

SENATE

Thursday, May 25, 2000

The Senate met at 10.30 a.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

PAPERS LAID

1. Financial Statements of the Government of the Republic of Trinidad and Tobago Ministry of Finance, Planning and Development, Community Development Fund Programme as at September 30, 1999. [*The Minister of Public Administration (Sen. The Hon. W. Mark)*]
2. Auditor's Report and Financial Statements of the First Citizens Holdings Limited for the year ended September 30, 1998. [*Sen. The Hon. W. Mark*]
3. Auditor's Report and Financial Statements of the First Citizens Holdings Limited for the year ended September 30, 1999. [*Sen. The Hon. W. Mark*]

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the Senate to deal with Motions No. 1 and 2 before going on to Bills Second Reading.

Question put and agreed to.

ADVERSE TRADE PRACTICES ORDER, 2000

The Minister of Trade and Industry and Consumer Affairs (Hon. Mervyn Assam): Mr. President, I beg to move,

Whereas it is provided by section 16 of the Consumer Protection and Safety Act, 1985 (hereinafter referred to as "the Act") that the Minister may consider any recommendations for the making of an Order put forward by the Director of Consumer Guidance and may, if he thinks fit, make such provision in the Order for giving effect to those recommendations:

And whereas it is also provided by section 16 of the Act that such Order shall be subject to affirmative resolution of Parliament:

And whereas the Minister has on the 20th day of March 2000 made the Adverse Trade Practices Order, 2000:

And whereas it is expedient that the said Order now be affirmed:

Adverse Trade Practices Order, 2000
[HON. M. ASSAM]

Thursday, May 25, 2000

Be it resolved that the Adverse Trade Practices Order, 2000 be approved.

Mr. President, the Adverse Trade Practices Order, 2000 aims at addressing a number of adverse trade practices carried on in connection with the supply of goods and services to consumers in Trinidad and Tobago. These orders are the first to be made under section 16 of the Consumer Protection and Safety Act, 1985 since its amendment in 1998 by Act No. 22 of 1998.

The provision gives to the Minister responsible for Consumer Affairs the power to make orders to prohibit the continuance of those consumer trade practices which are adverse or to require that they be modified. The Minister exercises his discretion on the recommendation of the Director of Consumer Guidance who has powers under the Act to determine whether a particular practice affects the economic interests of consumers.

Mr. President, the intention and expectation is that it would be possible to identify an adverse practice at an early stage so as to recommend and quickly put into effect prohibitive measures and thus eliminate the practice before it proliferates. The director, under the Act, has broad responsibility, particularly under section 4, monitoring commercial activities in Trinidad and Tobago as they relate to the supply of goods and services to all consumers. This is done with a view to determining the existence of any consumer trade practice which may adversely affect the interests of consumers.

The adverse trade practices which are targeted by these orders, and for which the approval of Parliament is being sought, have been selected on the basis of their serious impact on consumers and their prevalence in the Trinidad and Tobago marketplace. While the list of trade practices which impact adversely on the consumer may be considerable, for the purposes of this Act, only those practices which fall within the statutory definition of a consumer trade practice may be addressed by the order-making process.

The Act requires, Mr. President, that the practice must not only be in connection with the supply of goods or services to consumers, but must also relate to one of the six matters specified in paragraphs (a) to (f) of section 8, namely, the terms and conditions of supply, the manner in which those terms are communicated, promotion, methods of salesmanship, packaging and methods of demanding or securing payment for goods and services supplied. There is precedent, Mr. President, in the United Kingdom legislation, for most of these orders which were considered necessary for dealing with identical practices existing in the environment as far back as 1974, in one case.

Prohibition against display of notice containing invalid statements. The first practice is the continuing use of void exemption clauses. Examples are, “no refund”, “no exchange”, “no refund on sale goods”, “money will not be refunded”, and “credit notes only”.

The Sale of Goods Act, 1895, as amended by Act No. 11 of 1983, imposes an obligation on a seller of goods to supply goods that are of merchantable quality or fit for the purpose for which they are bought. In the event that a buyer is sold goods of defective quality, he has a right to reject the goods and obtain a refund. Section 9 of the Unfair Contract Terms Act, 1985 deems void any such clause, notice or statement which purports to take away the purchaser's statutory rights. However, such clauses, though void, are not illegal, so the practice continues of exhibiting shop notices such as those in the examples I have already enumerated.

The second practice, Mr. President, is very much like the first, except that it is concerned with similar statements published in advertisements, catalogues, circulars, receipts, bills or other such documents. There is nothing to prevent a trader from incorporating such a term in his printed sales agreement, for example, with the intention that the customer reading the agreement would mistakenly think that the clause was valid and effective, therefore, he had no remedy for any consequential defects. Practices of this nature will now be outlawed as a result of paragraphs three and four of this Order.

Requirement that all terms be included in a contract. Paragraph 5 of the Order targets the third practice engaged in by suppliers of demanding payment of sums of money from consumers before they, the suppliers, would honour their warranty. The consumer is given a written guarantee containing obligations which the supplier has accepted in respect of the replacement and repair of defective goods. It fails to mention, however, that the consumer is required to pay for inspection of the good before his claim can be entertained.

Relying on the written warranty, the consumer is thereby misled into believing that all he is required to do is present his claim and the faulty good to the supplier within the warranty period, and the good will be repaired and/or replaced according to terms of the warranty. To his dismay, he discovers that he must first pay a sum of money before he can find out whether his claim will even be considered. The Order addresses this practice by requiring that a contract which relates to any consumer transaction shall include all terms, conditions, representations, warranties or guarantees, including any conditions relating to the costs to be borne by the consumer if the goods are to be returned for servicing or inspection with a view to effecting any type of repairs.

Adverse Trade Practices Order, 2000
[HON. M. ASSAM]

Thursday, May 25, 2000

The supplier to state statutory rights of the consumer. The fourth practice is concerned with written statements furnished by suppliers of goods which purport to set out rights and obligations of the parties but fail to advise consumers of entrenched rights given under the law. As a result, a consumer may be given a three-month guarantee on a product covering parts, but not labour. No mention is made, however, of the fact that irrespective of the guarantee, if the product should fail, the buyer has the benefit of the implied condition under the Sale of Goods Act referred to earlier.

The overall effect of this practice, Mr. President, is to undermine the consumer's proper understanding of his legal position. The Adverse Trade Practices Order would require that suppliers give information drawing the consumer's attention to his statutory rights in addition to his entitlement under any guarantee or warranty.

Display of price and Value Added Tax (VAT). Paragraph seven of the Order targets the practice by traders of advertising, displaying or quoting to consumers as the price of goods and services an amount which excludes a sum to be added on account of Value Added Tax. Sometimes goods on display in shops are priced, but when the consumer reaches the cashier, that is added, although the price shown appeared to be VAT inclusive—which is, indeed, a misleading type of practice.

In other instances, retail stores publish advertisements with prices which make no reference to the VAT to be added or whether the price quoted already includes this tax. This practice affects the economic interests of consumers in that they are called upon to pay an extra amount at a time when it may be too late to withdraw from their transaction, and one of these is perhaps the eating of a meal in a restaurant, or where the item has already been consumed.

Paragraph seven of the Adverse Trade Practices Order deals with this situation by requiring that in advertising, displaying or quoting prices, the total sum including Value Added Tax must be stated.

Given the dynamism of the marketplace and the ingenuity of some unscrupulous business persons in discovering loopholes in new law in order to deny customers or consumers their rights, the Director of Consumer Guidance is required to continuously monitor the environment for evidence of abuses against all consumers' interest.

10.45 a.m.

It is therefore imperative that legislators keep one step ahead of the market and introduce measures that are timely and relevant. The order-making process

must, therefore, be ongoing. It is therefore the intention of the Consumer Affairs Division of the Ministry of Trade, Industry and Consumer Affairs to bring to Parliament for its approval, further orders, as often as the market environment dictates.

Mr. President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, I am sure the hon. Minister is aware that this is not a particularly contentious matter and we on this side have no particular difficulty with it.

The only issues really are that I remember studying the Sale of Goods Act and I can assure you, it is an extremely complex piece of legislation. I would only express regret that this requirement is to refer to a piece of law that really requires considerable study before anybody can understand it and the mere fact that your statutory rights will refer to a piece of legislation that requires a lawyer to understand, I am not entirely sure how useful it is, but I take the point. I think the issue is important and the issue has merit, but whether or not you have achieved your objectives in this way, I would have serious doubts.

The second issue is in clause 7 to which the Minister referred at the end, the question of value added tax. I would indicate that the Minister was in error when he said that the Order was going to require that merchants display the total price of the goods. This Order does not say that. It requires only that the original price and the VAT be displayed. It does not require that the total price, the sum of the two be displayed. I think that is unfortunate and I do not think it would have taken very much to have included that because that is the whole point.

The other thing that this section has missed is this: There are many merchants throughout the country that are in the practice of advertising sales that they describe as "No VAT Sales". They are not going to charge VAT on the sale. In other words, what it really means is that the price at which they are advertising the product really is VAT inclusive. There is no way they can sell a merchantable item under the Value Added Tax Act that is vatable, without charging the VAT on it. They have to pay. VAT must be added and must be remitted to the Board of Inland Revenue. So it is misleading to say that it is a "No VAT Sale."

But what tends to happen is that it tends to lead the consumer to believe that he is not paying VAT and that there are ways of not paying VAT. Then, what tends to happen is that he walks into another shop where VAT may not be advertised *per*

Adverse Trade Practices Order, 2000
[SEN. MONTANO]

Thursday, May 25, 2000

se and he asks, "Can I not pay VAT? Can I buy this without having to pay the VAT on it?" Because, as the Minister indicated, the item may be advertised without the VAT being displayed and when he gets up to the cashier and it is indicated that he must add VAT on to it, he says, "I do not want to pay the VAT. Can I buy this without the VAT?" I think we are all grown ups here and I think we know that frequently arrangements are made, so that the transaction is consummated without the VAT actually being paid.

Mr. President, I think that is most unfortunate under the legislation and I think it would be very appropriate, if we are going this way, that it ought to be in all circumstances that the VAT must be indicated, no matter how you advertise it, whether you want to call it a "No VAT Sale," a "VAT Inclusive Sale", or whatever it is, but there should be a clear indication that VAT is being charged and that VAT is going to be remitted to the Government.

I think that is an important step to change the mindset from thinking that you can buy consumables and consumer products without incurring the VAT liability. It is a slightly different emphasis with a slightly different objective. I think it is important and I do not think we can change it here, but I would strongly recommend that to the Minister, to take back for further consideration.

Mr. President, I thank you very much.

Sen. Rev. Daniel Teelucksingh: Mr. President, I rise to support the Adverse Trade Practices Order, 2000. I think it is a very important piece of legislation and we need to support the Ministry's proposal.

Concerning VAT, I myself, a long time ago, have wondered when I go, particularly to the motor vehicles parts stores, why the Government would allow—maybe it has its way of allowing—the store owners and the merchants to sell me items and to tell me I do not have to pay VAT. Why do you deceive me? Because the understanding is that these are vatable items. I know that. We know that. I really believe that the time has come as a government, on certain items that we are to pay VAT, then let all of us as consumers know that the cost of the item is X dollars and this is the VAT, the 15 per cent or whatever it may be. I do not think we should have certain exemptions in these practices as far as these stores are concerned in our country.

The hon. Minister made mention of merchantable quality or unmerchantable quality. Let me talk about goods of unmerchantable quality. I think the hon. Minister said that it is left to the consumer to reject—he did not say it like that; I

am paraphrasing—inferior quality merchandise. I have a problem with that. I have a problem with those people, our consumers, who are unable to read ever so often the fine print in labels.

You are saying, as an importer and the owner of a store, the manager of a business, that you leave it up to me and you are going to put goods on your shelves from which I must buy and choose, unmerchantable quality. I have a problem with that. What about the poorer people—I need to ask—who are looking for and who can only afford goods of a particular price range? Do we still take advantage of them? Do we continue, as merchants and importers, to exploit them? I believe, if we are really interested in consumer protection, the onus is on the Ministry and Government to deal with importers, people who go abroad or who have their agents abroad who import in this country goods of sub-standard quality. Do not leave it up to the consumer. I really do not feel that it should be left up to the consumer. There is a kind of exploitation by the importers and merchants and we need to deal with them. That is very important.

There are poor people but that does not mean that because they are poor, you are going to certain countries of the world that mass produce things and bring them here to flood our markets. We are at a disadvantage.

I need to add this. Ever so often, there are no expiry dates on certain foods in groceries, especially bottled foods imported from all over the world. Within recent times, something like yoghurt, our market has been flooded with an item like that, coming from Spain, Venezuela and other places. No expiry dates are on these things and it takes some of us, as consumers, a very long time to find the expiry dates on there. I really do not know if these expiry dates are stamped to deceive. I have a problem with this and ever so often, Mr. Minister, through you, Mr. President, we find goods which have passed the expiry dates and remain on sale on the grocery shelves. It is happening right now.

Therefore, Mr. President, I think we need more frequent visits to groceries and shops from officers of the Consumer Affairs Division to monitor these kinds of trade practices adverse to consumers.

My final concern is, I want to raise a matter with the hon. Minister, a matter that has been occupying the attention of First World food-producing countries and also the consumer group of countries, particularly us, in the Third World. That is the question of the safety of genetically modified foods. There is almost a worldwide debate on this. Do we in Trinidad and Tobago have a list of genetically modified foods which are imported and are on our grocery shelves? Are such

Adverse Trade Practices Order, 2000
[SEN. REV. TEELUCKSINGH]

Thursday, May 25, 2000

foods properly labelled for consumer guidance indicating they are genetically modified? For consumer protection, does the Ministry of Trade, Industry and Consumer Affairs plan to conduct studies and to make investigations on the major issues like this one concerning the genetically modified foods?

I thank you, Sir.

Sen. Prof. John Spence: Mr. President, just two very small points. I am certainly in agreement with the Order and I think it is very appropriate that it should be put forward at this time.

I would like to ask the hon. Minister if he could explain to us the resources within the Consumer Affairs Division for monitoring these issues. I know that one relies on consumers, as well, to bring to the attention of the Division any practices which may be adverse to the consumers, but I wonder, in fact, whether the resources are available in that Division.

For example, something that upsets me frequently is the question of fruit juice. There are a number of products which are on the market now which are thought to be fruit juices. Now, the label itself does not say "fruit juice" but the impression is given with the accompanying advertisements that it is fruit juice when, in fact, it is really coloured water with some concentrated juice added in small quantity to it. Some of these labels, for example, I have read, "Vitamin C, 100 per cent". What does that mean? But you actually see that on a label—Vitamin C, 100 per cent.

I think that these things need to be checked and one needs to remind consumers that they must bring to the attention of the Division things like that, but I wonder whether the Division itself has been given the resources to monitor all of these adverse practices.

11.00 a.m.

