation Tax Act will provide certainty to investors and facilitate the further development of the local capital market by widening and deepening the potential funding sources for tax-exempt instruments. In other words, this will allow us to move away from traditional sources which normally are non-taxable or low-taxable corporations and we can now move to other corporations which can get involved in providing long-term finances by getting involved in these financial instruments.

Some of these tax-exempt instruments are issued by financial institutions to fund housing and other projects. Innovative financing mechanisms are being designed to facilitate beneficiaries at the lower end of the economic ladder who have encountered enormous difficulties in accessing financing for acceptable and affordable homes. The proposed amendments to the Corporation Tax Act are to take effect from January 1, 1998 to give comfort to those institutional investors who have already committed themselves to these financial instruments in the year of income 1998 and are expecting that the expenses related to the acquisition of these instruments will be allowed as a deduction by the Board of Inland Revenue.

Mr. President, some Members in the other place have suggested that this measure be extended to all persons, including individuals. The Government has agreed to examine this proposal, but must do so having regard to the social and economic impact of the proposal.

I will now examine the amendments to the Estate Duty Act, which are at Part VI of the Bill. It will be recalled that estate duty was abolished from January 1st, 1981 so that no estate duty is now payable on the value of the owner-occupied property of a person who died on or after January 1st, 1981. Succession duty was abolished earlier in 1979.

Although estate duty has been abolished, the Board of Inland Revenue is still administering estate duty in respect of the estates of persons who died prior to January 1st, 1981, as far back as the 1940s. Over the years, the number of estates which the Board has to deal with has declined considerably, from approximately 1,000 new cases per year in 1981 to approximately 400 new cases being submitted within the last five years. The Board of Inland Revenue is also required to issue certificates in respect of estates of persons who died after December 31st, 1980, indicating that no estate and succession duties are payable.

The outstanding amount on estate duty to date is approximately $2 million. Of this, there are 53 matters outstanding in which the estate duty is in excess of $10,000. The balance of the matters involve estate duty below $10,000 and some as low as $1,000.

In an effort to simplify the administration of taxes and to eliminate nuisance taxes, it is proposed that the estate duties payable in respect of the estates of persons who died before January 1st, 1981 be waived completely. The Estate and Succession Duties Act, Chap. 76:02, is to be repealed and from the date when the Finance (Miscellaneous Provisions) Bill comes into operation, no estate duties will be payable by anyone.

Mr. President, whilst this may appear to be an issue to improve the efficiency of the Board of Inland Revenue, I am told that even many legal people will breathe a sigh of relief, because they have had to seek these certificates from the Board of Inland Revenue, and it has been a burdensome, onerous administrative duty trying to get these things. They relate, as I said, to deaths that occurred previous to 1981.

I should quickly point out that this proposal is not intended to benefit estates in respect of which estate duty was paid prior to the coming into effect of the Finance (Miscellaneous Provisions) Bill. In other words, there will be no refund of estate duties which have already been paid.

With respect to that part of the Bill which deals with Estate Duty, that is, clause 9(2), the present wording of the clause is unclear and may be subject to misconstruction as to its meaning. Clause 9(2) has been amended to avoid any possible confusion as to its meaning. The proposed amendment is that the word “remitted” at line three of clause 9(2) be replaced by the word “waived”.

Mr. President, Part VII of the Bill deals with amendments to the Insurance Act, Chap. 84:01. As I had indicated earlier on when I was discussing amendments to the Income Tax Act, I will also consider the amendment to be made to section 33(2) of the Income Tax Act since it relates to insurance business.

I will deal firstly with the amendment to the Income Tax Act as it relates to insurance companies. This amendment is to be found at clause 5(f) of the Bill. This Senate will remember that the Insurance Act was amended by the Finance Act of 1998 to allow insurance companies to transact business in any currency. This amendment allows for the payment of benefits in the currency in which the premiums are paid. However, this provision is in direct conflict with the Income Tax Act as it relates to approved pension funds and deferred annuities.

Under section 33 of the Income Tax Act, no deduction shall be allowed "in respect of any contribution made to any approved fund, plan or scheme, unless the benefits payable under such fund, plan or scheme are payable only in the currency of the East Caribbean Currency Authority or in the currency of Trinidad and Tobago".

The premiums are payable in a foreign denominated currency. The Income Tax Act requires the benefits payable in a foreign denominated currency to be converted into Trinidad and Tobago currency within a reasonable period of time. This provision effectively discourages the transaction of insurance business in a foreign denominated currency. In order to remove the currency restrictions governing approved funds, plans or schemes, the proposal at clause 5(f) of the Bill seeks to address this issue. This proposed amendment should take effect from 2000.

I will now deal with the amendments to be made to the Insurance Act. Mr. President, at Part VII of the Bill, the decision of this Government to permit local insurance companies to issue insurance policies in foreign currency is intended to allow local insurers to compete with their foreign counterparts who were offering foreign products locally through the Internet and other means. The intention was to retain the ratio of 80 per cent for local investment in respect of Trinidad and Tobago dollar liabilities and to introduce a new ratio of 80 per cent for foreign investment in respect of foreign currency liability.

The Insurance Act was therefore amended to allow foreign denominated liabilities to be supported by foreign assets, so that the maximum amount invested should not exceed 80 per cent of such liability. The amendment to section 47(1) of the Insurance Act is to take effect from the date of the previous amendment to that provision in 1998.

Mr. President, one will again recall that section 195 of the Insurance Act was amended by the Finance Act, 1998 by deleting the whole of subsection (1) thereof and substituting a new subsection (1). By this amendment, where a policy is issued after January 1st, 1999 and the premiums in respect of that policy are payable or paid in Trinidad and Tobago, the premiums may be payable in any currency and the policy proceeds are payable or paid in the currency in which the premiums were paid.

As a result of the amendment of section 195(1) of the Insurance Act, there is now no provision in the Insurance Act governing the treatment of pre-1999 policies. Prior to this amendment, where the premiums in respect of policies issued after October 5th, 1966 were payable or paid in Trinidad and Tobago, both the premiums as well as the policy proceeds were payable in Trinidad and Tobago currency.

Section 195(1), as previously formulated prior to the amendment in the Finance Act, 1998, is therefore to be revived in its original form and numbered as section 195(1), except that those provisions should relate only to policies issued after October 5, 1966 but before January 1, 1999. The amendment to section 195 of the Insurance Act, 1998 is to be retained and renumbered as section 195(1A), except that the new period should be "on or after January 1, 1999" and not "after January 1, 1999".

12.10 p.m.

Mr. President, I will now deal with the proposed amendment to the Income Tax (In Aid of Industry) Act which is to be found at Part VIII of the Bill. This amendment takes us to the subject of leasing financing.

The growth of worldwide leasing began in the 1950s. Statistics published in the *World Leasing Yearbook* reveal that the volume of total leasing for 1997, amounted to US $405.8 billion and it is estimated that leasing represents a major source of capital for new investment, financing an estimated one-eighth of the world's plant and equipment every year.

In Trinidad and Tobago, finance houses have long offered leasing. However, the 1990s saw an increase in the number of new entrants from among the commercial and merchant bank sector, with as many as five new entrants over a period of five years.

The regulatory framework underlying leases in Trinidad and Tobago is comprised of four elements, namely, legal, accounting, corporation tax and value added tax (VAT) and revolves around the issue of legal ownership of the asset.

In all, except the field of accounting, form takes precedence over substance, with the legal owner of the asset being able to easily retrieve physical possession in the event of default or termination.

In the case of corporation tax**,** the lessor is deemed the owner of the asset and claims the wear and tear allowance. It is also the lessor, in the case of VAT, who pays VAT on the purchase of the asset and recovers or charges VAT on each lease payment made by the lessee.

Mr. President, finance leases have been utilized in the commercial and banking sectors. A financing lease has been defined by International Accounting Standard (IAS) 17 as a lease under which the lessor transfers substantially all the risks and rewards of ownership of an asset to the lessee, although the legal title to the assets may not always be transferred to the lessee.

What constitutes substantially all will depend on the particular facts and circumstances. For the purpose of determining whether a lease is a finance lease, one or more of the following criteria must be present:

- Ownership of the property is transferred to the lessee by the end of the lease term;

Mr. President: Minister, just to remind you that with three minutes added, you only have five minutes left.

Sen. Mark: Mr. President, the Minister of Finance would not be able to complete the exercise in that period of time. I do not know if you could suspend the Standing Orders to allow him to complete his contribution.

Mr. President: Hon. Senators, I shall put the request in the form of a Motion. The question is that the Standing Orders be suspended in order to allow the Minister of Finance to complete his presentation.

Question put and agreed to.

Sen. The Hon. B. Kuei Tung: Mr. President, let me thank you and Senators for your graciousness. I am sorry that I have to take so long, but as I said at the beginning; these are long technical matters and I was hoping to give the benefit of a full explanation so that Senators can understand. I know that some of them, especially the examples that were made, may sound a bit complicated but, as I

said, it is intended, and you can get from the tone of my presentation that we really want to modernize our finance and accounting and tax system in Trinidad and Tobago to allow more and more. You are going to find more and more of these things.

One consultant, as a matter of fact, in the United States has now described the United States economy as "a technology economy". One of my fears is that our economy will become so sidelined and so archaic, that we may not be able to emulate what happens in developed countries.

To be frank, some of these measurements—I am talking specifically about leasing. I think I was surprised—and I am sure many of you would have been—to know that leasing now accounts for in excess of US $400 billion in the United States alone. Understand, if we do not go through things, we are going to end up falling by the wayside.

Leasing has become a critical part of our financial landscape and it is necessary for us to ensure that we have proper and adequate tax provisions for dealing with leases and that we have proper legislation.

As I said, Mr. President, a finance lease, must meet certain criteria:

- ownership of the property is transferred to the lessee by the end of the lease term;
- the lease contains a purchase option;
- the lease term, at inception, is substantially (that is 75 per cent or more) equal to the estimated economic life of the leased property, including earlier years of use. This option cannot, however, be used for a lease that begins within the last 25 per cent of the original estimated economic life of the leased property. Take for example a jet aircraft that has an estimated economic life of 25 years and is leased for five successive five-year leases.

  If the first four five-year leases were classified as operating leases, the last five-year lease cannot be classified as a capital lease, because the lease would commence within the last 25 per cent of the estimated economic life of the property.
- The present value of the minimum lease payments as the beginning of the lease term, excluding executory costs and profits thereon to be paid by the lessor, is 90 per cent or more of the fair value of the property at

the inception of the lease, less any investment tax credit retained and expected to be realized by the lessor. This criterion cannot be used for a lease that begins within the last 25 per cent of the original estimated economic life of the leased property.

Mr. President, accounting treatment enables the lessor, in a finance lease, to claim the wear and tear allowances on the leased asset. The lease rental is also brought into the lessor's income statement. In the lessee's records, the leased asset is recorded in the balance sheet and lease rental is claimed as an operating expense. The lessee, however, is unable to claim wear and tear allowances in light of the provisions of the taxing legislation.

Under section 16(l) of the Income Tax (In Aid of Industry) Act, where a person carrying on a trade incurs expenditure on the provision of machinery and plant for the purposes of trade, there shall be made to him for the year of income in the basis period for which the expenditure is incurred, an allowance equal to one-half of the expenditure. This provision has been interpreted as being applicable only to assets purchased directly, that is, acquired through generated funds or loan financing. By implication, if plant and equipment are acquired through leasing, the lessee will not be able to claim wear and tear or even initial allowances. This has been an impediment to the use of leasing to finance capital expenditure.

Mr. President, it is proposed that the Income Tax (In Aid of Industry) Act be amended, to allow businesses acquiring assets by way of finance leasing, to obtain the initial allowance. The following benefits will be derived from the proposed amendment:

- it would encourage the renewal and expansion of plant and machinery by widening the range of choices available to finance the acquisition of new plant and machinery;
- through plant expansion and renewal, companies can benefit from the efficiencies of updated technology;
- companies which do not have the necessary collateral or credit line capacity to borrow, can benefit from leasing, since leasing does not require the lessee to provide collateral;
- a taxation regime that facilitates capital formation is supportive of the Government's efforts to encourage business growth;

- the spin-off effects of the creation of employment and the growth of business are in keeping with the Income Tax (In Aid of Industry) Act;
- technically speaking, leasing is not borrowing and may circumvent the restrictive loan covenants and capital investment constraints;
- a leasing facility preserves liquidity for other more appropriate uses and does not tie up valuable working capital or credit lines; and
- a lease cannot be cancelled, unlike overdraft facilities, which is repayable on demand and may be decreased during a credit squeeze.

Mr. President, there was a minor change in the other place to the definition of "estimated economic life" so that the word "remaining" has been deleted from the definition. The definition of "estimated economic life" is now defined to mean "the estimated useful life of the property for the purpose for which it is intended, regardless of the term of the lease." This amendment was necessary in order that there should be some internal consistency between the definition of "estimated economic life" and the requirement under the proposed clause 16A(3)(c).

Under the new clause 16A(3)(c), a lessor will be treated as having transferred substantially all the risks and rewards of ownership of the machinery and plant if, among other things, the lease term at inception is substantially equal to the estimated economic life of the leased machinery or plant. One therefore has to calculate what is the estimated economic life of the asset and then determine whether the term of the lease is 75 per cent or more of the estimated economic life of the asset.

The word "remaining" that originally appeared in the definition, would have created confusion in determining whether a lessee could be treated as having substantially all the risks and rewards of the particular asset. The exclusion of that word provides greater clarity to the provision. Although it appears to be a minor change, the effects are quite significant in the application of the provision. I am, therefore, grateful for the comments which were made by members on the other side.

12.20 p.m.

The amendments to the Income Tax (In Aid of Industry) Act will take effect from January 1, 2000. Finally, Part IX of the Bill deals with amendments to the Securities Industry Act, 1995. This honourable Senate would know that since the Trinidad and Tobago Securities and Exchange Commission began operations in

May 1997, the commission has reviewed and registered several market actors including brokers, dealers, underwriters, security companies and investment advisors.

Work continues on the supervision of the activities of market players with a view to maintaining proper standards of conduct and professionalism in the securities business. The commission has been concentrating much of its efforts on the operational aspects of its role. In this regard, the commission has noted that the fee structure under the Securities Industry Act 1995 and its bye-laws need to be revised in order to facilitate the effective administration of the securities industry.

In its review of fee structure, the commission looked at fees charged by the securities commissions in other jurisdictions including Jamaica, British Colombia and the United States of America. Consideration was also given to the existing fee structure of the Trinidad and Tobago Stock Exchange which is a self-regulatory organization supervised by the commission.

Additionally, reference was also made to the fees levied on insurance intermediaries under the Insurance Act. The proposed fees are intended to provide for a more appropriate fee structure for the commission and is designed to achieve the following:

1. increase the registration fees payable under Schedule 1 of the Act;
2. increase the range of activities in respect to which registration fees are payable;
3. increase the filing fees payable under Schedule 1 of the Act; and
4. increase the range of activities in respect of which filing fees are payable.

The commission has complied with section 1(32) of the Act with respect to the publication of the proposed fees in the *Gazette* and in the daily newspapers. The commission also invited interested parties including members of the brokerage community and the Trinidad and Tobago Stock Exchange to make representations on the published proposals.

As a result of the representations made, the commission revised its original proposals and is satisfied that the fee structure being proposed would neither pose an undue burden on market actors and reporting issuers, nor adversely affect the development of the capital market.

Mr. President, you will note further, that under the existing legislation, market actors once registered are not required under the Act to renew such registration. The commission has proposed that the Act be amended to provide for the annual registration of market actors including brokers, investment advisors, dealers, traders, underwriters, security companies and self-regulatory organizations.

In addition, the commission also proposed that reporting issuers who are now required to file amended registration statements on an annual basis should now be required to pay a fee for such filing. These measures are consistent with the practice in other countries and are expected to provide the commission with a broader revenue base. These proposals will require an appropriate amendment to Part IV of the Act.