Just a quick reference to the point made by Sen. Rev. Teelucksingh about genetically modified foods. Certainly this is a topical issue and I know the Consumer Affairs Division has been having seminars to try to bring this to the attention of the public.

A colleague of mine has been writing to nearly every Government agency—including the Attorney General, I think he even wrote to the Prime Minister—to try to get some regulations about work on the release of genetically modified organisms in Trinidad and Tobago. The importation of foods which come from genetically modified organisms is one thing, but we have no regulations in

Trinidad about the testing of these organisms locally. We are talking generally now, outside of foods. One could genetically modify sweet potato here and put it on the market locally, and there are no regulations to control this.

I certainly think this is an important issue, not only from the point of view of imported foods, but an issue in itself, on work that could be done in Trinidad and Tobago.

Thank you, Sir.

The Minister of Trade & Industry and Consumer Affairs (Hon. Mervyn Assam): Mr. President, let me thank Senators Montano, Teelucksingh, and Spence for giving their support to this Motion before this Senate.

First of all, the Sale of Goods Act, which Sen. Montano claims to be very complex, I want to assure him that we have in-house legal staff in the Ministry and they are always willing and prepared to be helpful to any consumer, because we have a complaints desk, a redress division and an outreach programme. Therefore, we are in a position to give assistance in that regard.

The next point he made was that I misled the House with respect to my presentation on VAT. Clause 7(1) of the Order states:

“Where a person who supplies goods in the course of a business advertises, displays or quotes a price at which the goods will be supplied which is exclusive of the tax to be charged under the Value Added Tax Act, the price must be accompanied by a quotation of the tax to be applied to the price of the goods.”

That is exactly what I said in my presentation, because in addition to the total price, you must quote the tax to be applied. That is precisely what I said.

With respect to his other point, I want to make him—*[Interruption]*

Sen. Montano: I beg your pardon, Mr. President. The total price—those were the words that the Minister used—must necessarily mean the VAT exclusive, plus the VAT price. What the Minister is talking about is three numbers; VAT exclusive, plus the VAT, plus the total. This does not require a total price which would include the VAT. That is what the word means.

Hon. M. Assam: I am not going to argue with the Senator. I have already made my point and I think I have made it with some clarity.

He went on to say that the Order needed to ensure that Government's collections of VAT at the various retail outlets be assured. May I inform the

Adverse Trade Practices Order, 2000
[SEN. PROF. SPENCE]

Thursday, May 25, 2000

Senator that that is the role of the Minister of Finance and not the Minister of Consumer Affairs. The Minister of Finance has a responsibility to ensure that VAT is collected on all items that are vatable. As we all know, we have vatable items, we have zero-rated items and we have items that are exempt. A lot of the various services are zero-rated, in certain cases like banks, medical doctors and so on. In the case of the exempt, there are certain food items. We brought to the Parliament a whole list of items which were exempt from VAT, and there are those that are vatable. Any business that has a turnover of \$150,000 or more per annum, has to be registered with the VAT office and must charge VAT on all items that are vatable. That is the responsibility of officers of the VAT Administration Division of the Ministry of Finance, not the Ministry of Consumer Affairs. What we are doing here is to protect the consumer, in that the consumer, when he goes to purchase an item, must be well aware, in advance, that what he is being charged is the price of the item plus VAT, which is the 15 per cent that it attracts. That is what we are trying to do, and that there would be no misunderstanding on the part of the consumer when he goes to the cashier and at the point of sale or the point of collection he or she now has to pay 15 per cent without having understood in advance, what the item costs, inclusive of VAT. That is the point I was trying to make. *[Interruption]*

Anyhow, Mr. President, with respect to the whole question of monitoring these items, many of us do not seem to understand—I am not trying in anyway to suggest that Senators do not, but I am talking about the public at large—the roles of various agencies under the various laws that had been enacted by this Parliament. There is a Standards Act, which is the responsibility of the Trinidad and Tobago Bureau of Standards. They are the ones who are supposed to be monitoring expiry dates, labels and standards with respect to manufacture and specifications; that is the role of the inspectors with the Trinidad and Tobago Bureau of Standards. There is the Food and Drugs Act, which is the responsibility of the Ministry of Health, Mr. President. It is not the responsibility of the Ministry of Consumer Affairs. Particularly, in items of food and drugs, meaning pharmaceuticals, it is not the responsibility of the Ministry of Consumer Affairs. It is the responsibility of the Ministry of Health to go out and ensure that food items and pharmaceuticals are of the specifications that were, in fact, agreed upon by the Ministry of Health; that they do not have expiry dates and that they are being sold in conditions that are of a hygienic nature.

It was the Ministry of Consumer Affairs, in consultation with the Ministry of Health, that brought about certain guidelines which are now part of the whole

machinery for poultry shops, pluck shops, groceries and supermarkets, particularly in the area of food items, vegetables, green groceries and meats. We have done that, so they are protected in that sense. We must be careful which agency has the responsibility, under law, for targeting whatever protection that the consumer has.

Mr. President, we also have the Consumer Protection and Safety Act, which was brought to this Parliament and amended in 1998, which I brought to the Senate. That Act now removes the exemption from even government departments and statutory agencies which, hitherto, had an exemption; they are the Public Transport Service Corporation (PTSC), the Water and Sewerage Authority (WASA), Trinidad and Tobago Television (TTT) and the Ministry of Education. Even religious leaders can now be prosecuted under that Act. The exemption has been removed and we now have a section in that Act, which refers to a recalcitrant trader. In other words, hitherto, if a trader persists in selling goods of an unmerchantable quality, and they are reported to the Ministry of Consumer Affairs, and we have sought to get that particular supplier to sell goods of a merchantable quality, or to refund, replace or repair to the satisfaction of the consumer, we now have the power to blacklist and to declare that trader a recalcitrant trader under law, as a consequence of that modified Consumer Protection and Safety Act, 1998. —*[Interruption]* Do you want to say something?

Sen. Rev. Teelucksingh: I thank the Minister for giving way. I have a problem with the sharp dichotomies separating agencies. I have a problem with that. This population will always have a problem with that. There needs to be a kind of flexibility. I am glad in the Minister's last statement he gave the impression that there is, indeed, a flexibility; it needs to be a little more. Do not worry with the sharp dichotomies to say: "My ministry is responsible for this and we are not interfering with that. Thank you, very much.

1.10 a.m.

Sen. Prof. Spence: Mr. President, on the same point, I take the points made by the hon. Minister, but it seems to me that we, therefore, have a difficulty. For example, suppose somebody has for sale merchandise for which the date has expired, food or drugs or something, is that merchandise then unmerchandiseable and can it come under the Consumer Protection Act?

It seems to me we have an overlap of responsibilities. I will still ask the question: does that mean with respect to labelling and the like, that the Consumer

Adverse Trade Practices Order, 2000
[SEN. PROF. SPENCE]

Thursday, May 25, 2000

Affairs Division does not exercise a monitoring role? Even though it would not have the legal responsibility, does it not exercise a monitoring role and then bring it to the attention of the Food and Drugs Division or the Bureau of Standards and so forth?

Hon. M. Assam: Mr. President, I thought I had made myself clear in stating that under law the Trinidad and Tobago Bureau of Standards, the Food and Drugs Division of the Ministry of Health and the Consumer Affairs Division of the Ministry of Trade & Industry and Consumer Affairs have a responsibility. But I also mentioned that the Ministry of Trade & Industry and Consumer Affairs developed guidelines in collaboration with the Ministry of Health, in certain areas, so we are working together.

We do not shirk our responsibility by saying that under law that is yours and we are not going to interfere, monitor or assist. There is this constant collaboration among the three agencies responsible for protection and safety, that is, the Trinidad and Tobago Bureau of Standards, the Food and Drugs Division of the Ministry of Health and the Consumer Affairs Division of the Ministry of Trade & Industry and Consumer Affairs. So it is a collaborative effort all the time but, under the law, they are the only ones who can prosecute or get the particular matter that is being violated, prosecuted under the law. That is the point I was trying to make; but there is constant collaboration.

The next point I wanted to raise was the one raised by both Sen. Rev. Teelucksingh and Sen. Prof. Spence with respect to genetically modified organisms. Sen. Prof. Spence is a scientist and, therefore, I am in no position to educate him in these rather esoteric matters, a layman as myself. Again, I am not speaking about Senators, but many people, the public at large, when they hear about genetically modified organisms, fail to realize that there are two types of genetically modified organisms. There are those that happen because of natural mutation, and that is fine. You can have genetically modified organisms and they are perfectly okay to consume; those organisms that came about through natural mutation. It is those that are artificially induced, the genetics are artificially induced or mutated, those are the ones that we are worrying about.

I wanted to make the distinction for Members opposite, for our side too and for the public at large, because it is critical to understand that genetically modified organisms (GMOs) are not new. From time immemorial we have been having genetically modified organisms because of natural mutation.

Mr. President, if you were following the good work of the Ministry of Trade & Industry and Consumer Affairs, you would realize that on the occasion of World Rights Consumers Day we had one of the most powerful symposiums in this country; a sequel to the four that went before. Since 1996 when I assumed that responsibility, we have been having a symposium every year, of the highest academic and intellectual quality but, at the same time, pitched to the ordinary man in the street.

We produced a document. One has been produced, because this year 2000 the symposium was on GMOs. We brought scientists and people from different parts of the world, including the University of the West Indies and our own academics here, and we have produced a document. We have now appointed a team from various sectors: the university, the ministries, the non-governmental organizations and Consumers International with which we liaised. We are going to be taking, very shortly, some policy recommendations to the Cabinet in order to ensure that all the guidelines, legislation and safeguards are in place, so that people who have to consume genetically modified organisms would know exactly how to proceed.

In fact, I just had a meeting about a month ago where a team from Japan came to see me and they too showed great concern, because, as you know, Japan is a country with over 100 million people, but they are only 28 per cent self-sufficient in the production of food. They have to import 72 per cent, and they are very interested in what genetically modified organisms can do, in order to increase their self-sufficiency, because food security is a critical issue. They are working with us also. They are giving us a lot of technical assistance in our quest to ensure that the policy we take to the Cabinet would be an official policy thereafter. We are going to have a lot of inputs; nobody would be left out, so that the consumers in Trinidad and Tobago would be properly protected and safeguarded against, perhaps, deleterious effects of genetically modified organisms.

Mr. President, I hope that I have allayed the fears and assuaged the woes of Members opposite and, particularly, my good friend, Sen. Rev. Teelucksingh, who is always supportive of the poor, not only because he is a man of the cloth but because he is such a sincere human being; always foremost in his mind, like myself—although I am not a man of the cloth—thinking about the poor and how they could be robbed unsuspectingly by, as I said in my brief, some unscrupulous business persons in their quest to make more profit and so forth.

We are very concerned that every human being in this country, rich or poor, irrespective of colour, station or status, must be treated properly under the law, and that we at the Ministry of Trade & Industry and Consumer Affairs in

Adverse Trade Practices Order, 2000
[SEN. PROF. SPENCE]

Thursday, May 25, 2000

collaboration with the Trinidad and Tobago Bureau of Standards, and the Food and Drugs Division of the Ministry of Health ensure and continue to monitor the safety, standards and all that is necessary to bring about the quality of life that we need to advance as a quality nation.

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

Question put and agreed to.

Resolved:

That the Adverse Trade Practices Order, 2000 be approved.

COMMUNITY SERVICE REGULATIONS

The Minister of Social and Community Development and Minister of Sport and Youth Affairs (Hon. Manohar Ramsaran): Mr. President, I beg to move, the following Motion:

Whereas it is provided by Section 27(1) of the Community Service Orders Act, 1997 that the Minister shall, subject to the affirmative Resolution of Parliament, make regulations for the performance of work under a community service order, for arrangements for a person to perform such work and for carrying into effect the provisions of the Act:

And whereas the Minister has on the 8th day of March, 2000 made the Community Service Regulations, 2000:

And whereas it is expedient that the Regulations now be affirmed:

Be it resolved that the Community Service Regulations, 2000 be approved.

Mr. President, the question of alternative for custody is one that is more relevant today than any time in our history. As I am sure you are aware, these community service orders were proclaimed June 1st, 1998, after being debated in both Houses of Parliament during the year 1997. A committee was then appointed by the Minister of Social and Community Development to recommend the most effective methods of implementing community service orders.

This committee was comprised of representatives of the Ministry of Social Development; the Ministry of National Security and the non-governmental organizations Alternative to Custody group. Professor Cain was invited, from time to time, to intervene and to share his experience when required. The Chief Probation Officer of my ministry was Chairman of this committee.

The specific objectives of the committee were:

- (1) to formulate guidelines to inform the implementation of the Community Service Orders Act;
- (2) to develop a workable structure within which community service could be implemented; and
- (3) to identify appropriate personnel to carry out the objectives of the Community Service Orders Act.

The main purpose of community service orders is to prevent further re-offending by re-integrating the offender into the community by means of positive and demanding unpaid work, developing the offender's sense of responsibility by setting discipline requirements and reparation to the community by undertaking socially useful work.

Generally, the countries which practise community service orders have cited several benefits and some of these are:

- (1) the order enables offenders to repay the community with physically and/or mentally demanding work in a way that makes sense to the public;
- (2) the order focusses on rehabilitative and restorative measures rather than punitive and retributive aspects; and
- (3) community service orders cost a fraction of prison sentences.

Furthermore, the community service order may achieve:

- (1) an increased chance of rehabilitating the offender to acceptable social standards;
- (2) a reduction in the prison population; and
- (3) prevent first-time offenders for non-serious crimes from the undue influences of hard core criminals serving prison terms.

Mr. President, I am sure that you are aware that incarceration of our youthful offenders—especially when our prisons are populated by seasoned criminals—would ensure that our young people would not be given the chance to be rehabilitated. I am sure with the coming of these community service orders this could be corrected, to a certain extent, where our youthful offenders, especially, would be given a chance to come back to their communities and offer service to the communities in which they might have committed any minor offence, as we know the Act provided for. In coming back to their communities, we would be

Community Service Regulations
[HON. M. RAMSARAN]

Thursday, May 25, 2000

taking the justice system to the community rather than taking the community to the justice system. This is something that, in my own opinion, should work, where our young people would be given the chance to pay back to society in any way that is possible.

I want this honourable Senate to note that, so far, we have a structure in place to effectively ensure that the community service orders are properly administered. What we have done is establish a temporary community service unit in the Probation Services Division of the Ministry of Social and Community Development with effect from October 1999, for a period of one year.

The said unit would be staffed by the undermentioned personnel:

- (1) three Probation Officers
- (2) five Clerk Typists
- (3) 13 Community Service Officers on contract, and these will carry on the work of Probation Officer I;

In respect of the information recorded above, immediate steps would be taken to fill the three existing vacant positions of Probation Officer I, Ministry of Social and Community Development. Five positions of Clerk Typist would be redeployed from within the Ministry to the Community Service Unit; and there would be the employment of 13 Community Service Officers for a period of one year on terms and conditions to be negotiated by the Chief Personnel Officer.