The proposals to amend the Securities Industry Act, 1995 should take effect from the date of the coming into operation of the Financial (Miscellaneous Provisions) Act, 2000.

Mr. President, in conclusion, I would point out that economic growth is a process of economic change. An appetite for change is a willingness to live with it, which is essential if a society is to enjoy a comfortable lifestyle.

The laws governing our social and economic life tend to lag behind the reality of current event. In the Bill before this Senate, I have sought to clean up some of the issues that are affecting investors and thwarting economic growth in this country.

Mr. President, if I have been long-winded, I apologize, but I sought to ensure that I provide this honourable Senate with a wide-ranging explanation as I possibly can.

Mr. President, I beg to move.

Question proposed.

Mr. President: Having regard to the time, we will break for lunch at this stage and resume at 1.30 p.m.

12.25 p.m.: *Sitting suspended.*

1.30 p.m.: *Sitting resumed.*

FINANCIAL (MISCELLANEOUS PROVISIONS) (AMDT.) BILL (DEFERRAL)

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, in light of the technical nature of the Bill before us, which was presented by the Hon. Minister of Finance this morning and this afternoon, we have agreed to have this debate deferred to another sitting of the Senate to allow Senators the opportunity to have a copy of the particular document so that they can then study it properly and we can then proceed at a later time, as I said, to debate this matter fully.

With the leave of the Senate we would like to propose this. We were supposed to go on, Sir, to the Praedial Larceny Bill but the Minister of Agriculture, Land and Marine Resources is on his way. In the meantime, we are proposing that we go on to the Regional Health Authorities (Amdt.) Bill.

Question put and agreed to.

Bill accordingly deferred.

REGIONAL HEALTH AUTHORITIES (AMDT.) BILL

Order for second reading read.

The Minister in the Ministry of Health (Sen. The Hon. Vimala Tota-Maharaj): Mr. President, I beg to move,

That a Bill to amend the Regional Health Authorities Act and for matters incidental thereto and connected therewith, be now read a second time.

Mr. President, the Bill before this honourable Senate seeks to make consequential amendments to the Regional Health Authorities Act which became necessary subsequent to the laying of an Order pursuant to section 3 of the said Act. As you will recall, the Regional Health Authorities (Amdt.) Order, 2000 in the First Schedule was laid before the Senate on March 28, 2000. This Order sought to dissolve the Central Regional Health Authority, thereby reducing the number of authorities from five to four. This Order was subject to negative resolution of both Houses of Parliament and accordingly laid before both Houses.

Mr. President, subsequent to the passing of the period, whereby the said Order, could have been challenged and annulled, it has now become necessary to introduce these consequential amendments. As such, this Bill seeks to make provision for the vesting in the state of all property, assets, rights and advantages formerly vested in the Central Regional Health Authority. Further, it also seeks to

impose all the liabilities and obligations on the state, that the former Central Regional Health Authority was subject to, immediately before the appointed day, that is, April 04, 2000.

It is to be noted also that clause 3(A)5 makes provision for the Minister of Health, by Order, to transfer such interests, rights, advantages, liabilities and obligations from the state to any of the four Regional Health Authorities. I take this opportunity to remind the Senate that the Health Sector Reform Programme, in which the Government is presently engaged, was predicated by the following principles:

1. The inclusion of the former Eric Williams Medical Sciences Complex within the public health hospital system, to provide secondary and tertiary care.
2. The decentralization of services to five Regional Health Authorities and the introduction of a new type of sector funding.
3. This fundamental shift from the then centralized system to the decentralized system, demanded concomitant arrangements addressing policy reform, rationalization of services and development of a National Health Insurance System.

Decentralization, as you are aware, took the form of creating five corporate bodies, each to be managed by a Board of Directors. The boundaries of these authorities were defined in relation to the existing Municipal and Regional Corporations. As a result, the five Regional Health Authorities were constituted as follows:

North/West Regional Health Authority:

The City of Port of Spain

Diego Martin

San Juan/Laventille

Central Regional Health Authority

The Borough of Arima

Chaguanas

Tunapuna/Piarco

Couva/Tabaquite/Talparo

South West Regional Health Authority:

The City of San Fernando;

The Borough of Point Fortin,

Princes Town,

Penal,

Debe

Siparia.

The Eastern Regional Health Authority:

Sangre Grande;

Mayaro/Rio Claro;

Tobago Regional Health Authority:

The Island of Tobago.

Mr. President, the chosen boundaries resulted in each authority having an acute care hospital under its control. Though each varied in the level and scope of services given, this fact, together with the location of some facilities near to one border, resulted in cross border flows for service. It was clearly understood and articulated that the stated regional population could not be the service population.

It is worth noting that the Eric Williams Medical Sciences Complex was built to provide a medical school, with its necessary support hospital and other elements forming part of the University of the West Indies. Commissioning of this hospital was extremely difficult, and the reform of the health sector was seen as a golden opportunity to have the potential of the Eric Williams Medical Sciences Complex realized.

The National Health Service Plan calls for the transfer to the Eric Williams Medical Sciences Complex of certain services, primarily, from the Port of Spain General Hospital, because of the spatial relationship, and also for the concentration of major national tertiary services at the Eric Williams Medical Sciences Complex which, as we are all well aware, was built for such.

The reform programme is in to its fifth year of implementation, and it has become clear that there is a need to rethink the governance arrangements in order to achieve the objective of the reform.

1.40 p.m.

It is to this end that this Government felt that the reduction of the number of regions would better facilitate the objectives of the reform programme. The reduction resulted in excising the Couva/Tabaquite/Talparo grouping from the former Central Regional Health Authority and including it under the South-West Regional Health Authority and merging the remainder under the North-West Regional Health Authority.

Based on the estimated population, the populations to be served would now be as follows: approximately 598,208 persons or individuals for the North-West Regional Health Authority and approximately 527,552 for the South-West Regional Health Authority. Mr. President, we on this side feel that this reduction would result in a number of position benefits to the population, namely, we have seen an immediate reduction in administrative costs. Further, it provides for a better plan for the rationalized use of the existing facilities and the provision of agreed services from agreed locations. Further, that some services be offered as a national service, that is, one region being responsible for the provision of the service. But more importantly, Mr. President, this new arrangement is expected to facilitate the commissioning of the Eric Williams Medical Sciences Complex.

As you are aware, the paediatric wing of the complex is now fully commissioned and the entire population of Trinidad and Tobago can access free paediatric service at the complex 24 hours per day, seven days per week. There is no doubt that this move has been and continues to be of great benefit to the population. This move also resulted in a more effective use of limited medical personnel. As you know, this is a major problem facing the sector. It is also our intention, within the next few months, to open free of charge to the entire population a number of medical and surgical wards. This Government is strongly of the view that the complex, having been built by the state at the expense of taxpayers, ought rightfully to be enjoyed by the taxpayers and also the indigent, free of charge where possible.

Mr. President, without a doubt we on this side have demonstrated during the last four and a half years, and we will continue to do so, that we are fully committed to equity and equality of treatment for all, irrespective of their political allegiances. Finally, it is expected that this new arrangement would minimize duplication of services within close proximity to secondary and other facilities and also minimize management issues relating to budgeting and outcome assessment. Consequently, now that the Central Regional Health Authority is no longer in operation, one has to deal with the properties, assets, rights and

advantages which were formerly vested in the Central Regional Health Authority. Moreover, one has to also recognize the past liabilities and obligations that the said authority was subject to immediately before the appointed day.

Mr. President, this Bill seeks to put the legal mechanisms in place. I beg to move. [*Desk thumping*]

Question proposed.

Sen. Cynthia Alfred: Mr. President, I would like to make a fairly brief contribution on this Bill. In spite of the reasons advanced as to why there will be four regional health authorities instead of five, it would appear that this Government is playing a game of tic-tac-toe. On the one hand, mention was made of decentralization in the original stage, that is, having five bodies instead of four, and one appreciated the fact that this Government wanted to decentralize, but here it is, very soon afterwards we hear that there will no longer be five bodies but there are going to be four. In other words, it is a question of almost recentralizing. So, as I said, regardless of the reasons advanced it would appear that there is something wrong somewhere.

I would like to turn my attention particularly, however, to the question of Tobago. Now, there is a regional health authority in Tobago and I may say at this stage, without fear of contradiction, that the Tobago health sector is in serious problems. [*Desk thumping*] As a matter of fact, it is in serious trouble. On the one hand we hear in the very Tobago Regional Health Authority that one person is alleged to be holding or to have been holding—because the person I understand since has resigned one of the positions—two positions: chairman of the authority as well as Chief Executive Officer (CEO). Now, that in itself gave rise to much speculation because one would want to know why one person has to hold those two positions. That is on the one hand.

On the other hand, we have an incident that arose just yesterday, as everyone I believe would have seen on the television and perhaps heard on the radio, where the public health sector is again in serious trouble, not so much the persons who control the public health sector but indeed the persons who work in that area. I may say at this stage that Tobagonians, after many, many years, have suddenly realized that they can no longer sit and accept whatever is handed out to them, especially when it comes to injustice. Tobagonians are people who will take for a long time, but after a time they will stop taking and they will have to act, as they did yesterday.

It is very interesting to note, even though it was mentioned that the persons who demonstrated did so, one of the reasons being, because they were not paid for something like nine fortnights, which is a very long time, there is an underlying factor which I believe was the main reason that prompted this demonstration. That reason is the fact that some 48 persons were brought into the public health sector very, very recently and were put on the permanent list and others who had been there for years cannot make the permanent list. That, Mr. President, I believe, was the main factor that prompted the demonstration. The money, yes, or the lack of payment, but the fact that so many persons have been in the health sector for years and they have not made the permanent list and here it is that the workers themselves complained, because one of the workers complained to me, Mr. President, that 48 new persons were brought in and, practically two months later, were put on the permanent list yet they could not make the permanent list.

More than that, Mr. President, there is the whole question of the administration of the health sector. One fails to see why people have to wait nine fortnights to be paid. As a matter of fact, I think that the demonstrators exercised a great deal of tolerance to wait until after nine fortnights before demonstrating. But you know, Mr. President, what was very interesting and heartening? It is the fact that they were not led by any union, the fact that these persons decided of their own to go and say, "We are not happy with a situation and therefore we are going to do something about it", and they did.

However, Mr. President, it was very distressing, to put it mildly, to see that, yes they were talking and shouting and so on but anyone would perceive that there was no overt act of violence and yet, first the police were called in. So we saw the police with, what I would tend to call, their riot gear, and then, to compound the issue, the regiment—the army—was brought in. One wants to know, why did one have to go to such lengths? These people were staging a reasonably quiet demonstration and you brought in the police and the regiment? As one person said, why bring in the regiment with guns? Mr. President, these are people who are only asking for what was their due and yet the police were brought in.

Okay, the police were asking the people to vacate the premises and the people said, "We are not going anywhere. We are working here and we have a right to say what we have to say", but the regiment was brought in with guns. So as one young man asked the question, why guns, Mr. President? We have to be careful what we do in this country, especially in Tobago. Then, of course, to take matters even further, allegedly the secretary did not have dialogue with the persons but left the compound.

Now, Mr. President, in most of my presentations, whenever there is a confrontational issue I have always advocated dialogue and if dialogue was employed instead of the secretary leaving the compound, then I am sure some sort of amicable solution would have been arrived at. But when one leaves people of whom one is in charge and one goes away and these persons have still not received any word as to their position, that, Mr. President, leaves a lot to be desired. On the one hand, this particular Bill seeks to apparently decentralize but to me it is a retrograde step because now one is recentralizing.

I go now to the question of the health sector in Tobago. Mr. President, we know that over the past two months medical personnel on the whole, particularly nurses, have been on strike or perhaps I should say have withdrawn their services. We know that is an ongoing problem and it seems that to aggravate the situation there is this present impasse in Tobago. Now, I must talk about Tobago because everybody, I would hope, would be on the side of fairness and justice, and, until such time as someone in authority would come to the decision that these persons need to be paid their moneys: one, their back-pay, and that whatever moneys would be going to them in future must be paid upfront, then there will seem to be no fairness or justice.

Most of all, Mr. President, I am making an impassioned plea to the authority in Tobago, that is the public health sector in Tobago, that those persons—I say it is alleged—whom they have allegedly put on the permanent list and have left out those persons who have been working for years, that they sit and review the situation because citizens of this country residing in Tobago are saying, "We have taken as much as we are going to take and now is the time for action". [*Desk thumping*] I commend those persons, Mr. President. They are standing up for only what are their rights, and if their rights are seen to, then we will not have these problems. So I thank you, Mr. President, for the opportunity of talking on this Bill. [*Desk thumping*]

1.55 p.m.

Sen. Prof. John Spence: Mr. President, I am fully in support of the reduction in the number of Regional Health Authorities. When this Act was debated some years ago, I argued very strongly that there need only have been three Regional Health Authorities namely: Tobago, North and South. Indeed, I would suggest that Government should go even further and merge the third health authority in Trinidad, perhaps, with the South. I note that the Hon. acting Minister of Health—and may I offer my congratulations to Sen. Vimala Tota-Maharaj on her acting

appointment—mentioned the figures for the North/West and South/West Regional Health Authorities—598,000 for the North/West Regional Health Authority and 527,000 for the South/West Regional Health Authority. The Minister did not mention the third Trinidad number because it would have indicated a much smaller number for that group, I think, perhaps, about 200,000.

Mr. President, now, Tobago has to be separate because of its geographic isolation from Trinidad. So it is logical, with a small population, that it is necessary to have a separate authority and evolution there. But certainly, with respect to Trinidad, I can see absolutely no reason why there should continue to be two large ones with this little appendix out in the South/East, which has no major hospital attached to it. Certainly that should be merged, I think, with the South which would make a logical three different authorities.

Mr. President, then one needs to consider the position of the Eric Williams Medical Sciences Complex. Again, during that initial debate I argued very strongly that the Eric Williams Medical Sciences Complex was so different from the other institutions that it should not have been merged into an authority at all. It should have been left as a separate entity and it still is the case—even what the hon. acting Minister has said—that there are certain specialized services that would be offered there. It would be offered nowhere in the other regional health authorities, so clearly, it is a special entity. We could have had the Eric Williams Medical Sciences Complex as a Caribbean regional centre which was a part of the original thinking, and there is no reason even now why it should not be viewed in that way.

The cost of cardiac care is much cheaper at the Eric Williams Medical Sciences Complex than it is in the United States of America, the United Kingdom or Canada. I am certain that we could attract numbers of persons to have their operations done here if we build it up in that way. So, I think, that is the position that we should take—Eric Williams Medical Sciences Complex as a separate entity. Initially, they were very good facilities and I do not know if we maintain them, perhaps, as well as we should but nevertheless, I think, they are still in a state where they could be upgraded to meet the attributes of a specialist regional medical centre—by region, I mean, not just Trinidad and Tobago, but a Caribbean region. So, I certainly support the merger and would suggest that the logical thing to do is to go further and have another merger of the remaining small regional health authority with the South. We should continue to maintain Tobago as a separate entity and build up the facilities there.

Mr. President, we talk about tourism but, quite frankly, someone like myself with a cardiac problem, I hesitate to spend too long a time in Tobago because, if I am in Barbados I can get to the Queen's Hospital fairly quickly and get attention. If I am in Tobago, I have the problem of having to be flown by, perhaps, helicopter to Trinidad. If we are going to develop this sort or tourism that attracts elderly folks which is what I think we ought to do, because they spend more, and with fewer numbers we can achieve the same economic benefit. But we need to have proper health services in that island, if we are going to attract people of that sort. So I think it is extremely important that we build up the service itself.

Mr. President, thank you. *[Desk thumping]*

Sen. Prof. Kenneth Ramchand: Mr. President, I have a brief comment arising out of a misgiving I have previously expressed on the subject of regionalization and decentralization. I think it is a very good idea to regionalize and I commend the Government for the effort and for the conversations it has had about dividing the country into regions for purposes of administration *et cetera.*

Mr. President, if there is a general policy of regionalization, would it not be a good idea to set up a committee of experts to study the demographics; to study the geography; to study the transport, water and sewerage situation; and then decide how many regions are needed? Having decided that—I do not think that the Government can decide that unless there is a vision of what it is they are regionalizing for—so perhaps the first question is: why is the Government regionalizing? Is the Government trying to take the pressure off the roads? Is the Government trying to make sure that if a man is sick in Cedros, he does not have to be taken by ambulance or PH-taxi quite up to Point Fortin to be told that there are no supplies, then to be taken to San Fernando General Hospital, and then finally to come to the Mount Hope Medical Sciences Complex to be finally killed?

Mr. President, if the Government is setting up regions, it should realize what are the social advantages; what are the community advantages; and what are the transport advantages *et cetera*. So the Government does need a committee of experts to work out, why it is regionalizing and when that is decided they should decide on the number of regions. Having decided the number of regions, the Government should set up regions where the boundaries of the educational region would coincide with the boundaries of the health region.

At the moment, there are certain educational divisions. Now there are certain health divisions and they are two different kettles of fish. I feel, I would like to see more thought given to working out why we are regionalizing. I would like to see people coming up with a set number of regions, and then all the authorities should locate in these regions so that the boundaries of the different authorities should coincide.

Mr. President, thank you. *[Desk thumping]*

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, I will be extremely brief. I want to begin by congratulating Sen. Vimala Tota-Maharaj on her acting appointment as Minister of Health. I want to state also that just last Friday, the acting Minister was in Tobago with officials from the National Insurance Property Development Company and the Canadian firm which was given the contract to do the drawings for the new Tobago Hospital. I hope that will encourage Sen. Prof. Spence, so that he will spend more time in Tobago rather than in Barbados. *[Laughter]*

Mr. President, I looked at clause 34 (3) and from what I saw on television last night, coming out of the Tobago protest, I am not sure whether the workers there have not abandoned their union. So I do not know whether the majority trade union before 2000 would have any say at all, in representing these workers in Tobago.

Mr. President, finally, last Friday, I looked at the lovely relationship and discussions between the Hon. Sen. Vimala Tota-Maharaj and the Secretary for Health in Tobago, Miss Judy Bobb—sitting around and chatting, looking so friendly, good and pleasing. I want to appeal to the acting Minister to see whether that feminine touch can come into play and both of them could put their heads together with the Administrator of Health, Miss Agatha Carrington—and all those people in Tobago concerned with this protest action yesterday—to chat and discuss this matter and come to a resolution, probably, in their own female way, put their heads together and bring a speedy resolution to the situation in Tobago. It is really a health crisis. It is not only the protest for pay, travelling and overtime, it is also about the closing down of our health centres in Tobago and all the services being directed to the Scarborough Hospital. So those are the few comments and I hope that the Hon. Senator would listen to my plea and get together as women leading this important sector and do something about it.

Mr. President, thank you. *[Desk thumping]*

2.05 p.m.

Sen. Rev. Daniel Teelucksingh: Mr. President, just a brief comment. I was just trying to ascertain from my colleagues for how many years now we have had these Regional Health Authorities (RHAs). We are just guessing that it could be some eight years or less. Let us say five.

I support the move for this merger, because I am hoping the day will come when all will be merged to have one Regional Health Authority of Trinidad and Tobago. I support the move as step one, because I personally believe that over these five years or so, with the introduction of the RHAs into our health management, I have not seen any signs of an increase or a betterment of the health services in Trinidad and Tobago. Some of the nurses are just cooling it out now. They are having problems with the Ministry, with the RHAs; all sorts of problems. I heard the Senator from Tobago talk about something in Tobago yesterday. So, we have an idea of what is happening.

When I go to the hospitals within RHA, I still see beds without sheets, linens and so forth. This was there before the RHAs and one will tell me that after five years we are still not seeing simple improvements like that? What are the signs that for the last five years or so, there have been some improvements in the health services in Trinidad and Tobago because of the introduction of the RHAs? I have not seen a change, and I note that the governments, last one and this one, have brought millions. This is about a budget for about $1 billion for health, and still, health is a disaster area in this country. I have been asking, and I hope one day I will get the figures.

What is the administrative cost for every one of these RHAs? Do not quote me, but somebody says the Chief Executive Officers must be getting about $20,000 per month. I have heard that figure, it could be more. Not to talk about the panel of people running these RHAs. My contention is that I have not seen a difference. We do not see the difference!

I support this, Mr. President, as step one, bringing together these two RHAs, hoping that the day will come when we will have all of them again. For a little country like ours, I think we could do with one Trinidad and Tobago National Health Authority. I hope that will come very early. So, keep on the mergers, I am with you.

I thank you. [*Laughter*]

Sen. Muhummad Shabazz: Mr. President, what we are seeing here is bringing two bodies together to make one body, and I guess, as one could say, we could have no objection. However, if they have one, two or three, the way the health situation is in Trinidad and Tobago, this Bill is just dealing with it on the periphery of whatever is the problem. We have real health problems in Trinidad and Tobago.

We know that this whole question of the RHA was something brought about by the People's National Movement. It had to take time to be put into place, and I am not knocking the Government for probably looking at how they could put it into place. We always know in this country we had a health system that dealt with everybody and had taken care of everybody for a long time. When we talk about the kind of money going into the health system at this point in time, we see the kind of problems we are having.

Mr. President, from Port of Spain to Sangre Grande there are not even two Government ambulances working. People have to rely on the private ambulance services to take them around. We just saw recently where there was no dialysis machine, no machines to take care of people and the Government is not coming to us to talk about that. The tetanus injections. The problem in Tobago.

I remember there was a big thing when the Prime Minister went to Tobago and they spoke about the Tobago hospital. That was a big issue. It is sad to see that even in this House there is the Senator on this side and Sen. Dr. McKenzie talking about Tobago. Apparently, they cannot sit across there and talk about Tobago because they could get in trouble. So, when they sit over there, Tobago cannot be an issue because they could be in trouble. They sit there for other reasons. That is how it looks.

These two Senators, if they do not talk about Tobago and we do not make reference here about what happens in Tobago, nothing will be said, because when we talk about Tobago, they get vexed, so you could imagine what happens on that side. I do not want to go further there, because in truth and in fact, the problem is that over there nobody could speak about the problems of Tobago in a serious way. The health situation in Tobago keeps getting worse. The people are objecting and standing up.

When we are talking about bringing regional bodies together, what about the people who work in these bodies. Nobody cares about them. They play games with them. Everybody seems to try to forget the games they keep playing. They

try to pull people aside and tell them one thing when they mean another and that is the whole issue of what is happening in the health system. That is what I would like to come to this House and discuss.

When they brought the Regional Health Authority (RHA) Bill, we spoke about the union. That they were taking the daily paid workers and taking them straight across to the RHA. Why was it not done with the Public Services Association (PSA) or any other monthly union? They objected and brought all sorts of points. Today we hear the head of the PSA talking about that being one of the issues. These are the kinds of things we keep wondering about, why they keep happening and why they are doing things in the manner in which they are doing them.

Mr. President, I could safely say, today, that over the last 40 years—and I do not care what anybody here says—we have the worst period in health administration in Trinidad and Tobago right now. We may have had bad situations in the development, but they got a developed health system. Today they speak proudly of the Eric Williams Medical Sciences Complex. Do you know why they speak proudly about it? Because the record for health, even though there might have been some situations that were not good, it was where we were aiming. We never said for all, but we tried our best to give for all. We were working on a system that provided health care for all. Not 60, 70, or 30 per cent and nothing tomorrow!

Mr. President, I want to be clear on whatever the problem is in the health service. When the Government does something good, they say we did nothing. When it is bad, they say that we did it bad, so they cannot improve it. They do not take responsibility for anything. They are walking through all the situations in Trinidad and Tobago in an irresponsible manner. When they make a promise and do not keep it, they come back here and never say sorry. They have taken the responsibility to have a proper health system and I think they ought to be doing much better than they are doing at this point in time. The health system is bad. Their relationship with the personnel in health is worse.

This must be a crisis! They are trying to make things look as though the nurses are politically motivated and that is why they are operating how they are. Really and truly, they made certain promises to the nurses behind closed doors that they are not keeping at this point in time. From the time one opens one's mouth to talk: that is why nobody could talk for Tobago. They find ways to kill one. If one is not in the House, they find ways to fight one down, and if one is on their side and one talks against them, one is gone.

This is a government that wants no talking against them. We cannot just sit here and feel that the health system is good, walk as though the health system is proper and it is one of the worst times for the health system in Trinidad and Tobago. I am saying that because I know that. Trinidad and Tobago knows that. Whatever picture they may present, however they may put it over, this is the worst time for health in Trinidad and Tobago.

Mr. President, we want to tell them to keep on trying. We will keep on assisting as best as we could, but we cannot just say what they want to hear and feel that everybody is all right. They do all the public relations and talk all sorts of things, but do not touch the real issues affecting health in Trinidad and Tobago.

We are going to release our plan very soon. We always had a health plan. They believe that in four years they made Trinidad and Tobago the best country in the world. What we want them to know is that Trinidad and Tobago is the best in the Caribbean, one of the best Third World developing countries because of the work that was done in this country by the People's National Movement and previous governments. *[Desk thumping]* They did not do it in three years and that is what they are trying to mamaguy people and make people believe. That is where the political gimmicks are now coming in.

The kind of steps they are taking and the kind of money they are spending on public relations, those moneys should be going into the health services. This is a serious thing. They bring people to make them look good, to present a new image, and the frightening thing about this Government is that they do not care. They represented health in an ad hoc manner, in a way that they did not care. They used public relations all of the time, and now when they are coming to the end of their term, they are talking as though they are the nicest people, they are bringing things better than everybody and health is going to be so good.

They are saying that water is going to be for about 80 per cent. Over 70 per cent of the people in this country had water, so in truth and in fact, it is only 10 per cent they are giving water. "Water for all by 2000" means flood water for all by 2000! Everybody will get that kind. Do not mamaguy the people now in health.

Mr. President, it is the same kind of scenario in education. I told them here in a Bill that they should not mamaguy the students with Common Entrance, and they came and did the same thing. They said they are taking away the exam but it is still there. They said that everybody is going to get free secondary education, but now they are saying that they are getting free education, but not all will be going to secondary schools.

It is the same thing happening with health. No ambulances. They built a nice new unit and said they have everything in it, but right next door they do not even have sheets or pillows. This is how this Government is going, just zooming in, bringing the cameras on what they are doing and around it is in a mess. They are zooming the camera in on what they want to do.

The nation could no longer take that. We must not take that. We must let the Government know that the health situation in Trinidad and Tobago is bad.

2.20 p.m.

They may want to compare it with during the PNM time, and they may look to bring some issue that went wrong in that time. But, Mr. President, for the last four or five years, the health situation has deteriorated so badly in Trinidad and Tobago, that it is a shame. Knowing where it was left and knowing how it was, it is a shame. I am saying yes, bring—I want to endorse Sen. Rev. Teelucksingh's point. At the end of the day, we just need to have one health system in Trinidad and Tobago: one section dealing with everybody. But if you cut it down to four, fine, cut it down to four, try to improve around it, try to do better and go into Tobago and build that hospital in Tobago, start it. You promised that you would start it. It is a sad thing that some conditions in Tobago cannot be taken care of in Tobago and has to be brought to Trinidad.

Again, I feel very proud on this side to be able to speak for Tobago. I feel very proud that our Senators on this side and on the Independent Benches can speak for Tobago. I look forward to hear somebody on your side make a serious proposal about that dirty and weak health condition that is in Tobago—bad in Trinidad and worse in Tobago.

Mr. President, my point to them is; do something about the rest of the health system. This is a kind of—I do not know if it is necessary, but if you are doing that fine, but do things to make the health system better.

Thank you very much, Mr. President. *[Desk thumping]*

Sen. Selwyn John: Mr. President, usually we would ignore many comments which are not within the Standing Orders, one of which has caused me to rise today. However, let me say I support the Bill that was presented by the acting Minster of Health. I would want to feel that, according to the last speaker, a lot of thought was put, initially, into the decentralization effort of the then government. Some of the issues that we are dealing with today could have been avoided.

As a matter of fact, if I could just go back to some of the problems that have arisen. The very introduction of Act No. 5, 1994 was flawed; flawed in the sense that, through you Mr. President, that Sen. Shabazz is not aware of many facts dealing with the establishment of these Regional Health Authorities (RHAs). As a matter of fact, when we debated the amendment to the Regional Health Authorities Bill, that provided for the provision of incorporating the daily-paid bargaining unit—giving the same features that were there for the monthly-paid bargaining unit. One has to wonder, really what is all the argument about, or what are the problems that could create in the minds of people that the Government did that to accommodate a union? Nowhere in that piece of legislation, Mr. President, is the name of the union mentioned. It would appear to us here, that in the dispute with the nurses, when mention is being made that the Act should be further amended to provide for the Public Services Association (PSA), one has to wonder really what is the whole argument about.

In the original Act, provision was made for the accommodation of the monthly-paid bargaining unit and the public officers who would continue to be represented by the organization, prior to their transfer—the organization that represented them prior to the transfer to the RHAs. This is in the Act. The collective agreements and the benefits that were granted to them in the Ministry of Health, would also be transferred. This is in the original Act which provides that. The amendment that came to the House, in respect of the daily-paid bargaining units, spoke in terms of the organization that represented the daily-paid workers prior to the transfer to the RHA.

I want to put on the record, that nowhere in that Act, the organization—the recognized body that represented the daily-paid workers, which is the National Union of Government and Federated Workers (NUGFW)—is mentioned. So, today, Sen. Shabazz said that the President of the union that represents the Public Services Association is claiming that the Government has agreed to amend the Act to provide for the PSA, I want to say that I do not think that the Government could put in the Act that the Public Services Association must be recognized by the RHA. This is what we heard today. I would like to just clear the air, Mr. President. The Government did not provide, nor did it put in legislation that the National Union of Government and Federated Workers, which is the recognized bargaining body for the daily-paid workers, would continue to represent the daily-paid workers when they are transferred to the Regional Health Authority. What has been put is that the organization that represented the workers prior to the transfer—as was done for the monthly paid workers—would continue to represent them on having been transferred to the Regional Health Authority.

I was a little concerned about the protest demonstration in Tobago yesterday, because from the reports I have had, a number of my members took part in that demonstration. In fact, the demonstration was organized by the management of the Local Health Authority. It is really part of the Tobago House of Assembly. The Public Health Inspector summoned all the workers to report for work at the offices of the Secretary for Health in Tobago. I do not think they had a choice. Daily-paid workers, particularly, do not get paid if they do not go to work. For that matter, if they are instructed that they must report on a certain spot for work, they have to report, and they did report.

Let me just again say, under the collective agreement, Mr. President—you know I could not understand the relevance of this to the Bill before us. We are debating a Bill that requires us to vest the property that is with the Ministry of Health to the Regional Health Authority. Nowhere in the protest in Tobago was the RHA concerned. The protest in Tobago involved a division of the Tobago House of Assembly; part of the health division, where there is some confusion; confusion in the fact that, outside the collective bargaining machinery, an officer made people permanent.

Under the collective agreement, the only way a daily-paid worker could become permanent, is through the negotiations between the employer and the trade union. That negotiation was carried out. The appointments were made. Lists of permanent workers were agreed to and signed, only to find that an officer, without consultation or discussion with the union, hired, in the first instance, eight workers and made them permanent and was told by the administrator that they had no authority to do that. In fact, I do not think those workers have been paid, because of the fact that it was pointed out that the officer had no jurisdiction/authority to employ these people, much less to make them permanent.

2.30 p.m.

I do not think it ended there, the officer went on to employ some 36 to 48 more persons. As a union, we are glad that people are employed. But what about those workers whom we are representing and negotiating to make permanent? Workers with service were left out and not accommodated at the time of negotiations because the structure required so many persons to be appointed—so the union was denied this—but the officer hired new persons and made them permanent and now there is a difficulty to pay them.