We have ensured the employment on contract of persons, as indicated, in the Probation Unit, Division of Health and Social Service, Tobago House of Assembly, also for a period of one year: one Community Service Coordinator, one Regional Coordinator and one Community Service Officer. We have also ensured that the positions be redeployed from within the Tobago House of Assembly to the Probation Unit in Tobago: one Clerk Typist and one Clerk I. Funds in the sums of \$1.1 million, \$369,000 and \$223,748 were provided in the 1999/2000 draft estimates of expenditure of the Ministry of Social and Community Development and the Tobago House of Assembly, to meet the costs associated with the implementation of the divisions recorded above.

So far, 11 of the 13 contract positions for the Community Service Officers have been filled and officers began assuming duties with effect from April 2000. These officers will be assigned to the various magisterial districts and will be responsible for the preparation of reports to be presented to the courts which will be used to guide the court to determine the suitability of the offender for

community service. Additionally, they will be responsible for placing the offenders at receiving agencies to perform community service and to liaise with the receiving agencies to ensure compliance with the order of the court.

11.25 a.m.

In the event that an offender fails to comply, the onus is on the community service orders officers to file court proceedings for the violation of the Community Service Orders. Regulations are now before the Senate; public education on the Community Service Orders has been initiated and is ongoing, three workshops for NGOs, CEOs and public sector ministries have been held, the first was on March 15, 2000 at St. Ann's; the second was held at the Naparima Bowl on April 19, 2000 and the third at Arima on April 28, 2000. A total of 76 receiving agencies participated overall.

Action has also been initiated to recruit, select and train volunteers to complement the staff of the probation division. The courts are also being sensitized, both the Supreme Court and the Magistrates' Court. This public sensitization will be an ongoing process and the role of the print and electronic media will be necessary to reach the entire population.

Mr. President, offenders age 16 and over can be sentenced to undertake community service for a wide range of non-serious crimes. The number of hours to be worked depends on the magnitude of the offence and it is left to the discretion of the magistrate. However, the order must not be less than 40 hours nor more than 240 hours.

Under Community Service Orders offenders cannot undertake tasks which will be performed by paid employees. Typical beneficiaries of community service are homes for the elderly, youth clubs, regional complexes, community centres, churches, schools, voluntary groups and charities. Community service also helps individuals, for example, elderly persons and persons with disabilities or mental health problems.

Mr. President, the Bill further states that no offender should be ordered to do community service without the benefit of the probation officer's report to determine the suitability of the offender to participate in community service. It also allows for the consent of the offender and a choice in the type of service in which the offender would like to engage. It also makes provision that such order should not conflict with the offender's employment, education and religious persuasion and should match their skills with their respective placements.

Community Service Regulations
[HON. M. RAMSARAN]

Thursday, May 25, 2000

Mr. President, with respect to the regulations “‘working day’ means any day other than a Saturday, Sunday or public holiday.”

In general, the regulations are so designed to meet the satisfaction of all stakeholders. For example, an offender shall begin the performance of community service under an order no later than 10 working days following the imposition of the order. No more than 21 hours, but no less than five hours of work per week shall be required by an offender. An officer of the receiving agency shall record hours worked by an offender.

Mr. President, I would like to now go to Regulation 13 which states:

“Where the offender is a woman or a girl the officer shall, whenever possible, be a woman.”

In the other place, it was amended to read: “Where the offender is a woman or a girl the officer must be a female.”

With the introduction of this piece of legislation, the prison population is expected to become more manageable and less overcrowded and this will also result in economic gain. I take this opportunity to comment briefly on the Mediation Act which is to come on stream very soon and which also allows the court to make use of the Community Service Orders. The Probation Division of the Ministry of Social and Community Development will also have a critical role in this piece of legislation and it will be one of the options available to the courts.

Mr. President, community-based mediation as another alternative to litigation in respect of certain minor crimes has been successfully practised in countries such as Norway, England, France and some parts of the United States of America.

Studies of Ansa McAl Psychological Research Centre and the University of the West Indies between 1988 and 1992 revealed that 7 out of 10 crimes reported were minor and crime surveys in different communities confirmed that criminal activities are on the rise and only a proportion of the crimes committed was reported to the police authority.

Mr. President, community mediation offers an educative response to the offence without the offenders being convicted and stigmatized while giving the victim an opportunity to receive compensation for damages. The aim of these two pieces of legislation is to ensure that we could give our offenders an opportunity to start afresh, thus reducing the risk of re-offending and ultimately criminal activities.

It must be borne in mind that no offender will be ordered to do community service unless he consents. As far as it is possible, offenders' skills will be matched with their placement and efforts will also be made to have them placed in their own communities. In the final analysis, it is hoped that the Community Service Orders will improve the employability of offenders as unemployment and offending are linked. Moreover, unemployment is disproportionately high among offenders.

Mr. President, as I close, I wish to state that true justice rests not on the equal distribution of pain, but on the equal satisfaction and needs of the offender, the victim and the community and this is what would be achieved when the Community Service Orders gain momentum.

Mr. President, I beg to move.

Sen. Yuille-Williams: Mr. President, I was trying to get the Minister's attention before he closed. Could I ask him a question please?

Mr. President: Go ahead.

Sen. Yuille-Williams: I wanted to know whether or not in terms of the persons who would be able to access this—you spoke about certain age groups—I am wondering if the offenders are those in a special age range, or it deals with a type of crime, or is it across the board first-time offenders or can anyone access this? That was not quite clear.

Hon. M. Ramsaran: Mr. President, these are the Community Service Regulations and the Bill that was passed provided for the different age groups mostly for first-time offenders and we would be concentrating mostly on the young offenders but I do not think we have a limit as to what people.

Question proposed.

Sen. Muhammad Shabazz: Mr. President, in truth and in fact this is a piece of legislation that really must be supported. As a matter of fact, when the Minister was speaking, although my Regulations spoke about the same one that he has changed, where it was said: "Where the offender is a woman or a girl the officer shall, whenever possible, be a woman." It is good to see that was changed and the person must be a female.

When we look at what is happening in the society, it is really important and those of us who are aware of what is happening in the prisons, it is important that some sort of legislation like this could be brought in place to ensure that a number

Community Service Regulations
[SEN. SHABAZZ]

Thursday, May 25, 2000

of our young people are given the opportunity not to go to prison because the prison system at this time really needs a lot of correction in order to make it a place where people can go in. Even though people are going to be punished and the prison system is for that, what happens now, I think our prison system is far beyond punishing people. When the convicted person is sent to prison, he is paying about ten times more for the crime than he really should be paying.

Not only that, but it is important that the Minister looks at what is happening at places like the Boys' Industrial School and other institutions that take in persons who commit crime. It is really in a bad state. I have been to the Boys' Industrial School recently and that is a sad situation. For some reason, besides the Government doing things there, it is a place where people should be doing things to assist these boys. It is a sad state to see the kind of situation which the young people have to face in these homes and nothing could be done to help them.

The Community Service Orders as we say are really to be supported, but our question is when this Bill is in place, where is the infrastructure to deal with this? These are the things I would like the hon. Minister to speak about in his winding up. I would like him to tell us how many officers are necessary to implement the system. The question of the officers having to monitor the situation: how effective would that be? We do not want this to be just another Bill brought to the Senate and when we are ready to deal with it, the system still cannot take it up. How are the cases going to be tried? What arrangement will there be in the Magistrates' Court to deal with the situation. If the situation is still as it is, we are going to have a problem, because people are still going to have to wait three, five and eight years for their cases to be tried. That needs to be looked at.

The whole system in a way appears to be very unfair. There is section 71 where people could be freed and not go to prison. How often is that used in Trinidad and Tobago? Ninety per cent of the time, it is used, it is used for people who really do not need it. The people who really need to be given the chance in that system, many times really do not get it, and those who get it are the privileged and many times it is that way. These are the things we need to look at.

When we go into the community service where are we going to send people? Has the ministry worked out where people are going to be sent, what type of situations you are going to send them in? What groups, what organizations have you spoken to? It is not just a question of bringing the Bill and saying it is a good Bill and a good idea and it is the first to happen in the Caribbean.

Have they put the structures in place to ensure that this would be effective? It is the same situation that comes up in a number of things they do. These are the things with which we are mainly concerned. How effective it will be. There was a Bill which was passed here when we spoke about community mediation and a number of other things and we said that an offender could be sent to do community work. I understood the hon. Minister is saying that he will sensitize the courts, but how many of these sentences have been given to persons. I think one was tried in Tobago and nowhere in the court system we heard any of these things happening.

How will they sensitize the Magistrates' Court? Could a magistrate say he will send you to do community service? Maybe that is what is holding up the whole system. Where are you going? How are your structures set up? That is our main concern on this side. The intent of the Bill should work, and if it works, it would be fine. There will be other complications, but we think it would be a good idea for the society and a fine idea for the young offenders. Maybe there could be another aspect to the Bill, because although sometimes people do things that are wrong, maybe we need not only to send them to do community service but also send them to learn something; to talk to people about their crimes. Talk to other offenders or people in the system who might be offenders. Go to school and talk to people about why they should not go that way and things like that. There could be a number of things one can set up in order to make this effective and the question now is whether those things will be set up and whether they could be put in place.

On this side we do not have much more to say on this. Our main hope is that the system would be properly put in place, things would be effected properly and we would not just have a Bill that cannot be implemented. The Magistrates' Court will understand what they are doing and when persons are sent to do community service, there would be a system that could absorb them and make sure that it works and it is worthwhile. The people who do the community service, they will do it in such a way that it is not just a task, but that people would be there to lecture to them, reach out to them so they will not find themselves in similar situations.

The ministry should also have some undertaking for even when people are finished with community service—because we are aware that many of the criminal activities arise because people have nothing to do. If they had something else doing it would not be this way. After they have finished the service, they should not be cut off by saying: “Okay, we sent you to do 240 hours, it is finished now, so go back to where you were.”

11.40 a.m.

Maybe, there should be a system, not for full pay but for some partial thing to get the person involved. Maybe, if they send the person to do something, you may be able to send that person on some apprenticeship scheme somewhere to learn something so that, at least, the skill could continue, the person could be involved in something and in truth and in fact it would be a real way to keep that person from becoming involved in crime again. Not just to give them the service—as though you are sending them to prison so your time is up and you are on your own.

Because we know and we are aware, on this side, that one of the main problems in the whole criminal justice system is that after people have served their time they really come back out here and are serving another time because they cannot get jobs: nobody wants to employ them. From the time they hear you went to prison, they have a problem. Would the system be so good and so kind to these people to be set up in such a way that you would find a place for them, even if it is for a stipend; even if it is training for them and you just give them transport, but at least you take it in further so that the system will work and it will be good for those who went into it.

Do not just make it become a punishment thing again, by sending people to do community service and then leave them like that. It could be as though you have punished them. Although there may be no crime recorded against them, they could still be looked at as trouble-makers and have the same problems. Then they were not trained into anything; they did not get any lectures or do anything to rehabilitate them, really, and to turn them away from that direction and just give them this type of service may not really be helping them in any way. It may stop them from really having a conviction but, at least, it should be more than that. And for us on this side, a Bill like this, at this point in time, should really be reaching out and doing more for the young people in our community. [*Desk thumping*]

I would like to ask the hon. Minister—and I would really like to hear him address that—tell us, one, how effective is the system that they are putting in place, from the Magistrates' Courts to the Probation Officers? We want to know from the Minister, the groups that they have already spoken to, to deal with the situation. We also want to know how much wider the system could be expanded? These are the things that we want to know.

Because there are young people who are first offenders and may not be found guilty when their cases are tried but they are in the Remand Yard for over a year

or two. With your system, in passing this, would we be going in there and trying to pull these people out? Because if they are saying that they do not want these people to go through that prison system. Just remember that when a man is in Remand Yard for two or three years, how sad it is, and then he may not even be guilty! We want the hon. Minister to go in there and look at these people, particularly, the young people who are being targeted—and find a way to either bring their cases up and look at how they are going to be dealt with quickly. Set up a special court or something to deal with these people and to make sure that you are going to find some way to bring them out of that system and put things right again.

There might be young offenders on bail and their cases maybe going on for the last four or five years without any type of results. Let the whole thing be a process to deal with this. Because we have been talking about a number of things here—night courts. The number of Bills that have come to this honourable Senate to put this whole criminal justice system into an effective way of operating and it still has not happened. It is a sad kind of indictment on what the Government is doing. They bring Bill after Bill to deal with the criminal justice system and you are not getting any results. So really and truly, what we are talking about here is another piece of legislation that will possibly be talked about at the end of the day. On the campaign trail they would be saying that they brought this, they brought that, they brought the criminal justice system, they brought the Community Service Regulations, 2000 and at the end of the day it is not effective and it has not been implemented. No system was set up.

The question here is what is happening with the courts? How are we dealing with them? We talked about family courts. We talked about so many other things and nothing happened. We talked about mediation between the people in the system; people who committed crimes; and we are going to have a system that they are going to be able to talk to each other, and when they talk to each other we are going to find a way to work it out among them. Nothing like that is happening! And month after month ever so often, a Bill comes to this honourable Senate to deal with the criminal justice system and nothing happens.

I am hoping that this Bill that the hon. Minister is presenting here and asking us to pass—and to make sure that these regulations are passed—would really be effective because it is an important one, and that he would look into the other places where young people are in the system. Many of them are unfairly treated; many of them are really under pressure and cannot cope and do other things to assist.

Thank you very much, Mr. President.

Sen. Joan Yuille-Williams: Mr. President, just following on my colleague I just wanted to ask a few questions and to share his concern. Here we have a piece of legislation which is not directly prepared for young people but which will affect a number of young people. And as he himself just drew attention to the fact that we have been moving many pieces of legislation in this Parliament, since I am here, dealing with young people and I am sad to say that the furthest we go with this legislation is this Parliament, and after that we are not seeing the results of it.

Today, we are here looking at the Community Service Regulations, 2000 and I fear, just like he does, that this would be just another piece of legislation out there for many months to come and, therefore, we need to look at this whole thing. What is the purpose of all of this? Is it just for the books, or, is it that we are really serious about it? Let me just go back very quickly and say one or two things.

When the Minister talked about the purpose of this, one of the things he talked about was rehabilitation. But before we even got to this point, we were talking about rehabilitation; we were talking about prevention and we have not done what we said we were going to do in terms of prevention. Every time I stand here and talk about young people and prevention, I am going to repeat the same thing until people understand that rehabilitation is one end of the continuum, but we have a responsibility to help, first of all. And if we cannot get that clear everything else we put in place will fall short. What are we doing for young people in the society? I am looking at those people first. What are some of the programmes that we could put in place or that we had in place that we refused to continue? I must mention them. I know every time I stand here the honourable Minister of National Security would not like me to say it, but I have to say it. How can any serious Government thinking about helping young people take the Civilian Conservation Corps out of a system? [*Desk thumping*]

Here, where we had 2,500, and we were to increase that number every year. We should have been having 5,000 to 10,000 young persons in the programme. It is almost like a National Service Programme. Those people were being trained or being guided by people who had long-standing training; people in the service; and you just took them away and disbanded that programme because you felt—probably those who were on the programme were not the kind of people or the persons that you would have selected for the programme.

As I said before, all young people in Trinidad and Tobago belong to us. And if you felt even then that those were not the people you would have selected, as the

years go by just make the selection you would like. But to close down a programme like the Civilian Conservation Corps is a criminal act. It is the worst that I have seen. What should have been done with that programme? It was doing so well because I met graduates from that programme, I even saw them one day with the National Housing Authority doing some work in South. I have seen them in many different places. I have seen them with state firms, and they were so proud. Even during the programme when you saw them anyway—I even saw them doing work out in the streets and in the environment and they were not ashamed. To me, they were very proud that they were making a contribution. And I will say it over and over again, those people that you threw out of the Civilian Conservation Corps are the same set of people you are trying now to put into the programme where they will be doing community service.

11.50 a.m.

I say it clearly, you did not help, and now these are the offenders. We are talking about offenders here and I ask, what is your programme to save our people from becoming offenders? That is critical. [*Desk thumping*] It is sad to see that a programme of national service which should have continued, which should have grown, which was taken away from a Ministry that was trying to work with those people and of which we were so proud, you come here today with the community service regulations saying that you are particularly focussing on young people. I ask this Government to put back those programmes that will save our young people. [*Desk thumping*]

I need to also look at another programme with which I worked and that was the Geriatric Adolescent Partnership Programme, GAP, in which there was a number of young persons involved, but it has since gone off course. GAP was a national service programme. It was a national service programme designed to train a number of young people each year to develop a relationship with elderly people. It was not necessary to work with the elderly, but the young people could appreciate the elderly in the community, and that there could be contact with elderly people, because talking with the elderly itself is training and motivation. They were not necessarily unemployed young persons. They were persons who would come in, spend some time, fill that gap, go to these homes, talk to the elder ones, and when they were finished they would go back into the society and do their work.

The same respect you said the young people do not have for the elderly, the same disrespect where you say these young people meet the elderly and do all sorts of things to them, eventually being classified as young offenders, that is

Community Service Regulations
[SEN. YUILLE-WILLIAMS]

Thursday, May 25, 2000

what we were trying to prevent. When I read about a young man assaulting or in some way interfering with an elderly person in this society, I feel sad and I ask myself, could he have been saved if he was a part of that national service programme, GAP? Or, how many of those are we allowing to go?

Then you tell us parents are not doing their work at home but here we had a parenting family. All the elderly people involved in the programme became, in effect, the parents of the young people. Therefore, by putting those young people in contact with the elderly people, that guidance needed was obtained. We were trying to build on that programme every year by bringing young people in and letting them work. This year we should have had 2000 people. That programme has gone astray; it has taken a new direction. Now we are just looking at them working with a few elderly persons at home. I am talking about hundreds of young people going into programmes. You cannot tell me that you want to do this without looking at what happened.

We also looked at those young people who were out of schools with the shift system that you criticize so much now. We were putting in support systems for them. We were building that Retired Experts Programme with people in the community who had left work and who had skills. We were developing those centres to which these young people could go, do homework, get involved in sports if we had some of those retired people who were involved in sports, or get into music or whatever it was. We were working on those centres. When we left the government those plans were in place. The first one in Marabella, the Union Park ground at that time was going to be one of those centres that we were just using as a pilot programme. That had just started.

When you disband all these programmes, then you are preventing those young persons from developing into adults who will be a credit to the community and you are paving the way for a number of young offenders whom you want to pick up in the community service programme. Whereas, I know that it is necessary to have rehabilitative types of programmes, I believe that at this time we cannot leave any programme, which will deal with prevention. Put your programmes on this table and tell us what you are going to do about preventing our young people from coming to this state. Today I feel really sad to know that we are not holding on to all the things that will help our young people.

Even the on-the-job training programme you might find is not related to this, but it is very much related. We had this on-the-job programme where thousands of young people were going on the job with the seniors and those seniors again

became a parenting family to them. They were learning skills and they were applying themselves. We were trying to make them worthwhile citizens. As soon as you came into office, probably you did not like those who were in that programme, but instead of even putting in others—because this is all Trinidad and Tobago—you closed down the on-the-job programme and removed those thousands of young people. Today we are presented with the community service programme. [*Desk thumping*] I have a real difficulty with this. I am not saying that this is not necessary, but I am still asking, where is our emphasis?

We are out there talking about, “We are performers”. Do you know how you performed? You performed in such a way that anything that deals with building the individual, especially the young individual, you decided to stop it. That is the difference with people who are talking about performance. When you perform you should come here and tell us what have you done in all these areas, what you have done for the young people specifically, but you did not do that. Everything that you saw around you that dealt with young people has been closed. Then you decided that they would be going astray and asked, “What could we do now, after some time, to help them as offenders?”

Not only that, even those Bills which we passed here which would give those young offenders a chance, have not even been implemented. [*Desk thumping*] My colleague was talking about mediation and many other things. We talked about setting up centres in Santa Cruz and three other mediation centres. We did all kinds of things in this Parliament months ago, yet not one was implemented. Do you know why? It is just a case of things being on paper. I went around trying to find out who were the people being trained to handle this. With all these new systems that we put in place, we need to have people trained to handle them, you know. The structure is important. So we could pass as many of these measures in the Parliament as we choose, but when they are finished to whom are we giving them?

Look at what we are doing—community service. We talk about the structure. I listened to the hon. Minister, Mr. President, and he talked about three probation officers, community service typists and whatnot. I ask, what plans did we make, before we came to Parliament, so that when we pass this we could move to that? We have none. The already short-staffed public service is from where we are trying to draw these people. I hear you are taking clerk typists from different places. We are already short-staffed. We are crying out. How are you going to take these same people to put them here temporarily?

These 13 community service officers, when have these people been trained? You cannot just take people from here and there and pick people. What particular

Community Service Regulations
[SEN. YUILLE-WILLIAMS]

Thursday, May 25, 2000

training did you give over a period of time? I have not seen it advertised. I have tried to inquire. I do not know. This is not *ad hoc* training. This is something new and we know that whenever something new is brought we always have a little difficulty in getting it over. So the teething problems we expect and appreciate. I have no problems with teething problems because I know the difficulties involved in getting any new thing started, and we always have to give the opportunity for people to try something new.

Our support is not because we like what you are doing. We know it is something new with which you are coming. We would not say that we would not support it because of certain things, because if we did not support community service regulations today people will say, "But you are mad!" This is something that happens all over the world and it is very useful. It gives people the opportunity to repay their debts to the community. That is what you are doing with this measure. You did something wrong to the community and you have a chance now to repay the community in a tangible way and in areas where their service is most needed, so you are repaying a debt.

Tell me something. How are we to have these people repay the debt when we are not prepared for them? I am going to challenge the hon. Minister to tell me, if he can, when did we have the training for these community service officers? How long was it? How did we select them? Where did they come from? Where will they be housed? What is going to happen? These offenders are to be sent out on certain types of jobs within the community where they are most needed and that is going to help. There are certain things that we need to do in a community and we cannot even afford it, so probably they are going to be sent to those areas.

Is there a handbook, or something, for the people out there who are going to be receiving them, some guidelines that people can follow? What are we actually doing? I am quite sure I have tried to find it and I have not found anything that will tell me that there is a structure in place that will work, except that we have a temporary something set up in the ministry or somewhere in the probation department. And at this time of bringing the regulations there should be no temporary anything. It should be planned so that we are ready to absorb these young people, otherwise this is going to go the way of all flesh on another shelf, put down there waiting for some time in the future when you think it is necessary.

It will be there in the manifesto, however. It will be there on the list of achievements. I will hear it on the radio as, "When we performed we did so and so", but we need to be serious at some time to ourselves. I do not mind there

being a list of performances once you have accomplished them, and I will go along. I could say no to it but if I see things are going in a certain direction—we are moving from one Bill to the next, but I am not seeing anything about structure and personnel taking place at any time. Who are these receiving agencies? Have we sorted out where these people will be going, or what types of jobs they will be doing? Who are the people supervising and looking at them at the same time? Have we interacted with certain sets of people? Who will be out there?

If you are doing community service, somebody has to be out there doing reports on the individuals involved, to see whether they have been coming on time and whether they are doing their job on time. Someone also has to assess whether the hon. Minister's hopes at the end of the process will be realized, that they will be much more worthwhile citizens. Where are those people? When have we trained them? Who are they? Where are they positioned? Do we have enough of those people? There are so many questions we need to have answered at this time because this is a very serious bit of legislation.

My colleague talked about what is happening at present in some of the institutions where we have some of our young offenders; such as the St. Michael's School and some others. I am not crying down what is happening. I know the teachers there; I have met them. I know people out there are trying to help. One of the things we notice happening is, there is a lack of opportunity to train anyone even to work in those organizations. It is a national problem. I know people who worked in those institutions and who are still working in the institutions. Some of them had no special training. They just went into the organization, were absorbed and it came like on the job training for the persons, and this is serious work.

At this time we have much more money than we had before. There is a lot of money out there. Prepare the personnel to handle them if this is going to be a success. If we do not prepare the personnel to handle this, it is certainly going to be a failure. It is going to be one of the pieces of legislation on our books and one of the things we do not want to do is damage anybody even further. We are putting people at risk. I have seen all over the world that these people have worked in homes. I think that they are going to be working in homes and they are going to be working with the elderly, the impaired. There are many types of work out there that people can do, but we have to be careful because we could damage people if we do not handle the young ones and handle the supervisors.

Many times in this country we have people supervising things and they experience problems about which even they do not know. It is another job, and I fear we are going to take it as just another job. We pick people who can say two

Community Service Regulations
[SEN. YUILLE-WILLIAMS]

Thursday, May 25, 2000

or three words to us and put them in charge. I do not want to say what is on my mind. We are opening up jobs. We are talking about job creation, but are the people who will be doing this work qualified to handle it? Do they understand what it is? This involves a lot of work. There are manuals to be drawn up, training programmes to be drawn up and lots of selection to be done.

I fear this morning that even though I know with the passing of the regulations we are going to say, “One more for the books”, and we are going to attempt—probably we might attempt a pilot programme now. I have never seen a pilot programme with the community service programme. All these pilot programmes are being used because we really do not have things properly organized. So today I will ask the hon. Minister, before we rush off into doing this thing, to look back a bit at two sides. Look at the prevention—and a number of them are in your Ministry. I ask you to revise some of those programmes. Call this one the rehabilitative; call this one the opportunity to serve your community, the opportunity to pay back your community and the opportunity to free the prisons a bit so that there will be more space. This is a cheaper service, as you say, than having them sent to prison. Some of the much needed services that the community does not have: this will provide them.

12.05 p.m.

I agree with all of that. I am also saying that from my research we are not ready to put the system in place because I did not see the structure and the personnel that you called this morning. This is not a structure for a programme.

Mr. President, the Government could call 40 community service officers—I do not know where they are getting them—it could be just 40 people, but they might not necessarily be the persons unless they have been properly prepared; unless the people receiving them know what to do; unless places where they will be going to work have been properly identified and they are given some kind of training if this is to happen. We need to get reports at all times from all these places.

Mr. President, where in the Ministry is this going to happen? The Ministry is already overburdened. The Government said this is a temporary section. This is no temporary nothing! This has to be something well structured and well set up. It cannot be done down the line, it has to be done before it is implemented.

I know it is good for the Government to come here today and say that it is putting the Community Service Regulations 2000 in place. To the Government, this is something that is big to me, I am very much concerned—and also other

Senators on this side—especially when I sat here and I did not feel satisfied. I got no comfort in the fact that this will really work because the Government track record is almost nil in terms of the things that are needed for our young people.

Somebody talked about taking the justice system to the community. I am really wondering how could that be when the community is not even prepared for it. We are going to look at the Mediation Bill that the Government said is closely aligned to this Bill. I am glad that the hon. Minister saw the packet as a whole. I have been one of those in this Parliament who have been complaining that Bills come to this Parliament and we are not seeing the wholeness of them. I am happy that the Minister appreciates the wholeness in this Mediation Bill. I also want the Minister to take all the other programmes that came out of the Ministry that deal with young people and put this matter into a whole package and say where we are going and how it could be done.

Mr. President, in fact, we need a total reorganization of everything because when we looked at the Consumer Protection and Safety Bill this morning—we saw it here in the Parliament—things were so divided that we almost could not put it together to know who is responsible for what. I am not blaming anybody at all, it was there and by just looking at this Bill this morning, we saw the division. The Minister was able to say that this Ministry is responsible for that, and the other Ministry is responsible for that, and probably the lines are too defined that one cannot tell. The overlapping is there but the people are all compartmentalized.

In the Ministry of Social and Community Development, I think the Minister has a chance to avoid what is happening outside there. The Minister has a chance to see it all. The Ministry is so large that probably it is so much the Minister has to see. The Minister should try and put even his Ministry of Sport and Youth Affairs into this now. I know the division is there; I know the buildings are there. But is not sports one of the ways for rehabilitation? Therefore, when the Minister looks at the whole programme he should try to see how sports could help with this whole process of prevention and rehabilitation. When the Minister defines his basic sports programmes for the country, he should do it with that purpose and aim in view. This is what the whole business of Government is about. Even though a Ministry is large, one has to look to see how one could help the other.

Mr. President, I was at a Ministry that was pretty large and we had to pull even programmes that seemed to be quite different together. One of the things you had to do was look at the three areas and see what you could do as one Ministry to assist the other, and we had to do that. Therefore, perhaps, the hon. Minister should look at this whole business, especially with young people. I know the

Community Service Regulations
[SEN. YUILLE-WILLIAMS]

Thursday, May 25, 2000

Minister gave me the assurance that this whole community service is not only for the young ones and that it would spread across the age groups and probably because of particular types of crimes people would be committed to it.

One of the other problems—and I have a friend who is a magistrate now—I felt the magistrates were not *au courant* with what is being done in this Parliament. Somehow or the other, we do something here and they know something else there. I was still hoping to get the link between what happens with the courts and these programmes. There should be that link. Even when the Government introduced the Domestic Violence Bill, those people who are in charge of the prison services and even magistrates got together for lectures and training in order to understand it, otherwise the Government would have brought in the Domestic Violence Act and so forth and it was not going to get the support from the courts. Even with this Bill the Government needs to have that support and training.

Mr. President, therefore, we would want to be comforted to know and read that the magistrates and all persons involved have the type of training necessary to support the Bill.