As Sen. Dr. Mc Kenzie says, maybe the relevance of the trade union movement is up in question. It is really a question of whether in fact a trade union is relevant because if an officer can hire on her own and appoint persons, I do not know if the officer has money to pay the workers. This is the problem now in Tobago. How do these workers get pay, and whether the Tobago House of Assembly would find the funds, having not authorized it? As a trade union, we would feel we have to give support to these workers because they were hired, it is not their fault, they did not hire themselves.

Mr. President, in this country where people breach the rules and the law and in this particular case, workers are suffering as a result, we do not see anywhere where these people are surcharged for their wrong deeds. If the daily-paid workers commit a breach, they are not suspended with full pay, and a tribunal is appointed. It is like the private sector where action is taken and if you are not in agreement with the action taken, you could react, bring your union and fight it. If the matter drags on for two or three years for that matter, the worker does not get pay until a tribunal like that of the Industrial Court orders pay and they only order to pay if the issue giving rise to the dispute is of a nature that the court feels that it should order to pay.

Let me say—when Members of Parliament, and in the case of Tobago, where the political parties got involved because the officer, I understand belongs to one of those political bodies and they were all brought in yesterday to march—I have instructed my trade union people to get out of that. If the workers march, we cannot tell them not to march. The matter is now aired in Parliament and a trade union represents those workers and it has a difficulty with the very source of the problem that created the problem for those workers. I do not know if the Senator would bring a motion to Parliament to order them to pay. I would support that motion. This is what we should do because, as I say, the matter was not relevant to the Bill. These workers are not part of the regional health authority, they do not work in the RHA. So it means what we are being asked to do is express a view and order them to pay the workers who were not paid.

However, Mr. President, I have a responsibility to the Parliament and what we must do is let the right things be done and what is needed in this instance is an investigation into the conduct of the Tobago House of Assembly and its officers on the hiring and appointment of workers who now cannot be paid for the services they rendered. This is a very serious matter and I would expect that all the politicians who are saying that the Government is wrong, and the Tobago House of Assembly is wrong, and the officer who hired them is wrong, would come up with solutions.

On the Bill, the fact that the Central Regional Health Authority has now been divided into two other regional health authorities, I agree with those Senators who feel that a further investigation must be conducted as to the wisdom of continuing the two smaller authorities in the North East and South East because what you have here is a building with a few beds that we call a hospital, and in the case of Sangre Grande, they have not yet reached a stage that the services needed could be given. I think the ministry has been giving consideration as to what we should do, but to tell us that one does not see improvement in the health service, I cannot agree with that.

I go to the health centre in Santa Cruz and just recently I had been there to get an anti-tetanus injection and I was able to get it there. I want to commend the North/West Regional Health Authority because they have been mounting a consultation in which they are inviting the residents in the Santa Cruz area—I think they are doing it in all the areas—to discuss the services they offer and to hear from them their views on it.

Again, one can ring for an ambulance in Santa Cruz. There is a 24 hour ambulance service available to the residents in the area. I know it is working all the time because I live there and the siren is heard throughout the day and night. It is a very active and working ambulance service. I cannot agree with Sen. Shabazz that in the whole East/West Corridor you cannot find two working ambulances. I know that the ambulance in Santa Cruz works day and night. In fact, from the time the dogs hear the siren, the dogs in the area start to bark, so you get a signal from them. Sometimes you get the signal from the dogs that the ambulance is coming.

From a trade union point of view, when the party then in power in 1994 introduced discussions for bringing legislation to set up the regional health authority, a number of organizations made comments on it. Part of those comments came from the trade union movement because even though we may want to say that the best service one could get is a centralized service, we saw some merit in the decentralization of the health services. I think the difficulty with many people, especially some of the trade unions that represent workers in the health ministry, is that the protection and the guarantees they have where disciplinary measures come up, they have a better chance with the service commission.

I represent workers who do not have this protection. We cannot go to a service commission. Where a worker is charged for an offence, a decision is taken and the worker has to have representation made on his behalf and the decision to take a disciplinary action does not take long. Within a couple days where a worker is charged with an offence, the penalty is exacted. So when you have a resistance, it is where the people do not want to give up the long embedded institution where you are charged with an offence, and you are on full pay and some 8—10 years after the decision is given by which time you do not have most of the witnesses or the charge is not proceeded with. This is a regular feature.

We do not have those things and it would have been good for daily-paid workers to have something like that, but then you could not build a country where workers are not carrying out their part of the bargain. We feel with the reduction of the number of regional health authorities, hopefully, the services offered would be better. It does not come overnight, and if I were some people sitting here today, I would not talk about the health service because the problems there did not start three or four years ago, it is a build-up of 30—40 years of deterioration.

The point had been made that this Government has not reduced the allocation in the budget for the health services—in fact it has been increased—and despite the releases in the budget for supplies for the institutions, you still hear they do not have sheets and pillows. In fact, the service has come to a point in which the people who work there are refusing to carry out certain jobs. They do not want to bathe or assist patients to go to the toilet. I will make a point here, and I will make it over and over because my union was ridiculed because we allowed some daily-paid workers to assist some patients who, up to eleven o'clock, did not have breakfast. These workers were told that they were carrying out duties outside of their classification by assisting the institution in helping those patients to have their breakfast and it was after 11.00 a.m. I say we would do it again. If my members are in the hospital and patients need help and nobody is there to help them, I have instructed and agreed that my members should go and help them. A ridiculous call was made telling me that we were breaking strike. I did not know they had a strike at any of the hospitals but, as I say, my members felt that it was in their humane interest to ensure that patients who were not served breakfast should be assisted, and they did it, and we will do it again if we have to.

I am putting it on record, because this is one of the reasons people are hospitalized. They could not help themselves, and they ended up in the hospital for health care including that part of getting their meals and getting assistance.

Mr. President, I end by saying that I give full support to the amendment to the Regional Health Authorities Act and I will continue to support it.

Thank you.

2.45 p.m.

Sen. Prof. Julian Kenny: Mr. President, just a brief comment. Needless to say, I support the legislation. But I think Sen. Prof. Ramchand and Sen. Teelucksingh have raised the broader issue of regionalism and decentralization, and in our set up I find it very difficult to consider regionalism as anything more than Trinidad on one side and Tobago—two distinct regions. I cannot see regionalism in terms of Trinidad, perhaps we are thinking more of district services, and what is very confusing to our citizens is that there is this idea of regional health authorities.

When you are dealing with the police, for example, sometimes I have certainly experienced when I have called police, I have been told that I am not in their district. I had an emergency and I called Maracas Valley and they said that I should call San Juan. You do not have a clear picture for the citizens as to what is this particular service. In desperation you telephone headquarters.

Sen. Prof. Ramchand talked about the educational regions, and I think that this is really—although this piece of legislation is tidying up one aspect of the public administration, the broader issue is, really, the services that we provide to the citizens who pay the taxes. Are these services more effectively administered or delivered by breaking up the delivery of these services into distinct groups or areas. This is what I find very perplexing. On one side there is one health service being organized in a certain way; there is the police being organized in another way; there is education being organized, and the regions that you are dealing with are quite different. Mr. President, you are paying house rates to a local District Revenue Office and many times you have no idea where this District Revenue Office is. The St. George West—which is, presumably, a region—used to be in the Salvatori Building; I have no idea where it is now. All I can do is address it to the District Revenue Office, mail it and hope that something comes back in due course.

So it is really not so much a question of regionalism or district services organizing the services in a particular area, it is really basically, fundamentally, a public administration issue or problem. I think that the Government really ought to address this issue as a matter of policy. How do we deliver a group of services most effectively to the citizens?

Thank you, Mr. President.

Sen. Joan Yuille-Williams: Mr. President, first let me apologize for that time of arrival this afternoon which caused me to miss the presentation of the hon. Minister in the Ministry of Health. Therefore, having missed her presentation, I think it would be unfair to go the way I had thought I would go today. I am only drawn into this debate because of something that Sen. John said—and I am taking the opportunity. As you see, Sen. John made some references to my colleague, who is not here at the moment, and I think I have an opportunity to put the record straight. Before I do so, let me just make one comment—and I think it will also take in when Sen. John referred to Sen. Shabazz as speaking outside of the amendments. *[Interruption]*

Sen. John: Mr. President, I wish to inform the hon. Senator that Sen. Alfred was speaking outside of it.

Sen. Joan Yuille-Williams: Mr. President, whoever it is was speaking outside of the amendments, I do not think that the hon. Senator should be the body to point that out to the President, because we sit here and tolerate so much of his contribution outside of the Bill. In fact, after making the observation, the hon. Senator did nothing but speak outside of it. Because what else could the hon. Senator do? He spoke outside all afternoon, and I am not blaming him for doing it because we are talking about regional health authorities and health, what else are you going to talk about? The merging of two regional health authorities? Worse again, they are already merged. What we are doing here is rubber-stamping something that the Cabinet decided and implemented, and therefore, what is the hon. Senator talking about? No matter what contribution we make for the day would not help. And this is one of the things I do not like. Not that we would be against it; it is not just a courtesy, but this is the Parliament and the Parliament is the place where you come to give effect to certain things when you are making these legal decisions, when you are making changes. Here is where you do it! And therefore you could have, at least, have waited until we had said “aye” or “nay” and go ahead and do it afterwards, because there is the majority.

So having done it, you come here with it, what else do you expect one to do? Do not tell me that it has not been done, because I would like to inform the Parliament that the Central Regional Health Authority has already changed its letterheads and is using letterheads of the North/West Regional Health Authority. That is already going on. The Cabinet made the decision—it is the Cabinet which runs this country, you know; we are all aware of it—and it was effected and things are going merrily on. They are merged already. Therefore, what we are doing here—I do not even call it rubber-stamping—we are doing nothing here; we are just hearing and we are just putting it on the record so the record would show that the Parliament, on such and such a day, had done certain things. No respect for the Parliament!

Therefore, let things like this lie. Do not worry to make comments on anybody going outside of it because you know there is nothing to do other than go outside. I was really disturbed when I heard him make that statement. I said I came late and I was going to sit there very quietly and read all these documents I have in front of me, but I could not allow it to pass and to put it in the record of this Senate. If one goes down anywhere in the Central Regional Health Authority and look at the letterheads that are being used, one would realize that what we are doing here—they did not even ask us to ratify it is wasting time. I am sorry I did not hear the presentation of the hon. Minister; whether it was retroactive or we ratify a decision of the Cabinet or whatever it is, I do not think it was said, but I may state that this has already been done and let us move on and hold the criticisms because some of us are worse off than others and yet we wish to make statements like that.

I do not think it is fair—because if we are talking about health and there are health problems, I am sure we are free to do it. The President has always been one who would look at it and sometimes even give us a little more latitude than we should really get, and for which we are always so grateful. In this case, he was talking about the RHAs and you could say anything on the RHAs that you wish to say.

Let me move on a bit and make two other comments. In the light of what I have just said, people need to talk about health because there is so much happening in the health system and the Government does not seem to be in a hurry at all in settling anything, and therefore it would always be here. I think that this Bill was pushed back a bit because at the time there was a lot going on in the streets; the tempo was a little higher than now; now seems to be a little calmer,

but even though it seems to be calmer, nothing has happened. The Government is not in a hurry. It is just waiting for what is happening to fritter away, like everything else. In Trinidad you would always say that you are hot on something and after a few days it will go away, and they are hoping that this whole health issue will pass over. No hurry.

It is people's health and the nation's health that we are playing with, and do you see anybody coming out in a hurry? They just sit back and look at what is happening, and try to threaten people and use the big stick approach on people; try to do anything—curse people, instead of attacking the problems.

2.55 p.m.

So, we have a right to do something like what we are doing now. We have a right to go outside of what is said here to talk about it because the people out there who are affected cannot come in this Parliament, and in this Parliament we do not care.

Another remark I want to make is in answer to Sen. John when he made his contribution, and it is the same thing he said when he spoke on the last Regional Health Authorities Bill. He is here, I thought, representing labour but I am getting a distinct impression that it is only when it concerns his union. I think if I were a labour leader, at least, I would not allow the rest of the country to know that and the rest of my colleagues to hear it. No wonder he was marching almost alone the other day because his colleagues know that he sits here not to take up their cause. [*Desk thumping*] It is obvious that he is doing it.

Remember the Senator said in *Hansard*—which was stated some time ago—that whatever he could do to influence decisions to benefit his workers he would do. I did not hear him say whatever he could do to benefit workers generally he would do, and that is what the people are saying. He is a President of the National Trade Union Centre, if I am right—I am not too sure—but he holds a position like that in labour yet he comes and says here that he will do what he can to benefit his workers. I am glad he is doing it to benefit his workers, but why not do it generally? Then he talked about whoever it was in Tobago, the administrator or whoever, because of his allegiance to a political party or something like that, and asked, why he was doing it!

The Member did it in here when we dealt with the amendments with respect to the daily-rated workers. He clearly stated why he was doing it, because he is so allied to that union. The Senator said he had an interest and he clearly stated it. Therefore, I do not see why he is trying now to show that whoever the person

was—I do not know too much about it. I have listened to it, but here the Senator was picking on that particular person and saying that the person was doing it because he had a political interest or otherwise.

I say, if you are representing labour you are representing labour. I say, if you have your colleagues then you advise. I hope that your presence there would influence decisions which will affect workers, whether in your union or otherwise. [*Desk thumping*] Anything less than that and you are not true to the movement. You will continue to walk alone if you do not respect the fact that people need to be represented as the case may be. [*Desk thumping*] [*Interruption*] One union.

Mr. President, there are two other areas I really want to take note of and I want to go back to the last RHA amendments in which we allowed the daily-rated workers to enjoy the same benefits as the PSA. We were told that it was on a mission and therefore that amendment gave the daily-rated workers almost the same status as the monthly-paid workers of the PSA. However, I had noticed during the impasse that the President of the PSA was still asking for certain recognition for the PSA. I went back to the *Hansard* and I saw where the Minister had assured this House that recognition was given. Just now I heard the Senator speak about it and I wondered if an agreement was made which could have been registered in the name of the union.

I know that I am touching on Sen. Wade Mark's portfolio but this is an honest question I am asking. When he said that the PSA probably was asking that it should be written into the agreement, the PSA shall be the recognized bargaining union, and he wondered why the PSA should be written into it, I am coming just like you now. You were looking after your own so before you ask why yours was not written in there too, you wondered why the PSA should not be written in there too. You are getting so naïve. You are walking such a thin line, you are forgetting that probably both should have been written into it, but you are not looking at that, because probably the PSA might have asked for that. You are trying to criticize them but try to see if you can register an agreement and see whether or not it can be done without that being written into that. I am still leaving it open. You need to go the extra step. I feel that you are wrong in some area when you say that there was no agreement. They might not have had a written agreement to that effect, but that is being actively considered, I hope, by your Government.

Sen. John: If you do not mind my helping you, what the PSA sought was that the same provision for the daily-paid union workers be granted to them. But, as I explained, that was already done in the original Act.

Sen. J. Yuille-Williams: Thank you. Mr. President, I think the Senator is behind times. They have moved on from that. We are on a level playing field now. They have moved on and they have asked for what you have just said written into it, that the PSA shall be the recognized bargaining unit and that is what you are criticizing, but you are criticizing it because you are looking at it with a one-track mind. If you look at it clearly you might have asked the other side of it, "Why was yours not written into it as well?" [*Interruption*] No, well that he objected to then. However, that is what I am asking for now, what you are asking.

The second thing about it is this. I have been hearing that there have been talks and agreements, verbal and otherwise, and I do not think you understand how far this has reached. You are still behind and I wanted to ask you just now, what position are you taking? Are you supporting your Government who seems to be thinking at this moment of moving in that direction? I do not know. Or are you not? You have to think about it instead of saying things here and not knowing what is happening. Clearly, they do not let you in on the labour talks because you are not a labour leader. You are not involved in what is happening with the labour activities and if I were in their position I would not involve you.