Mr. President, at the moment, I am very skeptical that after we have gone through this today and supported this legislation that we will go much further within the next few months. I feel there is a lot of background work to be done. It is all left for those of us who have a commitment to ensure that when we pass legislation in the Parliament that they are implemented. Unfortunately, this Government has a record for not implementing. It has a record for bringing the most bits of legislation into the Parliament and no one could deny that. The Government brought the most pieces of legislation into the Parliament to their credit within the time, but it also a record for implementing the least. Therefore, the Government has to understand which is better, bringing it or not implementing it? [*Desk thumping*] And, therefore, you are going to hear about how many pieces of legislation the Government has brought to this Parliament.

Mr. President, there is a stack of legislation which the Government has brought here which has not been implemented and the Government is going to have us coming here 10.30 on mornings and working any amount of days—as much as two days a week—passing legislation which it is not implementing.

Mr. President, I am hoping that this will not go the way of all flesh; that we will pause for a while, go back and see what we have to do because this is in the interest of all the people of Trinidad and Tobago. This should not be looked at in

a political way for the record books only, or for the manifestos only, or for the hustings only. This should be looked at as people who are genuinely concerned especially with how our young people are developed and especially what happens to Trinidad and Tobago in years to come. A lot will depend on what the Government has done. The Government should not go about this in another helter-skelter way. This is important to the community.

Mr. President, we are happy that, at least, it is not only first-time offenders but other young people have the option to be removed from some of those prisons. I have seen the conditions; I have heard about them; I have met young people who have been there and trying to get bail. They are scared to death that even at the end of it they will have to return. In the Remand Yard they will tell you how difficult it is for them in there. So, therefore, we are hoping that the Government will be able to put this in place, but at the same time, let us remember that we need more than just putting things in place for offenders, but we have to save the young people from becoming offenders.

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

Sen. Mahadeo Jagmohan: Mr. President, in looking at the time it seems as though I will have to return to complete my contribution after lunch. If that is so, we will have to abide. First of all, I really want to compliment my colleague who is an expert on matters raised in these regulations and what went in the original Bill before. The Senator has done extremely well in enlightening this Parliament.

2.15 p.m.

I am a strong believer in the law of karma, and I want to say that the hon. Minister of Social and Community Development and the Minister of Sport and Youth Affairs is a very fortunate gentleman that the law of karma has placed in a position where if he is allowed to, and is willing and prepared to, he can do good work to improve the lives of thousands of young people who would become better citizens of Trinidad and Tobago, providing he is given the opportunity to do the thing in the way we are suggesting, and the way he may also have in his mind.

Apart from what was already said, I am duty-bound to mention that the regulations, somehow or the other, or an amendment could be made at this point. Perhaps, the hon. Minister can pull back his presentation and come back another time. I have not seen a role for the churches in this matter, and there is a nexus between the young people and their problems and the churches. I sincerely believe that the pundits, the priests, the imams, the preachers, and other religious administrators in the country should be given a major role in this exercise.

Community Service Regulations
[SEN. JAGMOHAN]

Thursday, May 25, 2000

No one can doubt that over the last century in this country, the priests, the pundits and the imams have achieved a great deal in counselling people who face difficulties arising out of crimes or when they have problems with the law. As a matter of fact, the orientation that my colleague, Sen. Joan Yuille-Williams, alluded to, should bring in the religious leaders. Not orientation only for the youths or first-time crime offenders, but also for the community service officers and other personnel who will have to react. I am so glad that Sen. Rev. Barbara Gray-Burke agrees with me. She is nodding in approval of this proposal. I thank her very much for that.

Mr. President, this matter is so important to us all, that one can refer to all the aspects that are of material consequence. With respect to community service, the area that needs the most assistance right now, to my mind—the different segments of the society—is the education system, particularly the primary schools, where there is a great deal of crime being committed with respect to the infrastructure of school buildings and also, where the teaching staff and students of primary schools in the main—secondary schools to a lesser extent—are being disturbed, confronted and attacked by people who are frustrated and want an opportunity to do constructive work.

I am suggesting, through you, Sir, to the hon. Minister in this regard, that there should be some prioritizing and, at the top of that priority list, schools should be taken into account. I do not know whether the Minister has this in his mind and whether his officers are also listing this as one of the areas, but it is an area we must consider very seriously.

I cannot just make the point and go away, but when one brings in the religious leaders in this matter, maybe the whole country may not think about it, but perhaps the young people who are offenders for whom we are planning community service—the first thing I imagine the religious leaders will tell them is about respect for elders, respect for persons in authority, respect for parents, the question of people committing to prayer, grace before meals, bedtime prayers, and going to the church. These points are not being emphasized, and one of the reasons for this is that parents are very busy. The society has been developed in a certain manner where the parents do not have much time to interface and deal with their children. We need to return to that area.

A very important point that has me baffled, Sir, is as follows. A piece of machinery or arrangement is contemplated here by the regulations as clearly enunciated by the hon. Minister, that staff will be arranged to deal with this

community service. What took the cake, Sir, was that 13 community service officers are to be employed on contract. What kind of effort will those people put if they are on a one-year contract? I wonder if this has anything to do with the pending general elections and the Government not knowing if they will be back to carry out any programme? [*Desk thumping*]

I am not being funny with this, but it has a nexus, and I am stating that these 13 officers, whether they are adequate or inadequate, why on the basis of how our public service is structured, are they not coming through the Public Service Commission to be made permanent officers so that they know from the first day of employment that they will be accruing sick leave, casual leave, special leave, vacation leave, and that terminal benefits will start to accrue and be put in place for them? That temporary structure is objectionable. [*Desk thumping*] I could not understand why this is being brought.

My colleague also alluded to the fact that reference was made to Tobago and that clerks typists or whoever, would be redeployed from the services of the jurisdiction of the Tobago House of Assembly. We already have so many quarrels from Tobago, particularly the Chief Secretary who is on record in the newspapers and is complaining about not getting the necessary support to effectively run the service in Tobago for the benefit of all Trinidadians and Tobagonians in particular.

They will now redeploy. Redeployment is a nice word and sounds good, but it merely means that they will take away the staff from them and put them elsewhere, and the substantive and regional work will suffer, and the entire Government programme in Trinidad and Tobago will have a void. Mr. President, I respectfully submit to the hon. Minister and the Government to not go that way, even if they think they are going out of government and another party would be in government. Their intention is that if they go out, they will want to come back. They should show us that they mean that.

Mr. President, can the Minister tell us, perhaps in his winding up or somewhere? He has in his mind some sort of original scope. All planners and thinkers always have an original kind of scope in their mind and in their thinking on how they will deal with certain matters. That kind of knowledge is not always revealed. Everything is not always revealed, but can the Minister tell us if there is any arrangement whereby, apart from the legal system, the political directorate of the party in power, or the ministers, would liaise with the Registrar of the High Court, or somebody in charge of the Magistracy—not necessarily a magistrate—who will get the thinking of the Government in fine detail; the political

Community Service Regulations
[SEN. JAGMOHAN]

Thursday, May 25, 2000

perspective, as well as the judicial perspective on how to move, or what is the likely way one expects them to move and decide in terms of putting community service in place, that is, allotting first-time offenders to go and give community service. That has not been alluded to.

I agree that we must be very careful when we speak about the legal system, particularly when we refer to people who are totally independent in terms of carrying out their duties. I am talking about the Judiciary in general, inclusive of the Magistracy. This has to be taken into account, because the very learned members of the Judiciary do not come to the Parliament and they do not hear the kinds of arguments before a Bill becomes law. I am not sure if they do get the time, they would deal with the Bill that becomes the law. I am not sure how they get their other information. Whatever is done, because of our respect and our regard for our judicial system, we must think about this.

Mr. President, not only should we be concerned about, or be in haste to implement the community service programme, but we should also think of preventative measures in terms of criminal activity. Why am I saying that? I am saying that because as an individual, as a Senator here and on the basis of the culture and philosophy of the People's National Movement from its origin, we must think about the people from the lowest level, the grass roots people, coming right up to the highest strata of society, and do certain things that would benefit all, but do it in all programmes.

I have a concern, Sir. The type of television programmes that are beamed on the television sets for all to see, with absolutely no control whatsoever, gives the impression that young people who are not seriously influenced or controlled may look at what is happening and want to emulate what they see. We have read on the newspapers time after time that in another jurisdiction, small children see guns at the homes in which they live and they want to experiment to see how they work and may use them on a younger child.

In other jurisdictions, some of them take the guns to school in their school bags. I am saying that it is necessary for us to more rigidly monitor and control the type of television programmes. I have some ideas on how the press in our local system should deal with crime reporting, but I will leave that for another debate. I wish to state that the type of programming should be taken into account.

Mr. President, if the situation is not improved with respect to the television programming and the type of literature that comes into the country, any amount of community service will not help if 10 people who are first-time offenders are

treated properly, and another 30 are there to, perhaps, take their place next time around. It is important to deal with this in a particular way, but I wish to state that many people who do not have the opportunity and cannot come here have the knowledge and experience, but will not write to the newspapers to talk about the quality of programming on the television. Even the radio and some of the newspapers give such detailed and graphic expressions on their reporting, that they make some young people want to become the similar kind of hero concerning the things they read. This is the problem.

12.30 p.m.

With respect to community service, Sir, I do not know how many of us here understand. We turn out people from the technical schools and other places where they learn trades, excellent plumbers and excellent shoemakers. I am not talking about the sophisticated skills; I am talking about welders, carpenters and what have you. They come out in the open market and well-meaning people with means make them work and, in a number of instances, do not treat them well with respect to compensation for services rendered.

What do these people do? They go to other fields where they get paid. There are so many skilled people in the field of driving maxi-taxis and taxis because upon boarding, perhaps, they are paid at the same time and when they put their money together for that service they are rendering, driving the taxi or the maxi-taxi, at the end of the day they can count it and go. But, when they go to do work for so many well-meaning people with ability, they have to come back for the money the next day and when they go back, they still have to return another day; then when they go the other day, they get part of it and they have to wait for the rest. That is discouraging skilled people.

I am saying that for these people on community service, a similar type of programme that YTEPP and other evening courses in the country are doing can be planned, where they do some community service for part of the time and they be not pressured, not forced, but they be encouraged vigorously to acquire skills along with the other community service so that at the end of it all, they will be better citizens for Trinidad and Tobago.

Mr. President: Sen. Jagmohan, I think at the beginning of his presentation, indicated that he may have to return after lunch to complete his contribution, which signalled to me that he intended to be on his feet for some considerable time. If that is still the case, perhaps you could let me know so that I can assess whether we should break for lunch or not.

Sen. M. Jagmohan: Sir, I thank you very much. If you permit me five minutes, I will round off.

Mr. President: Sure.

Sen. M. Jagmohan: Mr. President, I thank the Members of the Senate and yourself for understanding my situation here.

There are young people who come from very—I am using the term—decent homes and families—everyone knows what I mean—from homes where no criminal offences were ever recorded by their children or offspring and sometimes a particular individual from some of those homes, not only commits a crime, but commits a serious crime that is heavily punishable by the law of the land.

I am wondering, subject to a Probation Officer's report, subject to the kind of pleading the counsel in the matter may do in the courts, whether consideration for community service could not be made or given to that kind of serious crime as well, because it may be the first time.

A young man may be 25 years of age and he gets into some kind of criminal activity at that age and if you check his entire record and his life, you would see that he was a decent, fine, well-behaved, young gentleman who never had a brush with the law. He never disrespected anybody; never disrespected persons in authority; he had regard for elderly persons and he lived a good life. Some consideration should be given to those kinds of persons for community service.

Mr. President, I thank you very much.

Mr. President: We will break for lunch and resume at 1.45 p.m. The sitting is now suspended until 1.45 p.m.

12.35 p.m.: *Sitting suspended.*

1.43 p.m.: *Sitting resumed.*

Mr. President: The debate on the Community Service Regulations Motion resumes.

The Minister of Community & Social Development and Minister of Sport and Youth Affairs (Hon. Manohar Ramsaran): Mr. President, when I presented these Community Service Regulations 2000, I thought it was clear that this was not a piece of legislation, or moreso a Bill. Indeed, it was just regulations that would ensure that the Act that was passed in both Houses and assented to by the President, would take effect with these regulations. I would just like to, at the beginning, correct my friend Sen. Shabazz who said this was a Bill before this

honourable Senate. It is not. I think he was corrected by his colleague, Sen. Yuille-Williams.

Mr. President, when one listened to the first two speakers, really—I would come to Sen. Jagmohan later on—one got this conflict between them that they were not speaking about the same thing. For example, we had Sen. Shabazz talking about the overcrowding in our state prisons and children's homes and so on. He spoke, and one could get from him that here was a failure of governments in the past to deal with our young people, and hence the overcrowding in our prisons. He was asking us to do certain things to deal with that.

Then we had the goodly Sen. Yuille-Williams talking about their programmes, and how successful they were. I am really lost, Mr. President, about the contradiction of one saying that they had good programmes in place, and the other one talking about overflowing prisons and our children's homes with problems.

Mr. President, when we look at the question he raised about our orphanages and schools that deal with children who are at risk, then it begs the question: why was the Children's Authority Bill not supported by the Opposition? When we brought these pieces of legislation to the Senate they were criticized. These Bills were to do just that; to ensure that we have in Trinidad and Tobago, a Children's Authority that would deal with all the problems that our children face on a daily basis, to talk about children at risk and see how we could get these people to deal with children in a particular way. Of course, that Bill is before a joint select committee and we hope to get that report soon. I am sure when this comes as law, the children of Trinidad and Tobago would be treated in a particular way that would ensure that we do not have to make laws to deal with children who have fallen out of the system.

Both Senators spoke about something for young people to do and they had structures in place. Mr. President, when we look at what is taking place in society today, and what has happened to our young people, we must really take stock. If things were working as they say, then Trinidad and Tobago would not have had the need for legislation like this one. We would not have any problems with overcrowding in our prisons. I am sure if our Ministers would have the time to respond and let them know what is taking place with the young people in this country, you would really see a vast improvement.

The goodly lady Senator spoke about the Geriatric/Adolescent Partnership Programme (GAP). I want to assure her that we did not do anything about scrapping this system, as the Political Leader of the Opposition has been going

Community Service Regulations
[HON. M. RAMSARAN]

Thursday, May 25, 2000

around the country misleading our people. What happened is that this was a programme hastily arranged by the former regime and they, in their quest to deal with it, trained about 100 or 1,000 young people to deal with older people. What we are doing now is—we have not abandoned the programme but we are trying to get these young people to place them, to ensure that they are of use to some senior citizens. That is the stage that the programme is at. We have to understand that. She said that—this is the contradiction—we are training people, we are doing this, we are doing that, and what is taking place. But here we have to correct a fault of the last government to ensure that all these young people who were trained would now be paired off, so to speak, with our elderly population. This is where the programme is at. I would like the community at large to know this; nothing is wrong with GAP, it is alive and well.

Of course, the Senator spoke about the Civilian Conservation Corps. Ladies and gentlemen, I do not want to go into the merits or demerits of that programme but, as you know, this Government—we move on, we have to live with the times.

1.50 p.m.