Just now you almost crossed the line when you said something about the RHAs. I saw your Minister kind of pull herself up but, because she is the gracious lady she is, I am not going to say it. She sat in the front here and heard you make a statement about the RHA and the direction in which it was going. I mean to say, the lady almost disappeared, but thank goodness you did not go further. I wanted to get up and ask you to repeat your statement but I did not do it because that seat might be in a little jeopardy, so I kept quiet because we want to have you with us till the end, so I did not worry to say it. But something was said that did not go in line, and that is another thing.

We can babble as much as we want here, if you do not understand the policy try to not talk. Do not worry to say anything. You missed the policy there as you missed the policy with what is going to happen with the nurses because this is not dead. I think this is still open, the whole business about the status of the unions as regards the RHA. I still think talks are continuing but we just hope that things will be hurried up and some solution arrived at. I think, Mr. President, the Senator had better find out where we have reached and see if probably then he can see about

his own union because the PSA is not going to look after him because he did not look after them as he said he did not. He said it quite openly here in the Parliament. We want all workers. We are talking about workers generally, workers. We are not talking about this union as opposed to that union, which is what I cannot understand. If I am a labour leader, why should I just think about those who I represent? Think about all workers and this place will be a very happy place.

There is another thing that the Senator said, Mr. President, and he is talking about people who breach rules and the law. Clearly again, he was pulling one set aside from the other. When he said so I asked myself, what do you make of this 25 per cent inducement which the RHAs were offering to the nursing personnel? Tell me something. Is that not breaking the law? [*Interruption*] I know it is there but is it not breaking the law? You are quite right it is there. The reason it is there and they got a hearing is because the legal person saw something in it that needed thought. It is breaking the law.

Do you know why it is breaking the law? [*Interruption*] It is you who started it this evening, not me. It is breaking the law because the Act No. 5 of 1994 clearly talked about transfer of officers and secondment of officers from the Ministry to the RHAs. If you go through it—26—you will see where it clearly states how that is to be done. If the Act states clearly how it is to be done, why the inducements? It is the inducement that is breaking the law. [*Desk thumping*] The Act says how you get people from here to there. Why are they not going through that? Why try something else? The Act also stated that persons are free to remain with the health authority in the Ministry of Health, the public service. It is in the Act, and you know that it is there. You criticize it. You have said all kinds of things about it. I heard you saying all kinds of things about it and all the problems you will be having if so and so were done.

Do you know why they are having problems? Because people fail to accept what the Act states. If you accepted it then you would not have had those problems. So all these inducements that you are putting out there, this whole business—and do you know what they were doing? Do you know why they were not quick to resolve all the problems with the nursing personnel? They saw it as a window of opportunity to force those nurses from the Ministry to the RHA. Therefore, when the window was open they said, "How could we get them over? Let us induce them. Let us put a carrot bait to induce them to come over". You baited them but they did not move with it. Some started, that is what you said. I

do not know how many, but some people started. I should not say "start", I want to use the word "inducement". Some started, but there is a way here. I do not want to go through all the pages. Read it. There is a way that tells you how to move over. It is under staff and related matters, transfer of officers.

Mr. President: Senator, I think we have completely removed ourselves from the Bill and I have allowed sufficient time for certain points to be made. Would you now speak to the Bill, please.

Sen. J. Yuille-Williams: Thank you, Mr. President. Sorry about that. I was trying to respond in the context of the hon. Senator. So I say today this whole business of the RHAs, the regional health authority and the amendment that we have here today is just another symptom of how people are treating health and health related matters. Even the courtesy that should be extended to the Parliament has not been there. And we will continue to follow what is happening in health.

I also say that if even you try to suppress it by bringing these piecemeal amendments where you are trying to merge these, which has already been done, I am neither here nor there with it. If that is the way you feel you could handle it better and you could get greater returns from it, so be it. I hope that, just as you came quickly with these things we will quickly address the problems that are in health, because, as I said before, we are not hurried. We are waiting for something to happen. This thing is going to explode very shortly, and, who is going to suffer? The people of Trinidad and Tobago. Thank you, Mr. President. [*Desk thumping*]

Sen. Mahadeo Jagmohan: Mr. President, I am glad for a brief opportunity to speak on this amendment to the Regional Health Authorities Act before the Senate. I want to compliment three of my colleagues who have spoken on the Bill and I want to assure you, Sir, that I am going to stay as near as possible to the Bill. I have recognized that my colleagues have done extremely well with respect to the debate. I will make a few general points and then to refer to particular clauses of the amendment.

First of all, if anyone at all or any hon. Member of this Parliament has alluded in any direct or indirect way to nurses and other health workers, staff generally, being on strike, I question that. I do not think the nurses are on strike, *per se*. The nurses are protesting in certain ways their dissatisfaction, and their dissatisfaction is not based on inadequate compensation for yeoman service that the nurses are rendering in the country. Their dissatisfaction is based on not having sufficient

medical personnel, that is, enough doctors to do what they have to do, so nurses will not be pressured by the patients and the public with the indication that they should be doing what doctors should be doing.

3.10 p.m.

Mr. President, some references were made about a Tobago situation. Unfortunately, I did not follow it through the news media because my residence from Port of Spain to here is two hours on the road and I miss a whole lot. At prime news time, even when the Senate finishes this afternoon at 4.30 or 5.00 p.m, I will be on the road, so I will miss a whole lot. *[Laughter]*

Mr. President, if we take it in the context of this amendment that the Regional Health Authorities Bill is being amended through the proposals contained herein, Act No. 2, I am seeing tremendous difficulties for the health personnel and I will tell you why. It was my impression, that when the Regional Health Authorities were established it meant that personnel such as medical doctors, psychologists, the people who look after the nutrition or the nourishment of the patients, nurses, laboratory staff and all other workers were to work within a given Regional Health Authority. Do you know what this means now? The fact that a certain geographic area of the immediate past—I am taking a cue from Sen. Yuille-Williams that the thing is already in motion—a certain amount of staff may be deployed to work at the health facilities in St. James, while their residence might be in Claxton Bay. If this amendment did come into being, these people would have been within the Central Regional Health Authority, thus eliminating the possibility of the hardship that they are undergoing now.

I wish to state that those who might have been—in the very recent past—working under the jurisdiction of the health facilities in Chaguanas or even San Fernando General Hospital for that matter, there is a real possibility that these people may be re-deployed or designated to work at the Point Fortin Area Hospital, which is going to be tremendous hardship. I am wondering, notwithstanding the subsisting collective agreement between the recognized majority union and the Chief Personnel Officer, if daily-paid workers from San Fernando or possibly Chaguanas, Couva and San Fernando cannot be deployed at the Point Fortin health facility and *vice versa.* A possibility exists because of the manner in which this amendment was done. I am glad the hon. Minister has returned just in time when I am making these points

Mr. President, if a figure is given that about 48 workers in Tobago have been employed—Oh my God, the Minister of Finance is not here either—the organization and methods division of the Ministry of Finance decides when there is to be an increase in personnel through the Chief Personnel Officer and all the recognized majority unions in the public service, negotiations take place to do this. If the recognized majority unions for workers of the Tobago House of Assembly and the Central Government—or whoever for that matter—has not gone into any discussions with respect to an increase—the Senator from the Independent Benches from Tobago alluded to the fact that there were workers with service which put them junior to new workers who were overlooked in Tobago—this is a serious problem area.

Mr. President, if industrial relation practices and the contents of all the industrial agreements are not taken into account then there would be a big problem in Tobago and, that is, loss of earnings may have to be restored to the senior workers for the period they might have been overlooked. So it could also mean that the Government may be paying 96 workers in Tobago for work being actually performed by 48 workers.

Mr. President, like Sen. Selwyn John, we on this side are happy to see as many people obtain employment and be compensated with wages or salaries but then it has to be done in a proper manner, and if it is not done that way, then it is questionable. Some kind of mafia might be at work somewhere. I do not know where.

Mr. President, I am coming to almost the end of my brief contribution. With the advent of the merger of the Central Regional Health Authority into two other health authorities, Southern and Northern, I am wondering if this would put citizens who were formally within that catchment area—if I could use that impression—if this means that they would have the facility of specialist treatment at the Port of Spain General Hospital and the Mount Hope medical facilities. For example, the dialysis machines—I hope I call that machine by the right name—whether this would make it easier for them. If it will, then the Government has a point that ailing humanity will now breathe a sigh of relief, but I am wondering whether that can be done.

If the people at North Western Regional Health Authority and as other authorities do say, “Well that is not your area you have to go elsewhere for the treatment”, sometime people are being run around—like somebody said here—from this police station to that police station, or this health office to the other health office. This is a problem area and where sick people are ailing, the dividing

up of the Central Regional Health Authority and merging it into the Southern Regional Health Authority or the South Western and North Western Regional Health Authorities is something that is filled with a great deal of difficulties.

Mr. President, there are people here who had a nexus with the public service for many years. The late Mr. Fraser when he was the Acting Permanent Secretary in the Ministry of Finance since the 1960s. He had sent out a certain circular and had ordered that all government departments frame that circular and hang it up where everybody could see it. In effect, that circular was saying, no one who is not authorized to spend money should ever attempt to do so, and if they do, they will be charged. Well, I am not interfering with that situation in Tobago with the 48 workers. If that circular still has validity then the Government has problems. I pray to God that something does not happen, where people commit suicide and go crazy and things like that.

Having said these few things, I am on the last point, Sir. With respect to clause 3 of the Bill, in the first instance, I am confused—not because of my inability to understand—about the manner in which the Bill is put together and presented. If all the properties, real and otherwise, that is building, land, equipment and so forth were under the jurisdiction of the Central Regional Health Authority, why on the basis of this Bill all those properties are now vested in the state or Central Government? Why were they not divided equally so that the North Western Regional Health Authority takes charge of this, that, or the other, and the South Western Regional Authority takes charge or control of these or other facilities.

3.20 p.m.

So, you now take all of those facilities and vest them in the Central Government or the state—that is how the legal draftspeople have put it here. What does this mean now? I do not know. The Regional Health Authorities will have to initiate negotiations or put new machinery in place. Perhaps the Minister in charge of the public service may wish to explain this, or maybe the Minister of Finance. I do not know. This is a matter that is troubling me, and I am wondering why this has come about.

Then, there is the other question. How is it that no part of the property, or whatever building it is, has been transferred to or put under the jurisdiction of the Eastern Regional Health Authority? With the manner in which the Southern Health Authority has extended, nothing has gone to the Eastern Regional Health

Authority. I am using somebody else's word. Are we alienating those people from this kind of facility? These are questions to be answered, but very importantly, Mr. President, where people who are ill and need help are concerned, we should not delay the smooth implementation and the settling down of these Regional Health Authorities with expanded service to the people of Trinidad and Tobago.

I thank you, Mr. President.

The Minister in the Ministry of Health (Sen. The Hon. Vimala Tota-Maharaj): Mr. President, I did not expect this afternoon to turn into too much of hardball politics. However, there was a lot of blame casting to our side. If I can refresh the memory of those who sit on the Opposition Benches, this entire Health Sector Reform Programme was initiated by the PNM administration.

When I hear some of the criticisms or comments being made by Members of the Opposition, I wonder, and I feel very sad this afternoon about the comments made by Sen. Shabazz. I feel very sorry. My heart cries for you, Sir. *[Laughter]* Because you were not sensitized, and I do not blame anybody on your side, but apparently you did not get the relevant information to make a contribution this afternoon, so you did play your hardball politics.

I would like to concentrate on Sen. Shabazz's contribution first. He said that we are dealing with surface issues. This Government does not deal with surface issues. This Government deals with people. The people who matter in whatever process or whatever we try to do. This is what we deal with. This Government, at least, had the strength to bite the bullet and make sure that the reform process began. The dream was a PNM dream, as you say, but we are the ones who implemented it.

It is not cast in concrete. As we have always said, this Government will not cast aside any policy or any suggestions from previous governments. We would tailor them and use whatever we can out of them for the betterment, so to speak, of this country and the citizens of this country; not play hardball politics with the lives of our citizens, especially the health sector, Sen. Shabazz.

The Senator has said that this is the worst form of game playing he has witnessed and you compared 40 years of the health sector. Mr. President, my apologies for not addressing you directly. Before I went into the Ministry of Health, which is about six months ago, every single thing for nearly the past 20 years, I believed when I saw it on the newspapers or on television, that there was a tremendous crisis in health. When I got into that Ministry and I started to understand how complex the Ministry of Health is—the entire health sector and

the many associated factors with health—then I could appreciate what a struggle it is to be at the helm of a sector such as this. We deal with the lives of people, we deal with health, and we always have to bear that in mind. We cannot play politics with people of our country.

Sen. Alfred said that the Government is playing tic-tac-toe by reducing the number of RHAs from five to four. It was brought to my attention during the lunch break by Sen. Prof. Spence—and this would also address his concern—that we go with three RHAs in 1994 during the PNM administration. However, that was not done. Hence, five Regional Health Authorities: four in Trinidad and one in Tobago. After reviewing what has been taking place during the process of the health sector reform, this Government has now decided, let us go with three RHAs in Trinidad and leave the one in Tobago. At this point also, I would like to correct my colleague because I think he made a little error when he was saying that there are two RHAs in the eastern region. There is one Eastern Regional Health Authority.

The question was asked, "Why leave the Eastern Regional Health Authority as it is, not add to it, not take away and not merge it?" Mr. President, the Eastern Regional Health Authority spreads from Matelot down to Rio Claro. If one looks at the geographic spread of that region, and also the way in which people settle in that region, one will understand that it is a unique region. It caters to the unique health needs of those people. That is why it was thought best not to merge Eastern Regional Health Authority into Southwest or into the Northwest region.

Also, there was a major concern that if the eastern region should be pulled into one of the other two larger regions, resources would not reach them. I beg to differ, because I heard a comment from one of the Senators that Sangre Grande does not really have a hospital. Sangre Grande hospital performs a tremendous service for the people of that catchment area. They have the best ambulance fleet operating in the East West Corridor. That is pernicious propaganda on your part, Sir.

So, the ambulance service in the eastern region is performing extremely well. They have about five ambulances. Recently, this Government, under the reform programme, had pilot projects for an ambulance service in Tobago—which I understand is functioning extremely well—and, also in the Southwest Regional Health Authority. They are comparable to international standards. They answer calls within 18 minutes of calling, so they are performing a tremendous service. This service will soon be coming to the northwest region. So, this propaganda that the hon. Senator has been spreading—this pernicious propaganda—really is mischievous and misleading.

Sen. Prof. Spence: From the description that the hon. Acting Minister has given, it would seem to be even more logical than I had presumed before, that Matelot and Toco up in the northeast, and Mayaro and Guayaguayare in the Southeast would be logically divided, so that Matelot and Toco would be that area in the north, and the southern area would be in the south. I do not think it is a good argument to say that because they are merged they will get the resources. That is like saying we will not do the right thing for the wrong reasons. If the resources are there and they are going to be given, they should be given to those areas irrespective of their affiliation.

Sen. The Hon. V. Tota-Maharaj: Your concern has been noted Prof. Spence, but we must remember that many of the people under the Eastern Regional Health Authority live on the coastline and are fisherfolk. Because of that and, also, because we have an excellent primary health care facility in the eastern region, we do not see a need to interfere with it. Our thrust under the health sector reform is to encourage people to go to the first point of contact, which is the primary health care, Sir.

Sen. Prof. Spence: Forgive me for interrupting again, but does that mean then, that people from Mayaro would not go to the San Fernando Hospital if they have a problem? Would they come up to Sangre Grande?

Sen. The Hon. V. Tota-Maharaj: Mr. President, through you, the citizens of this country, when they seek medical care, are well aware of what services are available at the Sangre Grande Hospital. Not all of the services are available there. People do have a choice. They journey to San Fernando or to Port of Spain and they are never turned away. So, their needs are catered for. However, as I said earlier, the main thrust here of the health sector reform, and what is taking place in this country, is to encourage our citizens to use the primary health care facilities as their first point of contact.