For example, when we look back into the last millennium things have changed. Today, these programmes are no longer relevant. We have to look at training our young people, hence when we stopped these programmes, the National Training Agency was established, and we are trying in this country to bring our young people to meet the challenges of the times. The Ministry of Training and Distance Learning has set up computer courses throughout Trinidad and Tobago. As the Member of Parliament for Chaguanas, in my own constituency over the last six months we have trained over 100 young people to use computers. This is what we are doing throughout the country. We are not sitting back and saying that we are going to stop the Civilian Conservation Corps.

People talk about the youth camps. What we are doing in the youth camps today is bringing the training up to date. We are no longer doing irrelevant programmes, so we had to look at the programmes, get the MIC and the National Training Agency to agree and to see what we could do in a positive manner to deal with our young people. If the programmes were so successful then, maybe, we would not have been in this position today.

I am glad Sen. Yuille-Williams talked about sports. Mr. President, I have not seen so much excitement in sports in Trinidad and Tobago for a very long time, as we see in this country today. This did not happen by chance. When you look around Trinidad and Tobago you see the mushrooming of indoor sports arena,

football stadia, refurbished cricket grounds across the country with turf pitches. We have not only done infrastructural development works, we are looking at the human aspect of our sport.

Now we have very active under-10 cricket taking place in this country; under 12, 15, 17, 19 and so forth have been established in Trinidad and Tobago. When I assumed the responsibility of the Ministry of Sport and Youth Affairs, I met with all our national sporting organizations and asked them, "Let us now see what we could do to develop our youngsters by working in communities and different age groups," and most of them accepted. Even this morning we had two major sporting events, one at Skinner's Park and one at the Hasely Crawford Stadium, where our primary schools are having national sports day. This has been mushrooming in Trinidad and Tobago.

The Southern Games have started back with the help of this Government and we are working to see if we could bring back the Eastern Games. We are encouraging primary schools to ensure that within these two or three months after the Common Entrance Examination, that sport is reintroduced into schools. So when we talk about sport and young people, indeed—and I know that people talk about going back, but we have already done that. We have restarted Southern Games; we are in the process of looking at Eastern Games. Indeed, almost every day at the Hasely Crawford Stadium there are activities taking place during these three months among our young athletes.

When you go beyond that, you will know I started a millenium sport project. I want people to know that. This is being played among all regional corporations. All 15 have responded and they are playing cricket as we speak today. Matches are being played throughout the country with our under-23 cricketers. So we are not only talking; we are dealing with our young people and giving them the area in which they could participate to become better citizens of Trinidad and Tobago.

It will not end there. We are going to have a football tournament between Trinidad and Tobago, Jamaica and Canada in July. We are going to have women's football with Nigeria versus Brazil at the Hasely Crawford Stadium. This is all in this millenium sport project about which I spoke. This is—and I have never heard it done before—where the Ministry of Sport and Youth Affairs, in addition to its infrastructural development, has gone on to look at human beings and their participation.

Yesterday, Mr. President, the Ministry of Sport and Youth Affairs launched, for the first time in Trinidad and Tobago, a nationwide wind-ball cricket

Community Service Regulations
[HON. M. RAMSARAN]

Thursday, May 25, 2000

competition featuring under-17 youths to play wind-ball cricket over the next two or three months. So when people stand here, and without knowing what is going on, accuse us of not dealing with young people, they are just having nightmares from the past.

This millenium sport project will culminate—and I want to let the honourable Senate know this; apparently people read what they want to read and they do not read the positive signs that this Government is giving to the people—with the awarding of the 100 best sportsmen and women of the last Century. We are going to ensure that they are given their credit, and this is going to be chosen by the media, so we are going to avoid the media criticizing their own choices. This is in place and it will culminate some time in August to ensure that, for the first time—nobody ever spoke about that but this Government—our 100 best sportsmen and women of the last Century are awarded.

So, Mr. President, we are serious with sport. When the goodly Senator opened up the debate and moved away from the basics of this, of course, she had a branch to climb onto. But I am glad she raised it, because I want to let everybody know that this Government is supporting sport. For example, when Trinidad and Tobago played Haiti, almost all our ministers were there, supporting Trinidad and Tobago to ensure that we beat Haiti at the Hasely Crawford Stadium. This is something that I am proud of, and I want to invite the entire community to rally our support behind the Trinidad and Tobago football team, because I feel, somehow, that this is the time that we should qualify for the next World Cup finals.

Let us get together. Let us forget our petty differences, political or otherwise. I heard people say certain things that make me wonder if we are really proud to be Trinidadians and Tobagonians. Some people say that if the team qualifies the Government will look good, but I cannot share that view. When the team qualifies, Trinidad and Tobago looks good, despite the fact of who is in power.

As usual, Sen. Shabazz would always make one or two attacks and run but, again, he was talking about young people and questioning what we were doing about the deviant behaviour. I want to let him know—people must look around this country and see what is taking place with our young people. We have started with the very young. This Government is aggressively looking at early childhood education. We have been setting up centres across Trinidad and Tobago. We are ensuring that children go to primary schools. We are building new primary schools throughout Trinidad and Tobago; and refurbishing old ones. We are doing our best to ensure that we could work with people for their benefit. By September 2000, we are going to have secondary school places for all children of

Trinidad and Tobago. So when people talk about children and what we are doing for them, indeed, no government has done more than this one in dealing with the problems of our young people.

We could go on and on. We could talk about all that we have been doing for our young people and, of course, 30 or 40 years of mismanagement and not planning for the youth. In my own ministry, when we spoke about planning—I will do that another time, maybe with the other Bill—systems have been put in place in almost every division dealing with every segment of our population, which was not done before.

The goodly Senator spoke about magistrates being sensitized. I mentioned in my earlier presentation that we have had sensitization courses with magistrates and judges of this country and they were very impressed with our presentations. When I spoke to our officers they said that the magistrates and judges were very impressed with the quality that was presented to them.

I have a note here. Training is continuing at the probation office with 11 community service officers who are on board. Training comprises skill in counselling, preparation of pre-sentence reports and interpersonal relationships. All community service officers are highly qualified persons. This is something that was mentioned again. The advertisement which was placed in the daily newspapers showed clearly that the ministry is looking for people who are highly qualified in the field of social work.

So to come here this evening and mislead the public, I have a problem with that. These people are not so young. They have been through the system and with all their experience they would be returning to deal with our community service orders. So when people do not know and they sound as though they know everything and they have all the information, I have a problem with that. We are ensuring that we have quality people to deal with this problem.

It is not an easy situation. I would be the first to admit that it is something new in Trinidad and Tobago; something that we do not know what to expect, but we are putting our best foot forward to ensure that at the end of the day, our young people, or even those who are not so young, who for some reason—and I mentioned it a while ago in another place that in my constituency office a young boy of about 25 years of age came to my office and said: “Minister, I want some help from you.” I asked him, “What can I do for you?” He said, “I was chosen to go to Canada in the farm programme.” I congratulated him. He said: “But not so

Community Service Regulations
[HON. M. RAMSARAN]

Thursday, May 25, 2000

quick.” He went to the embassy and was turned down, because he had an obscene language case a couple years ago and he could not get his visa to travel.

What has happened to this youth? He was sentenced to life. This Government is redressing that. We are going to ensure that our young people are given that opportunity, at least once, to try to change from their deviant behaviour, to come on the right track, and to ensure that they are not condemned after one minor offence. This is what the community service orders are about.

So we should not look to score political points. The country will judge us; we do not have to put this on our *curriculum vitae* or into our manifesto. Talking about manifesto, we hear the Leader of the Opposition going across this country talking about GAP and about social services, and I am amazed. They are already being done in my ministry, but he is saying when he comes into office some time in the distant future he will put them in place. This is really a madman at work, because—maybe he is misled by the Member opposite—these programmes are in the ministry.

I cannot remember them all to enumerate them, but I am sure that I heard him call programmes that are already in my ministry and doing quite well: Homework centres, community mothers. They read my ministry’s work and say they would do that in the future, because they have the help of other people who would not put this on record that it is happening in the ministry. But he says when he comes into office he will put them into effect.

Mr. President, this is a simple piece of legislation. It is not to make our *curriculum vitae* look better, because I am sure—and I have been talking to people—when they look at the work that this Government has done and will do before the election, they will be insane not to return us to power. I want to disappoint Mr. Jagmohan. “You have a long wait, brother. This Government is going to last for the next two decades.”

Mr. Mahadeo Jagmohan spoke about permanent versus temporary. Maybe he did not understand when I said it, so I will repeat it. I want to read it into the record so that the country will not be misled. Cabinet has approved the staff that I mentioned to be hired for the first year, but it also agreed as follows:

“Cabinet noted that the Ministry of Social and Community Development would submit another note to Cabinet in respect of the long-term arrangements for the operation of the community service unit.”

So, indeed, it is not short-term. We plan differently. We know that this was upon us and we decided to do it—and Cabinet has so agreed—in two phases; that

we go into it the first year, then the second, third, fourth and fifth year we will have permanent staffing in place to deal with community service orders.

I am extremely happy to be the Minister responsible for community service orders. I feel it is an exciting prospect. I would be the first to say that we will need the support of everybody, especially our distinguished independent Senators, and those opposite. Even the media of this country and all our senior citizens, whether they are retired as school teachers, headmasters, probation officers, whatever field they are in, we ask them to come and work with us. We have voluntary officers and we are still working on whether to give them stipends or not. They will work with us to ensure that we deal with our young people in a meaningful way, in a way that will save the future of our country. I am placing a lot of faith in our community service orders.

Mr. President, I beg to move.

Question put and agreed to.

Resolved:

That the Community Service Regulations 2000 be approved.

2.05 p.m.

HOMES FOR OLDER PERSONS BILL (1999)

Order for second reading read.

The Minister of Social and Community Development and Minister of Sport and Youth Affairs (Hon. Manohar Ramsaran): Mr. President, I wish to thank you and Members of the Senate again for the opportunity to present to this Senate the Homes for Older Persons Bill, 1999.

As was emphasized when I presented this Bill in the other House, it is very critical and long overdue. Ours is a situation where there is a substantially large “60 years and over” segment in the population, a group for which the availability of facilities offering care services to senior citizens is essential.

Mr. President, currently there are 120,000 persons who are 60 years and over in the country and this figure is expected to increase to about 160,000 by 2010. There is therefore a sizeable client pool in existence, a natural response to which has been the mushrooming of care facilities for senior citizens throughout Trinidad and Tobago.

There are at present 54 functional institutions offering care to elderly persons in Trinidad and Tobago. A recent study by the Ministry of Social and Community

Homes for Older Persons Bill
[HON. M. RAMSARAN]

Thursday, May 25, 2000

Development indicated that as much as 40 per cent of these homes are operating without licences. Legislation to ensure that homes are operating under licence and offering the highest standard of care is therefore necessary.

Mr. President, given the increasing nuclearization of the family and as more younger family members migrate in search of opportunities abroad, the need for care facilities for senior citizens would become increasingly critical. The enactment of this Bill therefore, will ensure that the best facilities are available to clients.

The essential provisions of the Homes for Older Persons Bill are as follows:

Clause 4 provides for the establishment of an Older Person's Care Board. The primary responsibility of the board is to act as an advisory body to the Minister on matters relating to the administration of the Bill. Membership of the board will be drawn from the public and private sectors, bringing together expertise in the areas of medicine, nutrition, home management, occupational therapy and psychology.

Clause 5 requires that a licence for a home shall specify the number of clients to be served and the level of care to be provided.

Clause 6 gives the Minister the power to grant a licence for the use of premises as a home and makes it an offence for any persons to use premises as a home for older persons without a valid licence.

Clause 7 outlines the licensing requirements for persons wishing to operate a home for older persons.

Clause 8 provides the guidelines for making an application for licence to operate a home for older persons.

Clause 11 provides for the renewal of a licence if the Minister is satisfied that certain requirements have been complied with. This clause also gives him the power to refuse to renew a licence where there is non-compliance with certain requirements.

Clause 13 fixes the penalties for offences committed under this Bill.

Clause 14 gives the Minister the power to revoke licence on certain specified grounds, but requires the Minister to give notice on the grounds on which the licence is revoked.

Clause 15 makes it an offence for a person to use a home as a home for older persons if it is not licensed as such.

Clause 16 makes provision for a licence to remain in force where a joint licence holder dies during the currency of the licence.

Clause 17 provides for the Minister to exercise his discretion to transfer licence on the death of a licensee or sole surviving licensee.

Clause 18 gives the Minister discretion to transfer a licence to another person where he is satisfied as to the character and fitness of that person.

Clause 20 gives the responsibility to the Division of Aging to establish for homes, standards of care relating to the equipment, services, and the health and welfare of residents.

Mr. President, clause 22 provides for the appointment of a manager who is adequately qualified to oversee the day-to-day operations of a home.

Clause 23 provides for the keeping of a register of residence which shall contain particulars relating to name, age, diagnosis and medical history of residents and other important particulars relating to transfer, hospitalisation, or death of residents. Failure to make appropriate entries in the register would constitute an offence under the Act.

Mr. President, as we go through these clauses, what is important is that we had these homes existing for a period of time and it is not our intention, as I said in the other place, to deal harshly with some of these homes which have been doing yeoman service for our senior citizens in this country.

We have had instances where owners or managers of these homes have treated their clients badly and we have heard reports and we have received reports in the ministry of people actually taking old age pension cheques from our senior citizens and then treating them in a way that even the \$620.00 they have paid would have done better in another place. I have visited some of these homes from time to time and the senior citizens complain to me and they have told me various things of which I feel that it is time we come to Parliament to ensure that we have these homes regulated.

I want to make it quite clear that we have very good homes out there, some are given subventions and some are not. I do not want this to be a “lablash” as it is called, a slash across all our caregivers, but indeed, to ensure that we institute care that would be across the board and those who are good would continue to be good and those who have been treating our senior citizens in a particular manner would be brought in line and be dealt with if they abuse or in any way allow our senior citizens to be treated in a way that is not humane.

Homes for Older Persons Bill
[HON. M. RAMSARAN]

Thursday, May 25, 2000

Mr. President, you are aware that last year was the International Year of Older Persons and this was one of the recommendations made by our committees which went throughout Trinidad and Tobago in search of our senior citizens in trying to make them live a better life. This Government has been doing its bit to assist our senior citizens and we will continue to do that, and this piece of legislation is timely as we are assuring our senior citizens a better quality of life.

It is, therefore, my hope that the honourable Senate would join us in the crusade to ensure that our senior citizens who are clients at care facilities continue to enjoy the highest standard of care.

Mr. President, I beg to move.

Mr. President: Did you want to say something?

Sen. Yuille-Williams: Yes, I wanted to ask him something before he concluded.

Mr. President: If you are making a contribution at this stage, you can.

Sen. Yuille-Williams: I am trying to get a response from him if you will allow it.

Mr. President: All right, I will allow it.

Sen. Yuille-Williams: Hon. Minister, there is something in the definition which I would like to know when making my contribution. Where is this Division of Aging? Where was it established and how does it operate? And could the Minister tell us a bit about the Client Classification Manual.

Hon. M. Ramsaran: Mr. President, I will answer in my winding up because this is something we have to go into at length.

Question proposed.

Sen. Cynthia Alfred: Mr. President, the Homes for Older Persons Bill, 1999 is indeed timely. I think everyone is aware—or those who were not, ought to be—that the older people in our communities, generally speaking, perhaps do not receive the love, respect and care to which they are entitled.

When one looks around, one sees in some homes that, once they have reached the age of 70 and over, persons are regarded almost like outcasts in their own homes. The other members of the family cannot wait to get rid of them, as a result of which many of them are put in homes and when you see the condition of some of these homes, then it really leaves one to wonder.

Of course, on the other hand, there are homes where the older persons are loved, cherished and respected for the contribution they made to society and that is fine. But we are dealing with those who are not so fortunate and most of them have spent their lives looking after their children, and in some cases their grandchildren; and they are put out, so to speak, to pasture.

Mr. President, in the United States of America, outwardly there appears to be a tremendous amount of respect for the seniors as they are called. On the buses, special seats are provided and on the trains, and one would know that seniors do not have to pay on the buses or the trains, and even for prescriptions. Generally, they are treated very nicely.

On the other hand, and perhaps not so outwardly, I know of abuse that has taken place and perhaps continues to take place in some of these homes in the United States of America. A few years ago when I was in San Francisco, a friend and I, a nurse from Tobago went visiting some of these homes because we have special interest in them. I like old people and we have special interest in the welfare of older people and we went to some of these homes and sometimes even when you are within eight to ten yards of the home you can smell the condition and when you look inside the people are like prisoners and they are afraid to look out or talk to anybody and it really grieves one's heart.

We saw on television where in some of these homes, the atrocities that were carried out against these people. Some were abused by younger males, who, as far as I am concerned have no right to be involved with the care of these women. There were some places where some of these younger men were looking after the women and I would not like to tell you some of the acts of abuse that these young men perpetrated on those older women.

Then we went to Sacramento, and there again, we saw different types of homes and one would recognize even from this Bill that there are different levels of homes and we saw where in some of the homes the people were beautifully treated, they had proper medical attention and everything was fine.

2.20 p.m.

Mr. President, coming back to this question of abuse. We met a particular young woman who owned a home and because of the abuse that she used on, at least, one resident, her licence was revoked. Apparently, this woman in the home had a habit of slapping people, and she slapped the owner of the home. My contention is, if you know that is the type of person you have, then you have to exercise a certain amount of tolerance and restraint. But she made the mistake of

Homes for Older Persons Bill
[SEN. ALFRED]

Thursday, May 25, 2000

taking a strap and inflicting torture on that woman and she hit her in parts where she thought that where she hit her perhaps the woman would not be able to say because she was not that lucid, but when her relatives visited she was able to tell them and show them all the wales and so on that she received, and the authorities revoked the licence. That meant that the woman could never again practise having a home. She then went to the other extreme, where she tried to commit suicide because she felt that her life had come to an end. So sometimes the very persons who manage the homes, they themselves are not as—I would not like to say right in their head—well suited to that particular position as they should be.

Mr. President, in Tobago, I visited all the homes, but I visited one particular home where I was convinced that the person in charge was half-crazy—if not totally. Here you are going into this home—and I am talking with her and she is talking to me as though she does not quite understand what she is talking about. When you look at the residents—and I do not know how anybody could have sent their families—their mothers and their fathers—to this home without any proper investigation. Here are people all sitting down like zombies. I asked them questions like: How are they enjoying their stay there and so on. They were like zombies. But what really struck me—there was one television and one radio in that establishment and both of them were in the quarters of the person in charge. So from in the morning until night these persons just sat there. That was torture; not so much physical in this case, but definitely mental torture. So I said to her, what programmes do you have for these persons?

Because one must recognize before one reaches the age of 70, 80 or 90 years old, one was young and vibrant; one used to do things—perhaps teach, perhaps be a domestic worker—whatever it is—one did things that one enjoyed. So when they reach the age of 60, 70, or 80 years old they still have in them some of the skills that they had when they were younger. And one would think—because I put that to the woman—I said, why do you not find out from the residents what skills they have and let them use their skills? Some of them will still sit and do a little crochet; some will do, maybe, some embroidery. Even if they did not have the eyes but the skill is there and they could use their skills. All of them just sat there, obviously, waiting and hoping to die.

So we are very happy that this Bill has been brought to this honourable Senate. Of course, I must express my fear that—like so many other Bills it may not be implemented soon, or in the way that it should be. But we are glad for it because we think it is time that these older persons who have made such great contributions to society be given a better deal.

Just recently in Canada, they were asking persons who were retired, but still vibrant, to do some community work. I thought it was such an excellent idea, and I am sure that perhaps this is one of the things that could be introduced where retired persons could be called upon to give of their skills. Maybe, one or two hours per week, as the case may be. So that they themselves—of course, it would not be in their homes—are still in their own homes but they still have the life in them to go and give some of their expertise to some of these older people. And young people ought to be encouraged to go to these homes and read to the older people: tell them all sorts of things; exchange ideas because older people are full of knowledge. That is something that younger people tend to forget. Older people have knowledge that they built up over so many years and most times it is because we do not ask them that they say nothing. They can tell us stories; they can tell us about when they were young and the things they used to do. As long as one is alive one should have the opportunity to live well. And if one lives in a home then that home must be properly run.

So all the rules and regulations that are put in place in this Bill, if these are really adhered to, then one would feel confident that in this country we have homes where people can really enjoy themselves. Old peoples' homes must be like a home from home. If they have to go into a home, whether it is \$620.00 or, in some cases, \$520.00 a month, whatever agreement is made with the person, those in charge must make sure that they carry out their end of the bargain. If a younger person says to an old person, "give me your pension, and I will look after you," then make sure that you look after that person. Do not take the pension. Then, with respect to the sanitary conditions, you do not have anybody to come and clean once a day, to make sure that the premises smell nice and so on. Do not take my pension and do whatever and not look after me. My pension is all I have, and if you are saying that you would look after me if I give you my pension, then you must look after me, or do not take me into the home. Many of the homes are substandard and they definitely need to be upgraded.

Mr. President, I go to the very Bill itself, I noticed that there is a quorum of 11 persons on the particular committee and the quorum is four and to me four out of eleven—because the Board of Management "shall consist of a Chairman and 10 members appointed by the Minister," and it sets out who these persons should be. All qualified people: a quality control officer; two officers from the Ministry of Health; a Medical Practitioner; a Principal Medical Officer of Community Services; a Social Psychologist and so on. These are very important people. These are people who could and would bring expertise to these homes. Therefore, out of 11, I do not think that a quorum of four, is enough; I think there should be more.

Homes for Older Persons Bill
[SEN. ALFRED]

Thursday, May 25, 2000

Then we go to page 10, clause 5(2) says:

“Every Home for Older Persons shall—

- (a) provide skilled nursing care and supervision under the direction of a physician; and
- (b) be responsible for the protection, storage and disposal of medication in accordance with the provisions of the Pharmacy Board Act.”

2.30 p.m.

I just want to re-emphasize, Mr. President, that this is most important, “provide skilled nursing care”, because what I did observe, I think it was in Sacramento especially, is that in some of these homes the doctor would visit and he would prescribe whatever. Then the nurse would visit and she would look at the patient, write up certain things and so on, and then the equivalent of the nursing assistant would do the actual work. If the person has sores they will clean the sores and so on, but it is important, Mr. President, that there be a medical practitioner, so to speak, supervising these homes to ensure that proper physical treatment is given to these persons.

On page 12, clause 8 says:

“(1) An application for a licence to operate a Home for Older Persons shall be made in writing to the Division of Aging.”

Well, it would appear that this division has already been established, but I do not think there could be a more unfortunate phrase, a “division of aging”. Mr. President, it gives one the impression that, you are gone, everything is gone. Why “Division of Aging”? I think perhaps the Minister should reconsider that term. It really puts one in the outcast, broken down, forgotten, not needed bracket. I think one could say something a little nicer than that.

Then on page 13 clause 9(2) says:

“The Division of Aging may within six months of receiving an application under section 8 issue or refuse a licence.”

It does not say whether there is any redress. It says it may issue a licence, in which case everything is fine. It also says it may refuse a licence but I would think that if a licence is refused then the potential licensee should have the opportunity to find out why and perhaps have some sort of redress, maybe in the courts or somewhere.

On page 14 clause 11 (1)(b) talks about the Facility Review Team. It spoke about this before but I just want to emphasize the question of the facility review team. A little later on we see what that team has to do and that team is very important, but we know that sometimes these bodies are put in place and at the end of putting them in place that is it. They do not do what they are supposed to do or most times they do half the job and say, "Oh, that will do". Then of course in this case the home will suffer. If you are going to put a facility review team, Mr. President, ensure at least that that team carries out the mandate of the Minister.

I need some clarification, Mr. President, in clause 12. It says:

"In establishing standards for each type of facility, the Division shall classify the standards into the following categories:"

I was wondering what part the Bureau of Standards played in something like this because I would assume that the Bureau of Standards would have some sort of say in this whole question of establishing standards. Maybe there will be consultation, maybe that was not spelt out, but I would like to know.

Clause 17, page 16, Mr. President, had me worried. It says:

"Where the licensee or the sole surviving licensee of a Home for Older Persons dies, the Minister may, after considering the representations of the Administrator General or of the executors or administrators of the deceased licensee and of any other interested parties, transfer the licence to such person as he thinks proper."

In my layman's view I would think that where a question of succession occurs this would be more of a legal matter rather than a ministerial one. Suppose the Minister says, "Okay, after listening to everybody I am going to give it to X", and there is somebody else who is in contention for the same licence, then I believe there could be trouble. So I would think it would be much better there to have some sort of legal say in the matter rather than the Minister, any Minister for that matter, making the determination.

Clause 17(2) says the same thing again:

"Pending the transfer of a licence under subsection (1), the Minister may grant to such person as he thinks fit a temporary licence to operate the Home for a period not exceeding..."

so many months and so on. I think the Minister, Mr. President, would be putting himself in an invidious position if he were to assume that responsibility.

Homes for Older Persons Bill
[SEN. ALFRED]

Thursday, May 25, 2000

On page 18 going over to page 19 clause 21(vi) says:

“The licensee of each type of facility shall ensure that—

(f) each resident of the facility—

(vi) may communicate, associate and meet privately with persons of his choice unless to do so would infringe upon the rights of other residents,”

Then it says:

“and send and receive his personal mail unopened;”

I do not see that these two expressions complement each other at all. It talks about communicating privately, associating and so on and then it says, “and send and receive his personal mail unopened”. To me that is out of context somewhere.

I think I am coming to the final point, Mr. President, and that is, in the First Schedule, No. 6, which is talking about the sketch plan of the Home:

“Showing the location and the intended use of each room.”

I would make a recommendation here, going back to what I said before about this particular room where the radio and television were in the manager’s quarters, that there be two separate common rooms where the residents would go and relax, that in one of them there be a television and in another one there be a radio. I make the distinction because some older people cannot take the glare from the television, you know, sometimes the “noise” that is associated with television. So those same persons would like to sit in a separate room to listen.

One cannot have a radio and a television playing in the same room. Some of those same persons would like to sit in a separate room and listen to the radio. So, Mr. President, I make the distinction because I do not think it would be good enough to have one common room and put radio and television. Apart from the conflicting sounds that these persons will hear, not everyone’s nerves, especially at that age, can take the sound of a television going all night or half the night, but in the case of the radio, if it is put at a certain level and pitch, one could sit and enjoy the music, *et cetera*.

So having said all that, Mr. President, I would just like to reiterate that it is good that this particular Bill has now come before this honourable Senate. It will be very good if all the terms and conditions put here are adhered to so that there will be improved facilities and improved conditions, because I know that most of the homes, certainly in Tobago, according to this, will have to close until such

time as they adhere to the rules and regulations set out here. We are primarily concerned about our older people, our fathers, in some cases our grandfathers, our great aunts and so forth. We want them to live out the rest of their lives very happily and this can be done in homes as long as those homes meet the required standards.

So I thank you, Mr. President, for this opportunity and I hope that all the conditions, facilities, amenities and the various structures will be put in place by this particular Ministry so that when the Ministry is about to implement the conditions of this Bill it will be able to do so with everything being put in place. I thank you, Mr. President. [*Desk thumping*]

Sen. Prof. Julian Kenny: Mr. President, it goes without saying that we support legislation of this kind. This is the first attempt at regulating facilities for caring for aged people. I will not go into descriptions of the horrors that one may face under these conditions. I think the hon. Minister has outlined this and Sen. Alfred has given us the full range of them. I support the Bill. In fact, I think that one could adopt this legislation, very quickly start the process and in due course perhaps refine it. But there are a few minor points that I would like to draw to the attention of the hon. Minister and the Members of this Senate.

Under clause 3:

“‘older person’ means a person who is sixty-five years old and over.”

Now, that makes me an older person, obviously, it makes Prof. Spence and Sen. Dr. St. Cyr—we are all older persons. The question I raise is, why 65? Why not 70? Sen. Dr. St. Cyr is suggesting why not 80 or 90. [*Laughter*] We are not joking about it. We are not treating it lightly. There are conditions where a person may age prematurely and very rapidly. In fact, there is a childhood condition where people age at a much faster rate. Aging is a phenomenon of life and I am a bit worried about the definition here of an older person.

To add to the concern that I have, there are medical conditions where one would want to have care for a person and the person may not be 65. In fact, in Alzheimer’s disease the onset can be 50 or it can be 45. In fact, some people suggest that some of us already have it. [*Laughter*] Although some of the times we are alert enough to—but I think it is something that really ought to, I mean it can stand in the legislation. It is a practical thing, but I think it ought to be borne in mind.

The other point I would like to make relates to clause 4. This is regarding the board. I do not think it is a good idea to suggest that the board shall consist of a chairman and 10 members. I would suggest instead that there really ought to be a

Homes for Older Persons Bill
[SEN. ALFRED]

Thursday, May 25, 2000

chairman and a vice-chairman and there is a reason for this. In the event that the chairman is not available, then the cleanest thing is to have a designated person rather than the quorum deciding, “Now, who shall it be?” It is a minor thing but it may make it a little cleaner administratively.

The concern in clause 5 that has already been expressed by Sen. Alfred I think is in order. Where you say that every home for older persons shall provide skilled nursing care and so on, “skilled nursing care” really means professionally trained nurses. There are many people who can provide skilled care but is it nursing care? So it is a point that has already been raised. If we move to Part III, clause 6(4), I am a bit disturbed by this. It says:

“Where premises are used as a Home for Older Persons in contravention of subsection (2), the occupier and all persons concerned in the management of the Home or in the admission thereto or treatment of any person therein commits an offence.”

2.45 p.m.