People tend, through historical reasons, suspicion and otherwise, to go to the hospitals, and this is why we have the backlog at the hospitals. We have been encouraging our citizens to go for the services first. Their first point of contact should be the health outreach centre or the district health facility in their area.

A great deal has been said about Tobago. According to Sen. Alfred, Mr. President, Tobago's health is in trouble. Yesterday's news said serious trouble, but she herself proposed a suggestion here this afternoon which I would like to repeat, about the Secretary for Health actually dialoguing and holding discussions with the workers in Tobago. Perhaps that should be done. We at the Ministry of Health are monitoring what is happening, but we cannot interfere.

Sen. Selwyn John did go ahead and explain what is happening in Tobago, and I beg to differ that the union was not represented, because on the news last night, Mr. President, I did hear and see a union representative with a union jersey speaking, so I do not know if the union was represented or not, from what I saw.

Also, earlier when Sen. Alfred was speaking, she mentioned that the Secretary for Health in Tobago, I believe it was, cast the blame on the People's National Movement. However, I do not believe this is political game playing taking place.

Sen. Alfred: I did not mention that in this Chamber.

Sen. The Hon. V. Tota-Maharaj: I withdraw that, Sir. With respect to the nurses' issue, Mr. President, I would not endeavour to even respond to that at this time. I agree that our nurses do provide a yeoman service to our citizens, however, the discussions are in the hands of the Chief Personnel Officer (CPO) and the Public Services Association (PSA), where they rightly belong, and where the discussions and negotiations have to take place. However, I take umbrage to the word "inducement". Neither the RHAs, nor the Government, tried to induce anyone.

An incentive was offered. Discussions were held, and this is where this scenario has reached in our country. *[Interruption]* Senator I do feel very sad for you, Sir.

3.35 p.m.

On Tobago once more, Mr. President—at this stage, Mr. President, I would like to thank Sen. Winston John, Sen. Cynthia Alfred and Sen. Dr. Eastlyn McKenzie. Thursday last, I found out that I had to be part of a team signing an agreement for the design/construction of the Scarborough Regional Hospital. Immediately when I found out, I contacted all three Senators and asked them to attend this very important function, which was being held 10 o'clock the next morning. I must express my appreciation to these hon. Senators. We crossed all partisan lines. We went together as a group and participated in this signing exercise.

I would like to share an excerpt of my contribution. *[Interruption]*

Sen. Shabazz: Just for the record, Mr. President, why did the Senator only invited three Tobago Senators and not the fourth one?

Sen. The Hon. V. Tota-Maharaj: Mr. President, I would like to share with the Senate an excerpt of my speech on Friday. I quote:

> "All of us present today are well aware of the Health Sector Reform Programme presently taking place and its successes and hurdles. The Government of Trinidad and Tobago is committed to ensuring the maximum and, if possible, total success of the Health Sector Reform Programme.
>
> The construction of the new Scarborough Regional Hospital is an integral component of the Health Sector Reform Programme which is sweeping our nation.
>
> The construction of the new Scarborough Regional Hospital has been in the pipeline for quite some time. The residents in Tobago have been the main advocates for a new hospital, and finally their wishes and dreams would soon commence to unfold before their very eyes in February 2001. May I ask those Tobagonians present today, that you sensitize your brothers and sisters and monitor the progress of construction, as it belongs to you."

My colleagues from Tobago have indicated that they will monitor the construction of the Tobago Regional Hospital and also spread the gospel of the health sector reform in the sister island.

Mr. President, Sen. Rev. Teelucksingh raised the issue about the services being offered by the Regional Health Authority, and that there was no increase in services. Mr. President, I beg to differ at this stage. I am going to share with the honourable Senate, Saturday May 13, 2000, *Trinidad Guardian*, one page, Sir.

> "Best of health care at Woodbrook by Dr. Leonard Jaggassar
>
> Keep up the good work, south team, Andrew Samlal, San Fernando
>
> Get back on job, nurses, Jane Byer Santa Cruz
>
> Please ban smoking in cinemas, Horace Desormoeux, Maraval."

The health sector—and I agree it, is an energetic sector—is alive and people are paying attention. The citizens of this country know their rights, they know what to expect, and they are participating in the health sector reform that is sweeping this nation, and this Government is committed to ensuring that the Health Sector Reform Programme goes full speed ahead to ensure that there is a proper health service in this country, Mr. President.

Two Senators raised the issue of dialysis machines. Mr. President, a dialysis machine costs approximately $120,000. However, the usable for that is quite high and those who understand how dialysis takes place, knows that it cost, let us say—the Eric Williams Medical Sciences Complex has dialysis machines—almost $700 per session. This is a paying hospital, so patients pay there. However, at San Fernando and Port of Spain, the service is not charged for, as I have been told.

When the Ministry of Health did a survey recently, it was found that approximately 100 people every year will need to go on dialysis. The reason is because of the affluent life which we live; our lifestyles, the things we eat, our lack of exercise and how we indulge. The Ministry, hand-in-hand with ensuring that dialysis can be free or affordable, is also promoting health and educating the nation. April 2000 was declared Health Promotion Month 2000. So we are doing these two things hand-in-hand to sensitize our nation. We know that there would be a group of people in this country—about 35 years and above—who, because of lifestyle, would need to go on dialysis or would have diabetic complications. My technocrats are telling me probably about 100 people per year until the lifestyles have changed. We are looking at establishing another unit somewhere to do dialysis in this country. I know for a fact that a number of private institutions are doing dialysis at a cost.

Mr. President, one of our Senators, I believe it was Sen. Shabazz, tried to criticize the Government of which I am proud to be a part. I will always be proud; whether or not we are in Government, but I know we are here until 2525. The hon. Senator spoke about lack of water and certain facilities. I have been fortunate in that I settled in an area known as "PNM Heaven"; that is in Arouca South. While the rest of the country was suffering for water and other amenities years ago, I was getting every single service that I can possibly get. However, three-quarters of this country could not even get one day's supply of water. This Government is ensuring that nearly every single citizen in this country gets water. This is what equity is about; not giving me water seven days a week, 24 hours a day and depriving those people from South or Central from getting an adequate water supply, Sir. I would just like to respond to that because, as I said, pernicious propaganda from the hon. Senator.

I would like to thank my colleague on the Government Bench, Sen. John. I took offence to the fact that one of the Senators said that he is a labour leader who walked alone. I beg to differ, because wherever you go in this world and you hear

and talk labour, the name Selwyn John is brought up, and the type of leadership and work that this gentleman has done. Whenever there is a union or labour meeting anywhere in this world, they always send for this hon. Senator to make a contribution.

We need to recognize that he has done extremely well and he has guided those workers who did not have a voice, so that they now have a place in the sun in this country.

3.45 p.m.

Finally, I would like to remind hon. Senators that the thrust of the Health Sector Reform is in the primary health care. The primary health care services in this country are growing tremendously. Almost all the infrastructure is in place to provide the services to the communities so people do not have to travel for two to three hours to access services, they can access them just outside their homes and this is the thrust of this entire programme.

Senators need to be aware of this entire matter, and if there are any Senators who would like to get more information on the Health Sector Reform Programme, I would willingly share it with them.

Mr. President, I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 3.

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

Sen. Rev. Teelucksingh: Mr. Chairman, could the Senator explain to me the provision that the land and property will now be vested in the state. What is the meaning of that? Am I to assume that later on, it will go back from the state and be vested with the new authority?

Sen. Tota-Maharaj: Yes, hon. Senator that is so. The reason is that there are certain outstanding debts which fell under the Central Regional Health Authority. Until we can clear that up everything will be vested in the state at this stage so we could do the house cleaning and the accounting exercises properly.

Sen. Rev. Teelucksingh: Did you say debts, to the tune of what?

Sen. Tota-Maharaj: We are not too sure.

Sen. Rev. Teelucksingh: Is this one of the reasons that they were scrapped?

Sen. Tota-Maharaj: No, this is not why we scrapped Central. People were not utilizing the services in Central. Most people were going where the free services were, Port of Spain and San Fernando, and were not able to pay at the Eric Williams Complex so we had to find a way to streamline the services. Also, there was a duplication of services at Port of Spain and Eric Williams Medical Sciences Complex, so we are trying to streamline now and put our house in order.

Sen. Yuille-Williams: Mr. Chairman, something had struck me and I think the Senator is alluding to it. I was under the impression that the Eric Williams Medical Sciences Complex was the major hospital in that region and, therefore, the services were not free. Couva was supposed to be a full hospital and, therefore, if that was so, then people would have been able to afford the free services there, but it did not come up to what was expected of it, so it had to be removed from being a region itself and be merged with the North/West Regional.

Sen. Tota-Maharaj: Senator, Couva was never intended to be a hospital. It was intended to be a district health facility which is a little larger than a health centre. However, there is an accident and emergency department and there are beds for patients to spend probably a day, but not overnight. There, they can be transported to either the Eric Williams, Port of Spain or San Fernando Hospitals. So Couva is not a hospital, it is a district health facility.

Mr. President: I am sorry, I am not going to permit debate on that. This is not the place for it. If it does not relate to clause 3, I will not permit it.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Question proposed, That the Bill be reported to the Senate.

Senate resumed.

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

RELATED BILLS

The Minister of Agriculture, Land and Marine Resources (Hon. Trevor Sudama): Mr. President, a Bill to amend the Praedial Larceny Prevention Act, Chap. 10:03 and a Bill to amend the Summary Offences Act, Chap. 11:02 are interrelated and I therefore seek leave of the Senate to deal with these Bills together.

Question put and agreed to.

PRAEDIAL LARCENY PREVENTION (AMDT.) BILL

Order for second reading read.

The Minister of Agriculture, Land and Marine Resources (Hon. Trevor Sudama): Mr. President, I beg to move,

That a Bill to amend the Praedial Larceny Prevention Act, Chap. 10:03 be now read a second time.

I do not intend to be very long on these Bills, simply because the matters to which they relate are well known and the need for action has also been recognized, very effective action in this area.

The incidence of praedial larceny in Trinidad and Tobago is at an enormous scale and we have had difficulty in trying to estimate the losses involved as a result of the incidence of praedial larceny, but it is substantial. One estimate has it that anything like 25 per cent of agricultural produce in this country that goes into transactions are, in fact, stolen and are the subject of praedial larceny and the value of these stolen goods which are traded is quite significant.

Mr. President, as you see, the problem is very severe and it has very serious consequences on farmers and producers in this country, and if there were a disincentive to farming and agricultural production in this country, one of the major outstanding problems and disincentives has been praedial larceny. It has reached the proportion now where people have resorted to protecting their own property by utilizing force which is now being considered unnecessary force, but it is a rather emotional issue and it has to do with rights of property, intrusion, and the impunity with which people feel they can take other people's property, in this case, agricultural produce. So the need for strengthening this piece of legislation is well recognized.

We also understand that it is not just a question of employing sanctions and policing activities, it is a deeper problem. It is the expression of a way of thinking it is okay if you get something free. You do not have to work for it, you do not have to produce it, you go and take someone's else's fruits of their labour. That has to do with education which is a much more fundamental problem with which we have to deal in the society than just merely passing laws to catch persons who engage in praedial larceny and the illegal trading of produce.

Mr. President, we also have to emphasize the fact that it is not only those who steal and sell, but also the purchasers of produce, and this is why we have made certain provisions in this Bill which some may consider rather harsh, but we thought that the severity of the problem demanded that we take sterner measures. Because people wittingly or unwittingly purchase stolen goods and they do not enquire about the source of these goods, they do not care, and once the price seems to be a bargain, they go ahead and purchase without enquiring from where the seller got the goods.

4.00 p.m.

The activity and the expression with effect to praedial larceny are known everywhere: sales on the roadside, markets at the wholesale level—you name it—at all levels of transaction this problem exists.

We are also saying that the purchasers ought to be wary, simply because if you did not have purchasers of these stolen items then there would be no incentives to steal because there would be no ready market to which you can dispose of it. This is why we are placing some obligation on purchasers, requiring them to, at least, have some kind of documentary evidence for the majority of the transactions that we can trace. One of the biggest problems we have is tracing stolen produce, and, therefore, giving the policing authority something to work with: some greater measure of authority in trying to deal with these problems of praedial larceny.

Mr. President, we, in the Ministry, have received numerous reports about the disadvantages of praedial larceny, the deleterious effects it is having on agricultural production. In fact, since I am in the Ministry of Agriculture, Land and Marine Resources, I may have spoken to over 25 farmers groups and other organizations—and in every discussion praedial larceny has come up at the top of the list, as regards to problems facing the agricultural community, and it was felt that we need to do something.

I want to emphasize that it is not a question of just bringing a Bill here, we have to deal with it in a holistic way—look at the administrative arrangements we have in place, or perhaps from the legal framework, the institutional arrangements—look at the whole system of educating people; look into the whole system of creating a different attitude towards agricultural produce and those who are engaged in it. We have to change the thinking of the whole society including those who are engaged in policing activities and those doing judicial functions.

We also had the benefit of a number of committees which sat and looked at this problem and sought to propose recommendations as to how we should deal with this problem. Among the issues which were addressed was that, first of all, there were definitional matters: what constituted produce; what is the definition of cattle, a marketplace and agricultural produce. All these things had to be defined and the meaning amplified so that we would be able to plug some of the loopholes which were found.

One of the issues which arose as a result of the deliberations of committees and so on, was that the penalties which were current were too lenient and did not send sufficient signal, therefore, did not serve as a sufficient deterrent to people engaged in this kind of activity. Then there was the enforcement inadequacies, where we did not have a sufficiency of policing resources and, of course, an attitudinal problem where if police were burdened with many issues they tended to look at praedial larceny as something of less importance and, therefore, did not give it the attention which it required. So an attitudinal change was one of the difficulties.

Then of course within the police service I must say that when I got into the Ministry one of the first things I did was to have very wide-ranging discussion with the Minister of National Security, Sen. Brig. The Hon. J. Theodore, and to raise this whole question of enforcement and what can we do about the policing functions. I am sure when he contributes to this debate—I do not want to go into that in any great detail—he is going to outline the perspective of the Ministry of National Security and the police in beefing up, in enhancing the resources to deal with this problem.

It was felt that at the magistracy level, again, praedial larceny was not given the attention it deserved and that it tended to be given a lower order of priority and the length of time it took to come to cases which, in fact, reached that level of decision-making, because in many cases the number of times farmers had to go to

court; the number of postponements and so on, in a large number of cases the matters were just left and not pursued by the farmers and the producers. When decisions were, in fact, given it was so late in the day that it was felt to be a waste of time and resources on the part of the farming community.

Then it was felt that at all levels of the society there was not sufficient education about the ill-effects of praedial larceny and its very damaging consequences and therefore a programme of education should be embarked upon in order to address that problem. Then the whole issue of the difficulties in tracing transactions in agricultural produce, and tracing the produce themselves and the lack of a paper trail. You will see what we are proposing is a measure of documentation which would provide that—paper trails—and give the enforcing authorities something with which to work and make identification much easier than it is in the current situation.

Then the issue of what do we do with goods which are the subject of praedial larceny? How do we give a discretion? These are perishable items and if the cases are not disposed of quickly there would be a problem, and the losses which are incurred are, in fact, losses to farmers. It was also felt as a result of the discussions which were held and the committees reports and so on, that we had to look at agriculture and praedial larceny in a wider perspective. There was to be a holistic view of this, not only the issue of farmers and their concerns; not only the policing or the magistracy and so on, but all stakeholders had to be brought together in order to develop a programme which would address this problem more meaningfully.

4.10 p.m.

Mr. President, as a result of all these discussions and analysis of the reports and so forth, we decided that we would take a certain course of action. First of all, it was decided that an amended Bill, which addressed certain concerns, would be brought to Parliament. Therefore this Bill we have before us made a thorough review of the provisions of the existing Act and broadened the definition on certain items, for example, cattle and agricultural produce.

Of course, we had a particular difficulty with the word, “cattle”, how to define cattle, because in the old legislation cattle was taken to mean donkeys, horses and so forth. Then somebody came up with the idea that in order to broaden the definition we could talk about “horned animal” but that has a particular difficulty because we did not quite know to what it applied. Some people said it might even have applied to humans. So we came up with the definition of a farm animal to

broaden the range of those things which were the subject of praedial larceny, and then we could be more specific about the nature of the offences that were committed under the proposed amendments.

One of the other things which occurs in all of the amendments is increasing of the penalties. Now, the current legislation has certain penalties and what is being done here is that, in order to provide that deterrent of which I speak, we increased the minimum and the maximum penalties and indeed, where it was necessary, we added to a monetary penalty, imprisonment as well. As I said, this is to send a signal to those who are engaged in this activity.

Enforcement seemed to have been one of the major problems that was identified as a result of the discussions. It was agreed in principle that what needed to be done was to expand and increase the numbers available to carry out a dedicated activity, that is, dealing with praedial larceny, and that we should have a unit that was dedicated to this particular purpose. Of course, we should also have other persons authorized and precepted, like game wardens, forest rangers or people like those, who will then add to the policing resources of the Government, and this was done. As the Minister of National Security will tell you, at this point in time for the whole of Trinidad and Tobago there are only 25 officers who deal with praedial larceny matters. As you see, that is a very small number.

What was also realized was that there ought to be deeper collaboration between the Ministry of Agriculture, Land and Marine Resources and its personnel and the police service in an attempt to stem this problem. Therefore, what we have agreed upon is that we should attempt to increase the number of authorized persons as provided for under the Act to be precepted and these authorized persons would include game wardens, honorary game wardens, forestry officers, estate constables, litter wardens, agricultural extension officers and others. Of course they are to be precepted and trained to carry out their functions. Mr. President, it is hoped that, with this renewed attention that is being given to praedial larceny, the police will give some priority attention to this function. That is an area, as I said, which would be elaborated upon by the Minister of National Security.

Another thing we attempted to deal with in the amendments before the Senate is to send some message to the magistracy so that the Magistrates' Court should set aside a specified day of the week to deal with praedial larceny cases. In this way matters should be disposed of within one month of the charge being laid. So if you put that obligation on the magistrate then we should get a speedier, more

expeditious resolution of these cases before the magistrates. Of course, arrangements will have to be made for that to be given effect.

The other issue we thought it necessary to address was the variability in the sanctions imposed, because one magistrate may see the problem differently from another magistrate. Therefore, in some instances people who were convicted of praedial larceny got off scot-free or were given minimum sentences and in other cases people were given very heavy sentences. We thought that if a minimum sentence was included in the legislation, and that could be administered, there would be less variations and inconsistencies in the sanctions applied. Therefore, with the implementation of the proposed legislation there would be greater credibility awarded to the magistracy in dealing with praedial larceny matters.

There was also the rationale for imposing the need for a memorandum of sale, which merely means a receipt. Although it has this big name, a memorandum of sale, is merely to enable farmers and producers, wholesalers, middle men and so forth, Mr. President, to become more businesslike and provide more documentary evidence of transactions. While this may seem to be an inconvenience, our view is that, except we provide evidence of receipt and payment, if we are to trace transactions and the source of goods then we need to have this requirement in place. The seller of goods will be required to retain the duplicate of this receipt, or memorandum of sale or delivery, and the purchaser would retain the original and he or she will have to produce these documents when required to do so. We feel that, quite apart from attempting to deal with the problem of praedial larceny, this would enable the conduct of activities in agriculture in a more businesslike manner and emphasize the need for the keeping of proper records. This will all assist in that objective and in getting people habituated to adhering to systematic routines.

Now, Mr. President, I know that in the other place issues were raised about inconvenience and so forth. All this requires is that one fills in a few items on a receipt, how much of what quantity was sold and the price because one would have had in one's possession a receipt, a printed item, already. One could order receipt books and all one would have to do when entering into these transactions is merely take one or two minutes, enter the amount and the value. So one person keeps the original, the purchaser, the other person keeps the duplicate, and it enables one to trace, it enables one to go from one transaction to another to identify the source if, of course, these matters are subject to suspicion.

Sen. Prof. Spence: Mr. President, would that mean that illiterate vendors could no longer vend?

Hon. T. Sudama: Mr. President, as far as I know, there are not very many illiterate vendors. If there are, then they are assisted by their families, their children and so forth, and they can provide that limited amount of documentation for which we are asking in this case.

Mr. President, we are also incorporating in the Bill a new provision, which has to deal with the disposal of goods that are the subject of praedial larceny. It offers three alternatives in the new Bill before us. Basically, all this says is that if there are perishable goods which are coming before the courts, the alleged owner can have control of it provided he signs a bond. If after the case is heard there is some dispute as to ownership then, of course, the bond is forfeited. In the meantime, however, he has possession of the goods, he can dispose of them and get some money from the proceeds, so that the goods do not perish while they are waiting for the court matter to be heard.

Then there is the issue of a photograph of the goods, which can be taken and used as evidence in the case, and then the goods are disposed of very quickly. Of course, where there is some real difficulty as to the owner, the goods can be sold and the amount put into the Consolidated Fund. So there are three ways of disposing of goods that are the subject of praedial larceny matters. This, as I said, is new, simply because the experience was that many of these items did perish and the person who really lost was the farmer or the owner of the produce, and he could not recover. There is also a provision for compensation for the value of items that are lost.

Mr. President, one other new introduction in this Bill is provision for supervision orders, and supervision orders were really meant to deal with first-time offenders. Instead of sending them to jail or imposing a heavy fine, the person is put under the supervision of the police and they ought to report at certain times and so forth. There is elaborate provision in the Bill here as to how to deal with first-time offenders and the nature of the supervision orders to which they are subject. So that there is some discretion incorporated in the Bill as to how to deal with different cases, first-time as against hardened offenders.

The Minister of Agriculture, Land and Marine Resources also intends to deal with this matter in a broader manner, in a more holistic fashion, to establish a co-ordinating body to monitor, to oversee, to look at the ongoing problems which are involved and, of course, to make recommendations for them. What is intended is

that the Ministry will establish an anti-praedial larceny co-ordinating body, which will meet periodically and look at all aspects of the problem to see how well they are doing with respect to achieving solutions. This will be comprised of, in addition to the Ministry of Agriculture, Land and Marine Resources, representatives of the police service, the magistracy, the Law Revision Commission, farmers, organizations and authorized persons. This body, as I said, will monitor problems, the implementation of the law and the administrative measures and co-ordinate the activities of stakeholders.

4.25 p.m.

Mr. President, also to deal with the problem effectively, the Government has embarked on a farmer's registration exercise and this is to be completed shortly. This exercise will provide a database of farmers; what they are cultivating and where; of course, who are the farmers; and what acreage of land is under their jurisdiction for the purposes of cultivation. So that it will, at least, provide some preliminary database of bona fide farmers in the country and that will assist in dealing with cases of praedial larceny.

Mr. President, once a farmer's registration card is produced it would be *prima facie* evidence that a certain amount of investigation went into the issue of that card, so that the person who holds that card, once that person is properly identified is legitimately a farmer, except where one farmer steals from another—one would expect that farmers do not steal their own produce—and that they would be a sort of watchdog in this whole issue of praedial larceny.

I just want to briefly go through some of the clauses of the Bill.

Sen. Prof. Spence: Mr. President, I wonder if the hon. Minister could tell us whether squatters would be registered.

Hon. T. Sudama: Mr. President, presently we are engaged in a squatters regularization exercise and that would provide information on people who are occupying lands engaged in agricultural production but do not have permission to occupy those lands. So that is on going and we hope that when the Government completes that exercise, the Government would have regularized and registered all those who are occupying lands without authority and permission *[Interruption]* not for the time being until we complete this exercise.

Mr. President, as I said, I just want to briefly touch on a number of the major amendments the Government has incorporated in both Bills and to show what these amendments were planned to achieve; what is the objective of the amendments; and the extent of the amendments very briefly. Perhaps, by leave, I can pursue that after the tea interval.

Mr. President: The Minister will continue after tea. Sitting is suspended for tea until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Hon. T. Sudama: Mr. President, I thought I would just take this opportunity to emphasize that there is an existing Praedial Larceny (Prevention) Act which is already on the statute books. It was felt that there were some loopholes and the penalties were not severe enough to send the required signal to the people who are engaging in this practice. It was felt that some new provisions ought to be added in order to give greater guidance to the magistracy in making some decisions.

Very quickly what I want to do is go through the various provisions of the existing Bill and to indicate where and in what respect we have made changes. If we look at section 2 of the Interpretation Act, what we have done is widen the meaning of "agricultural produce". Of course, in order to get the full meaning, we have to go to the Summary Offences Act which elaborates on that definition of agricultural produce.

With respect to poultry, the current legislation did not cover eggs obtained from the bird so that is now covered. With respect to section 3, "Memorandum of sale or delivery of agricultural produce or livestock", it is the question of where this transaction took place. The current legislation has: "Any place other than a public market". Of course, the question is, what is any other place other than a public market? This is felt now through the amendment that it is in any market, grocery, minimart, roadside stall, vehicle or any other place where agricultural produce is sold.

That section also requires that when one sells and one produces a receipt, the seller has to have on that receipt some identification number. These are alternatives, whether it is an identification number, farmer's registration number, passport, driver's permit, whatever. He must have some identification by which he can be traced.

Then we go on, and in the current legislation, a person who furnishes or gave a memorandum of sale or delivery shall retain a duplicate. That was not there in the existing legislation. So, the seller keeps a duplicate, and the buyer keeps the original. Therefore, one can match the transaction. Also, the maximum fine for an infraction has been increased to $20,000 and to imprisonment. That is where we said we wanted to send the signal by increasing the penalties which would attend these convictions.

Section 3A is amended. Here we are dealing basically with people who are moving about with bags containing livestock or produce of whatever value. The police have the power to stop such a person and enquire about how he got the agricultural produce and, of course, produce a receipt to show that he has validly acquired such. That power was not there before.

Let me also explain that it does not mean that the police are going to stop everybody. That is physically impossible. It is a discretionary thing. They observe, and if they think that people are suspect, or people have been known to be habitual offenders, they will then be put under query. So, it is not, I want to emphasize, a situation where we are trying to create a sort of police state where one is subject to continuous and constant scrutiny.

There is a minor change to section 4 where we are increasing the penalty to a fine of $10,000 and imprisonment for four years. In the past, this fine was merely $500. That has been increased substantially, and, of course, there is the possibility of imprisonment.

Section 7 is being amended where the various forms of identification:

> "Where in the course of a search carried out under section 6 agricultural produce or livestock is discovered the constable or authorized person may require the person in charge of the vehicle–"

Here we are talking about transportation.

> "or other means of conveyance to produce a memorandum of sale or delivery…"

And some form of identification. This has spelt out more clearly, the obligations of the person transporting the goods.

In the same section there is a slight change where in the original Act it stated that the authorized person or constable could seize any agricultural produce or livestock that the suspected person was found conveying. This seemed a bit loose, so we thought we would change that to read, "produce or livestock found in the possession" of the suspected person. That is merely a question of form to bring more certainty.

At section 9, the fine has been increased. Where it was previously $3,000 or imprisonment for 12 months, we have said that it should be not less than $5,000 and not more than $20,000 and to imprisonment for four years.

Again, at section 12, the penalty has been increased. At section 13, the same applies. In section 13(a), which is a new section, this is where provision is being made in order to deal with the produce in question. The magistrate has three options which are outlined in section 13(a). At any time he may do this before or during the hearing of a matter. As I indicated, this was necessary so that he could dispose of these perishable items very quickly. This is a new section which was very necessary to incorporate.

Then, in section 15A, we have come up with the whole issue of a supervision order, so where a person is convicted, before the sentence is passed, the magistrate has the discretion, in case he is a first-time offender, to issue a supervision order in order to keep him under surveillance so that he does not engage in similar activities. It is a long section, so I will not go into all of that again.

Section 26 states that where one impersonates a constable, the fine has been increased. Where one is found in unlawful possession of the badges of authorized persons, again, we have increased the fines.

With respect to prosecution, Mr. President, we are making some changes which will put an obligation on the magistracy to deal with these matters in an expeditious manner. It says here:

> "Notwithstanding subsection 1(a), the complaint for an offence under this Act shall be heard and determined not later than one month after the making of the complaint."

Then it says:

> "A complaint for an offence under this Act shall not be made later than one year from the time when such complaint arose."

Where it was six months before, we have extended it to one year and then we have imposed an obligation on the magistracy to deal with these matters within one month of the complaint being made.

Mr. President, as I said, we went through a lot of debate and discussions. We had dialogue with very many groups and listened to their concerns and recommendations in incorporating these amendments which are before us today. I think that, as I said, whatever else we may do, we need to send a signal through statute that we are serious about this business of stemming the tide of praedial larceny, but we also acknowledge that this is not only a matter of law and putting down a legislative framework. We have got to enhance the policing activities associated with it, and we have got to deal with the whole institutional framework in which we are trying to resolve and abate this very serious issue in the agricultural sector.

Mr. President, I beg to move.

Question proposed

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the honourable Senate to defer debate on these particular Bills: the Praedial Larceny (Prevention) (Amdt.) Bill and the Summary Offences (Amdt.) Bill to the next sitting of the Senate. With the leave of the Senate, I would like to propose that we proceed now to Motions Nos. 7 and No. 8 respectively on the Supplemental Order Paper.

Question put and agreed to.

CIVIL AVIATION AUTHORITY BILL

House of Representatives Amendments

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. President, I beg to move that the House of Representatives amendments to the Trinidad and Tobago Civil Aviation Authority Bill, 2000 listed in Appendix I be now considered.

Question proposed.

Question put and agreed to.

House of Representatives amendment read as follows:

2 In subsection (1), insert after the words “Section 1, 2, 3, 4,” the words “5 with the exception of paragraph (b), 6,”.

Question proposed.

Question put and agreed to.

5.20 p.m.

Clause 5.

House of Representatives amendment read as follows:

5 A In paragraph (b) delete the ";" appearing after the word "documents" in line two and insert the words "and to collect fees in respect thereof;".

B In paragraph (c) delete the word "control" appearing in line two.

Sen. The Hon. S. Baksh: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 6.

House of Representatives amendment read as follows:

6 In paragraph (a) of sub-clause (2), delete the “(;)” appearing after the word "company" in line four and insert the words "provided that such subscription or acquisition is not in relation to a company regulated by the authority under this Act;"

Sen. The Hon. S. Baksh: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 12.

House of Representatives amendment read as follows:

12 In sub-clause (1), insert after the word "Authority" appearing in line one the words "under the principle of good corporate governance".

Sen. The Hon. S. Baksh: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 17.

House of Representatives amendment read as follows:

17 In paragraph (b) of sub-clause (2), insert the word "or" between the words "agencies" and "corporation" appearing in lines three and four and delete the words "or private individuals" appearing in line four.

Sen. The Hon. S. Baksh: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 24.

House of Representatives amendment read as follows:

24 A. In sub-clause (1):

(i) Delete the word "is" appearing between the words "functions" and "not" in line one and insert the word "shall".

(ii) Insert the word "be" between the words “not” and "subject" appearing in lines one and two.

(iii) Insert the word "be" between the words "not" and "subject" appearing in lines one and two.

(iv) Insert after the word "Ordinance" appearing in line two the words "However, until such time as the Authority makes its own tendering rules approved by the Minister and subject to a negative resolution of Parliament, the Authority shall observe the provisions of the Central Tenders Board Ordinance".

B. In sub-clause (2):

(i) Delete the words "The Board shall, with the Minister's approval, makes rules relating to the award of tenders and contracts and those rules shall be published and" appearing in lines one, two and three and insert the words" Tendering rules made pursuant to sub-section (1)".

(ii) Delete the word "." after the word "matters" appearing in line four and insert the words "and shall be published in the *Gazette."*

Sen. The Hon. S. Baksh: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 32.

House of Representatives amendment read as follows:

32 Insert after the sub-clause (4) the following—

" 5) All duties and functions carried out by the Department of the Ministry responsible for Civil Aviation immediately before the commencement of this Act

shall from the date of commencement be carried out by the Authority.".

Sen. The Hon. S. Baksh: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

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

House of Representatives Amendment

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. President, I beg to move, that the House of Representatives amendment to the Deoxyribonucleic Acid (DNA) Identification (No. 2) Bill, 1999, listed in Appendix II be now considered.

Question proposed.

Question put and agreed to.

Clause 41.

House of Representatives amendment read as follows:

41 In sub-clause (1):

(i) Delete the word "five" appearing in line three and insert the word "seven".

(ii) Insert the words "or other persons trained in similar disciplines" between the word "pathologist" and the words ", and" appearing in line five.

Sen. Brig. The Hon. J. Theodore: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Sen. Prof. Spence: Mr. President, could we have the whole subclause please?

Mr. President: She read the whole proposed subclause amendment.

Sen. Prof. Spence: I have not got the original Bill here, so I would be grateful if the Minister could read the whole clause to subclause (1).

Sen. Brig. The Hon. J. Theodore: Mr. President, clause 41 reads:

"The Minister shall appoint a board hereinafter called the DNA Board, comprising of not more than five members; including a molecular biologist, a population genesis, a forensic scientist or a pathologist."

It is at that point the amendment comes in. The concern was that five was somewhat restrictive so we made it seven, to accommodate people with similar training.

Question proposed.

Question put and agreed to.

5.30 p.m.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, before moving to adjourn the Senate, I would like to inform my colleagues that next Tuesday, May 23, 2000, is Private Member's day and we would do nothing to interrupt, interfere, or subvert that process. So we shall be proceeding with Private Member's business as planned and outlined in the Standing Order.

However, because the following Tuesday, May 30, 2000, is Indian Arrival Day, we are going to return on Thursday, May 25, 2000 to continue our agenda at 10.30 a.m. to 10.30 p.m., so I serve notice because there are many matters to deal with. We would be dealing with motions Nos. 1 and 6. We will then continue the debate on Praedial Larceny Prevention Bill and Summary Offences Bill, as well as the Dangerous Dogs Bill, 2000. We will also deal with a Bill to Re-enact the Rent Restriction Act, Chap. 59:50, as well as the Homes for Older Persons Bill.

I beg to move that the Senate do now adjourn to Tuesday, May 23, 2000 at 1.30 p.m.

Mr. President: Hon. Senators, there is a matter to be raised on the Motion for the Adjournment of the Senate by Sen. Alfred.

I now call on Sen. Alfred, and advise that she has 15 minutes to make her presentation.

Public Access to Beaches
(Re: Three Chains Act)

Sen. Cynthia Alfred: Mr. President, I sought leave to bring this Motion on the Adjournment because of certain situations that have escalated in Tobago in recent times, one of them ending in an unfortunate death of a citizen of this country.

The subject deals with Public Access to Beaches with particular reference to the Three Chains Act. I will go back to the Three Chains Act and I have a document on the laws of Trinidad and Tobago, Three Chains (Tobago) Act which

was made law on May 26, 1865, 135 years ago. The government of the day, in that case, the British Government, having recognized the importance of the sea coast brought this Act into being and I would read some of what the Act says.

> "WHEREAS when the lands of the Island of Tobago were originally granted the Commissioners appointed by His Majesty King George the Third for the sale and disposal of the same reserved around the coast of the Island a strip or belt of land of three chains breadth from high water mark for the erection of forts or batteries;
>
> And whereas the said Commissioners stated on the map of the Island published in the year 1776 as follows, that is to say:
>
> 'The three chains round the coast represented by a dotted line are considered by us as appropriated to the use of the contiguous planter excepting in cases where any particular spots may hereafter be found necessary for erecting forts or batteries, in which case His Majesty may erect such forts or batteries thereon without paying any compensation for the same.'
>
> And whereas doubts have lately been entertained as to the nature and quality of the estate in such proprietors in relation to the said three chains and in order to remove such doubts:"

This particular Act, cited as the Three Chains (Tobago) Act, was brought into place.

Mr. President, one chain represents 22 yards and three chains therefore represent 66 yards from the high water mark. This chain is also referred to as Gunter's Chain.

As I mentioned, situations in Tobago have come to a head where, in very recent times, someone was killed on a particular piece of land because of perhaps, misconception, misinterpretation, or lack of knowledge, or whatever of the Three Chains (Tobago) Act.

Even though matters came to a head at that time, things have been simmering for quite some time. The citizens of Trinidad and Tobago, resident in Tobago have become increasingly concerned about the fact that they have little, and in some cases, no access to public beaches. By public beaches, I may also add, the coastline. So it is not only 135 years ago, but indeed, right now in the island of Tobago, there is still doubt as to access to public beaches and the sea coast.

After the Three Chains (Tobago) Act was passed, there were subsequent Acts passed with respect to the acquisition of certain roads in order that one may have access to the beaches and the sea coast. Such one is actually a Government Notice No. 250 Trinidad and Tobago, No. 21 of 1950 and this was a proclamation by the then Governor, Sir Hubert Rance. He said:

> "Whereas by section 2 of the Three Chains Act, Ch. 27. No. 9, it is provided *inter alia*, that, notwithstanding any law or custom to the contrary, it shall be lawful for the Governor at any time to take possession of any part of the land commonly called the three chains and to make roads on any part thereof;"

It went on to say that a particular piece of land at Bloody Bay which fell under this same Ordinance was being acquired and there are two pieces of legislation in respect of Courland.

Mr. President, someone said to me that this matter of the three chains is one of interpretation. So I sought the advice of learned counsels and all of them are in agreement that there is, in fact, this law which talks about the three chains and access to beaches and so forth and that roads can be passed along the three chains to allow for public access.

If one looks at the Act itself section 2(5) says:

> "The right of road to the public through the said strip or belt of land is hereby expressly reserved;"

There is some thinking that the public could only get access to certain strips of land if the owner of the land gives permission, but there is a part in this Act which says:

> "4th All persons who may have, for the space of seven years and upwards before the publication of this Act, erected any house or building on any portion on the said strip or belt of land, and been in the undisturbed possession thereof for the said space of time without paying of rent or otherwise attorning to anyone, shall remain in the undisturbed and peaceable use and enjoyment of their said buildings and of ten feet of land cleared around the said building, where space will admit, as and for a clear and indefeasible estate of inheritance and freehold;"

The operative word here, Mr. President, is "prior", before the publication of this Act. This Act was published in 1865, so all the lands in Tobago of which I am speaking with access to the sea coast is in contention, none of those lands has

been in the possession of anybody from that time or passed on to their generation to this time, and there is proof of that. So I do not think there is any contention as to what the Bill says.

Mr. President, I took the opportunity to visit certain areas in Tobago where there is contention and confusion in respect of the same access to the sea coast and access to the beaches. I went to Bacolet and there is an area there, where years ago, some steps were built for persons to access the Blue Haven Beach area. Here it is that reconstruction is being done in that area and construction is being done over the steps. One can only assume that they are going to include the steps. That would be contrary to the Act. Not only that, I also went to Grange Bay where various hotels, some of them overtly and some of them covertly, have extended their boundaries to include and enclose the three chains, and that, according to this Act, is against the law. I have also seen and heard where private persons have bought lands and have gone beyond the prescribed area and saying that the beach is theirs. We know that the beach cannot be theirs.

What do we need? We believe that we need a comprehensive coastal management policy sooner or later, and we expect to get this from the Government—I am not saying the Tobago House of Assembly, because it is either unaware, or does not care because these matters have come up time and time again and we hear talk like; "Tobago people like too much freeness." I do not see if you are trying to protect your people whom you represent—all they want is to get access to a certain beach—and there is talk that they like too much freeness. Over and above that, the last administration of the Tobago House of Assembly in this beautiful beach called Killiguin, if one were to see that beach now, one would weep. It has turned into a disaster area and it was the concurrence of that administration with private persons to remove the sand from there so it has effectively killed Killiguin. The coconut trees have died and other vegetation has died.

We do not want our citizens to feel that they are second-class and that is happening right now. Citizens feel they are being pushed in the centre of Tobago, while all around the coast, investors, private and otherwise, are taking over and claiming the sea coast. Barbados and Jamaica have had that same problem and Barbados has actually issued Rights to the Sea with respect to all their citizens. The PNM in Tobago, in collaboration with our national PNM, intend to initiate public discussion and come up with a Draft Coastal Management document

hopefully to inform—because we would be talking with other persons, the whole Tobago community—and hopefully to address them. But we are not in Government and, therefore, we expect the Government to come up with a policy on how it intends to address the problem.

5.45 p.m.

You see, Mr. President, it is not only a question of access, there is also a question of preservation. If we destroy everything, or if other persons take over, but rightfully it is the patrimony of Tobagonians, then what happens to Tobagonians? So we need that to be addressed. And if the Government, as the Assembly, remains silent then one runs the risk of the people taking matters into their own hands. We do not want that. We do not see why tourism development cannot exist in collaboration with the local citizens so that there could be no rancour and no acrimony, but that everybody would live happily. Mr. President, one must adhere to the law. *[Interruption]* I am winding up, Mr. President.

I was told that people say you must walk on the beach to get to the beach—to get to the beach one has to walk on land, and one person pointed out to me that when fishermen, for instance, go to Toco, if they get into difficulties, Pigeon Point is the area that they will try to get into out of difficulty. So it is not only the beaches, it is the coastline. So giving access within certain periods for people to access Pigeon Point is not good enough.

Finally, I have brought this Motion now, but I do not expect this to be the end. I expect the Government to reply and that there will be ongoing discussions and deliberations *et cetera*, so that this problem which has become of crisis proportion will be addressed.

I thank you, Mr. President.

The Minister of Tobago Affairs (Dr. The Hon. Morgan Job): Mr. President, the Motion deals with public access to beaches with particular reference to the Three Chains Act, and, indeed, the good Senator started off her presentation by calling attention to an unfortunate loss of life at Pigeon Point. I want to put on record that I did, indeed, send my condolences to the bereaved mother and family and, importantly, also to the security guard who was involved in that incident. I think that we, as politicians, ought to remember that ancient dictum that Governments are there to serve the public interest *sine ira et studio:* without malice and without interest. I do not have the facts of the matter before me—the matter is in the courts—so I cannot make a judgment. But I think the

Senator did point out, in her presentation, that this matter is not just a matter of a particular incident. I think the whole tenor and tone of her presentation suggested to me that she has come to grips with the fact that tourism development in Tobago and access to the beaches has many broader connotations.

With your permission, I want to draw your attention—I am quoting from the Economist, April 29, 2000. It is, indeed, important that people understand what is the purpose of Government. The purpose of Government as the Executive is not to make judgment as between citizen and citizen. That is a matter for the law courts. This is why in our system of Government we have this thing called separation of powers. Even if Parliament makes law, no Senator or no Member of the House of Representatives is in a position to interpret any law, or to arbitrate between citizens as corporate entity or citizens as private citizens, the conflicts between them. That is a matter for the courts.

Therefore, the issues that have been raised here this afternoon rightly do not belong in this august Chamber in my honest and sincere judgment. But since the Motion is raised we have to deal with it. I want to say—quoting from this Economist, April 29, 2000, and referring to what the good Senator had said—that, indeed, the situation in Tobago is fraught with much peril and much possibility for the people of Tobago.

With respect to Barbados, what the good Senator had said, there is a quotation here referencing Barbados where it says that:

> "Harassment adds to the hassles of tourism development in Barbados. In 1996 a survey in Barbados showed that 88 per cent of tourists said they had been bothered by souvenir salesmen. More than half of tourists said they had been offered drugs and a quarter said they had been sexually harrassed."

That is against the background of looking at the tourism development statistics where it was said that in the Caribbean tourism grew by 1.8 per cent per year in the period 1994 to 1998. Those going to Europe—which means that the rate of growth in Europe was 7.8, nearly 8 per cent and to other destinations, 28 per cent. So the Caribbean is not one of those areas that we should be very comfortable in terms of the growth statistics.

Before this death took place I did send out a press release on April 18 entitled: "Confrontation on Pigeon Point Beach". I mentioned all these things and said that the issue really is how you make—if you permit me I will quote:

> "We must avoid the ugly confrontations which provide "cut-asses" for some leaders who we know can use grievances and pain of the past not to create jobs, not to develop tourism, not to emancipate the poor from poverty, but to focus on an agenda which is emotive, and symbolic and the interests of the poor, the unemployed and the articulate among Tobagonians."

I am saying that because I had said and I want to repeat for the record that this issue must focus our mind, and I agree with the Senator, on the whole question of access to beaches and tourism development.

In that context the Government is not in a position to subvert its own intentions. There is a thing called the Tobago House of Assembly Act and the Government, to the extent that it must obey the law, respects the intentions of that Act as it can be implemented now. So what I did, when the issue of the death came up and all the altercations, was write the Chief Secretary of the Tobago House of Assembly advising him that I need to be informed as to what the Tobago House of Assembly is doing. He did inform me that he was in contact with the McAl group and that the matter was well in hand.

Now I want to say this, Mr. President, notwithstanding the Senators' demand here that we forget the Tobago House of Assembly. We ought not to do that. I, myself, have had problems in the past—and I state it again here that I do not agree with Mr. Charles's interpretation of the Tobago House of Assembly Act in relation to the Constitution of this country; where I presume that his idea of sovereignty of Tobago is not therein presented. Notwithstanding that, the Government cannot, willy nilly, absolve itself from the responsibility to deal with the Tobago House of Assembly. And I do not know that at this point in time I am reminding you of my statement that this matter is one that is properly to be decided in the courts, and the fact that the Tobago House of Assembly is there and the law is there, we try to do the best we can.

So that, substantially, what I am saying is that we do agree as the Government that we have a constitutional duty to see after the interest of the citizens of Trinidad and Tobago, and that we do agree that all the citizens of this country should have access to beaches.

Therefore, I, as the Minister of Tobago Affairs did, indeed, speak to the people in the McAl group. I did speak to the person responsible in Tobago who is the Chairman of the Tobago House of Assembly, and I did say in my Sunday's press release—I did about three press releases on this issue—that what we need to do is to have the Government: which is the Central Government, the Tobago House of Assembly, the McAl group, the fishermen, all the interested parties in Tobago, come together and understand that by sending negative publicity concerning Tobago, we are not helping the poor people of Tobago; not helping the development of tourism in Tobago. And that, in fact, what you need is a consensus, a co-operation, a collaboration, to maintain the law and to go as far as we need to do among ourselves, before we go to the courts.

But this is not an issue that the Government feels we should just—because you are the Government—intervene and take over. That is a matter that reminds me of what I have been saying on sundry occasions when I remember that we have too much of a statist idea of Government. We do not promote the idea of the minimal state where you do not want the state, but at the same time we do not want that preponderant state where you intervene in everything. I want to put it on the records that in small societies like ours, the probability that state intervention would injure innocent people is, indeed, greater in a small state especially when you have to see about universalistic rules.

5.55 p.m.

It is not the case that one can make a law for Pigeon Point that excludes the question of Blue Waters Inn at Speyside or Mr. Galbaransingh's hotel or Turtle Beach, or indeed all the beaches in Trinidad and Tobago. So you have to think of the terms of that generalized principle when a decision is made that it can stand the test of time and, indeed, it will cover as many cases as is possible. So the Pigeon Point issue in law is not merely a question of access to Pigeon Point beach. It has to do with the tourism industry; it has to do with tourism development; it has to do with the culture of Tobago; it has to do with protecting people who come to Tobago for holidays and it has to do with the way we are managing the situation is, in fact, subverting our best efforts and undermining the possibility of investment in Tobago.

So that, Mr. President, I think I have substantially pointed the mind to the important issues as the Government sees them. I say that indeed we do seek after the interest of the people in Tobago and we will continue so to do within the framework of the Constitution and the law. Thank you, Mr. President. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.57 p.m.