Now a person may be in a larger commercial home for the elderly—I prefer the term elderly—may in fact go in there in good faith and be a cook, a worker, a nursing assistant and may be totally ignorant of the licensing relationship or requirements. The Government is going to say in this legislation that everyone is guilty of the offence, and one has to remember the fines are fairly hefty. So I would suggest that this might be looked at a little more closely.

Mr. President, I am absolutely appalled at clause 7(1)(f):

“evidence of liability insurance in the sum of one hundred thousand dollars.”

Keeping a dangerous dog requires insurance of \$250,000, but an old, elderly worn-out human being you are saying is worth only \$100,000. *[Laughter]* I think that this really ought to be thought out especially as dangerous dogs are a sensitive issue.

I would like to turn to clause 12 of the Bill and it says:

“In establishing standards for each type of facility, the Division...”

It talks about classes in clause 12(a), (b) and (c). There are certain kinds of care institutions—I am thinking in particular of the hospice type of facility—where they take in people or patients who are really terminal. The type of care given to people in a hospice is quite different from the type of care that you give to a person who is just simply suffering from degenerative diseases of one kind or

another such as arthritis and so forth. I think there are hospices in Trinidad and Tobago which are run by churches. I think that in establishing the standards, perhaps the thing ought to be refined to reflect the reality of the different kinds of institutions.

Mr. President, I would like to turn to the point I think that Sen. Alfred raised about clause 17. I am a bit disturbed about this. If there is a sole licensee and that person dies it is not really a practical proposition to wait until "...representations of the Administrator General or of the executors..." of the person's will and so on are brought into the picture. But it goes on to say:

"Pending the transfer of a licence under subsection (1), the Minister may grant to such person as he thinks fit a temporary licence..."

Mr. President, assuming that I am operating a home and I am the sole licensee and I died, there is an element of time that is involved where the administrative arrangements are made to have a temporary licence or temporary manager put in, and for that one will have to wait on the Minister. Whatever the efficiency of the hon. Minister, if it happens today to my home, there is a vacuum until the Minister acts. Therefore, there ought to be some formula that permits immediate succession. In fact, there might be a formula if one strengthens the administrative arrangements in a particular home. If for example there is a manager, there really ought to be an assistant manager. So there is a problem there. If in a home today the licensee, owner, or manager dies and he or she has 20 patients in his or her care and this home is off the bottom of Rio Claro or down at Bonasse Village, there is this hiatus—this period of time—where the Minister has to make the new arrangement. So there must be a formula to have the continuity.

Mr. President, there are a couple other points I would like to make and one is in clause 21 subsection (f)(viii). I do not like this at all. It talks about "...personal clothing and possessions as space permits." The Government is making provision for the patient to maintain "...personal clothing and possessions as space permits."

Mr. President, as people get older they become more concerned about their immediate security that is, their favourite chair, book case, lamp or something like this and I have seen it myself. I would suggest that somehow we ought to make sure that the people are not entirely stripped of dignity while they still have their faculties.

Now, I have a fairly large collection of books that have accumulated over the years. I have donated about three-quarters of this to the University of the West Indies. I still have at home probably three or four thousand volumes. I know that

Homes for Older Persons Bill
[SEN. ALFRED]

Thursday, May 25, 2000

if I am ever committed—I hope I am not—that there are certain things I would like to have with me. I think that to be stripped of this—as I have seen in places—is more or less selling you on the rubbish heap—off you go. Somehow we must have standards that preserve something of the physical environment of the aged person.

Mr. President, I would like to turn to clause 22 of the Bill which states:

“Every Home for Older Persons shall at all times have a named Manager who shall be present on the premises...”

Now this means that you are asking to have a manager for 24 hours, which means that there should be in each home an assistant manager so that the home is never without a manager. I think this clause needs a little tidying up. I am sure that it is possible that we could get the thing working, but it really requires a little tidying up.

There is one final comment that I would like to make—it is not so much about this legislation but—when the hon. Minister was introducing this Bill, he talked about the pension of the old age pensioners, which is \$650.00 a month—not \$620.00? Now there are older people who have paid their national insurance of 720 contributions and the pension that they get from the NIS, the maximum is about \$429 or somewhere around there.

Mr. President, there are people who have worked and had deductions of national insurance contributions of over 720 weeks, and at the end of that time their pension is less than the bottom line for older people. I think it has been raised before and at one time it was indicated in a budget presentation that NIS pensioners might be getting a raise of some kind. But, in fact, reality has caught up and I suppose in the next budget, the old age pensioners will probably go to \$720 and people who have worked and paid their contributions continue to get something which disqualifies them from getting an old age pension.

Mr. President, one final note, the term “aging senior citizens” and the like is to some of us pre-geriatrics, quite offensive and we are discriminated against. If I want to renew my driving permit it is not like anyone else. I have to go to a medical practitioner and the medical practitioner examines me, certifies me and charges a fee and then I go to the Licensing Authority and we are not trusted.

2.55 p.m.

We older people are not trusted, because we cannot just simply say to the licensing authority, “Give me a form and a photograph and I will get it”. No! I

have to get the form with the photograph, they stamp it or secure it, and then off I go to the medical practitioner, after which, I go back to them.

This wastes an awful lot of time, and there are many people who are aged 65 to 75 and are physically fit. I am physically quite active still. I walk at least a mile a day. I climb up to the lighthouse at Chacachacare leading a party of young people who huff and puff all the way up. *[Laughter]* I still scuba dive on occasion when I get tired of the Trinidad scene and I want to get into another world.

There are many people who are highly active and highly productive, and because they cross this magical age of 65, they are discriminated against in a country that talks about equal opportunities. Mr. President, how many 65 and 70-year-old drivers who have survived in Trinidad and Tobago actually cause accidents? Just look at the insurance business. All of the serious accidents are caused by young people. All the high risk are the 18—25 years. Here they are taking citizens who have built this country and we are being discriminated against, at the same time that the Government is proposing equal opportunity legislation.

Mr. President, I know I have drifted a little off it, but I do support this legislation and I do think that we want to get it on the books as quickly as possible without going through all sorts of complicated amendments and committees. Get the thing moving so that we can bring this large number of institutions up to a standard and let us review it in, perhaps, three years' time and come up with perhaps more stringent controls.

Thank you, Mr. President.

Sen. Dr. Eastlyn McKenzie: Mr. President, I have a few comments to make. Firstly, I support the measure and I congratulate the hon. Minister for bringing this measure to the House. I start off by saying, "Oh, how times have changed". I remember myself as a child where one had not only to take care of and love and visit one's grandparents, but one felt very unprotected if they were not at home, because the first place one ran to whenever there was a threat of anything, was behind granny's or "grampa's" back. All the spoiling and loving and little things; I still can remember them eating a part of their loaf of bread and leaving another little part hidden somewhere in the safe for their little grandchild. Oh, how times have changed.

Mr. President, because times have changed, this Bill is necessary. I would like to say that I think that not only the rules we are reading to come into effect are

Homes for Older Persons Bill
[SEN. DR. MC KENZIE]

Thursday, May 25, 2000

necessary, but I also think that we can do much more in other areas of government other than in the Ministry of Social and Community Development. I will tell you why I say this, Sir. Very many working people now—it is because of how their schedule is—are very busy. We do not have so many people staying at home anymore to take care of the old people when they cannot manage for themselves and it is not safe to leave them to take care of themselves, leaving us to find a way out.

In Tobago, it is still considered very, very unfortunate when one has to confine an old relative to a home. We still look down on that as being very unfortunate. So, any measure that could be put in place to encourage people to keep their old people at home and take care of them would be very much appreciated.

I am saying that if the hon. Minister of Public Administration would ensure that in some of these bargaining meetings they have, they can put in clauses to say that if public servants, teachers, daily-paid workers, whoever, have someone at home whom they want to stay home to take care of, they can get no pay leave. It does not have to be only for studying. It should be important enough where I could say, “Let me stay home from my job for six months and take care of my mother or father, and I will be able to go back to my job and start back wherever”.

Another sister could do it for the next six months, because Tobago people have plenty children. We love big families. It might not be so good now, but that was the kind of insurance that our old people felt they were taking out when they had many children. One of the worst things one could have heard an old person say in Tobago is, “When I am old, do not put me in any poor house. Do not put me in any home. Let me stay in my house and die”.

I have known, up to a few months ago, of children who have taken their old parents and put them in a very good home. I think it is probably the only good one we have in Tobago and the only one existing now, and the lady cried tears and said, “I will walk from here to the twenty miles from where you brought me to put me here”. She cannot even walk around the room, but when she makes a threat like that, it tells how desperate the woman is to get out of the home.

I appeal to the union leaders and the Minister of Public Administration. Put in a clause where one can take leave of absence without pay from one's job to take care of someone who cannot take care of himself or herself, and then go back to one's job. So, I can take care of my mother and father at home and feel very proud of it and feel very happy doing it.

I want to say, Sir, that we had it and we could publicize it. There are still neighbours who take care of the old people living next to them, giving them a meal, ensuring that their chores are done, taking care of them. Non-Governmental Organizations do it, as well as village councils. The hon. Minister knows this. The village councils have their day for the aged, and they really think of their welfare, but we have cases where people cannot pay for their older relatives in a home, and what they do is transfer the problem from the Ministry of Social Development and put it in the Ministry of Health. In Tobago, what they do is abandon them in the geriatric wards. So, there are people in the geriatric wards who are there because they want somebody to take care of them. It is a very complex problem, and we have to look at it.

I want to say, Sir, that there are different kinds of homes, and I think we need to look at this in the legislation because here we are behaving as if there is just one type of home, but when we look at the homes run by the St. Vincent de Paul, it is different from the homes where we pay and someone takes care of them. So, when they stipulate that there must be a manager and so forth, one is actually saying to them that they will probably have to close down or change, or they are going to make the cost of remaining there exorbitant and out of the reach of these people. This is a home that is run by the church. I do not know of any church that has money to do that type of thing. The Minister has to be very careful that he does not make a blanket rule where he would ostracize some of these people.

Also, Sir, I did not see any licence fee, but I believe the fee would be determined by the type of home. I did not see that here. I do not know what it would be like, but I am appealing to the Minister not to make the cost so high that he would rule out some types of homes from operating.

I want to talk about the board and the quorum, but I want to talk about it in a different light from Sen. Alfred. Okay, one has a board of 11, and one says that the quorum must be four, but the board is composed in such a way that there can be four people on the social side alone, or four people on the medical side alone, and they form a quorum, and they are not meeting very often. I think we should probably make the quorum a balanced one when they have to sit, if one is only going to have four people.

It is at clause 4(2) where the quorum could have the social worker, the social psychologist, the occupational therapist and somebody from the Division of Aging. All four people could be people only with the social service background. I do not know if the Minister gets where I am coming from? Vice versa, there could be all four people from the medical side. I think we need to look at that.

Homes for Older Persons Bill
[SEN. DR. MC KENZIE]

Thursday, May 25, 2000

Mr. President, I support the Bill and I know that other people have taken care of some of the other points. I know also that other people will take up different points.

I thank you.

Sen. Danny Montano: Mr. President, I promised earlier that I would be brief in this matter, but I do have one or two problems with the drafting of the legislation, and they seem to me to be very significant. I will get right to the root of the issue. Clause 4(2) sets up a board with a chairman and 10 members, and the rest of the clause tends to govern the activity of the board, but beyond clause 4, the board is not mentioned anywhere else in this legislation, and actually, the board has absolutely no function under the legislation.

The Minister indicated in his statement that the board was to advise the Minister, but to advise the Minister on what, exactly? We have the Division of Aging and the review team, but what exactly is the board going to do? The whole Bill has the Minister granting, licensing, reviewing and appointing. All are functions which I would have thought the board should have been doing, but yet the board is actually not doing anything at all. It seems to be an extraordinary set of circumstances.

I assume that the members of the board will be paid some sort of stipend. They will be paid a stipend to meet and to do what exactly? Nowhere does it say in this legislation. It does talk about, to act according to the regulations, but then we do not have the regulations and we do not know what they are. That would be left up to the Minister. So, we are talking in somewhat of a vacuum. I do not know if that is an oversight or intentional, but it seems to me to be an extraordinary set of circumstances where we have a board being set up by statute and it has nothing to do.

Mr. President, I would refer members to clause 5(2). This was mentioned earlier by one of my colleagues, that:

“Every Home for Older Persons shall—

- (a) provide skilled nursing care and supervision under the direction of a physician;”

Mr. President, I am not sure exactly what that means. What does that mean? That he has to be there all day and all night? What does he do? Does he simply set out the routine that must be followed? What exactly does that mean?

3.10 p.m.

I do not know if it is intended that the regulations deal with that, but the Minister said nothing about it and we are being asked to put our blessing on these regulations.

Quite frankly, I do not understand it. I do not know what that actually means. I know two persons who operate homes and I know they are going to come to ask me, "What does that mean? What kind of association do we have to set up with a physician?" I do not know what to tell the persons. I do not know what to tell them. It does not say what exactly. I think we need to be a bit more specific in it. Perhaps the Minister can elaborate, or he can take this Bill back. I think he needs to take it back and think through some of the issues to tie it up a bit. Not that we are opposed to this, not by any stretch of the imagination, but it is not really going to work.

Look further at clause 6 where we are talking about the licensing of homes. I am going to wait for the Minister because this is perhaps the most significant point. [*Pause*]

Thank you. Clause 6, Mr. President, is the clause that actually affects the licensing of the homes. Now, while I have no particular problem with clause 6, Senators would realize that as soon as this Bill comes into force, every home outside there—and there are some 54 of them—must be licensed and they cannot do that before they apply which means, according to this Bill, that they all have to shut down. There are no transitional provisions.

Sen. Prof. Kenny referred to it, I think in clause 17. That is also a problem but the problem exists here also. There is no transitional clause to allow for the smooth transition from homes that are operating presently, allowing them to have a provisional licence for a period of whatever, while they make the application and while the application is approved or refused.

At this point, everyone has to shut down. I do not think that that is intended. I do not think so and, quite frankly, my skill in drafting does not allow me to recommend a clause to correct the problem, which is why I am suggesting that some of the errors here are fairly fundamental and I think that the Minister needs to, at least, take this Bill back and fix it and we will do it next week.

I move on. Clause 9(2) states:

"The Division of Aging may within six months of receiving an application under section 8 issue or refuse a licence."

Homes for Older Persons Bill
[SEN. MONTANO]

Thursday, May 25, 2000

That is going to cause hardship. Because of the timing of this Bill and the fact that people have got to have their licences on time with a licence being granted for two years, at what point does the licensee apply to renew his licence so that his time does not run out if the division takes six months? Let us say he applies reasonably within three months of the end of this two-year time frame and the division simply does not deal with it within six months. It is a problem. So what should really happen is: there should be a time limit put on the division and it must, within a month, six weeks or whatever, grant or refuse the licence. It must be mandatory and it should be shorter, not this sort of drawn-out six-month situation.

I would also refer hon. Senators to clause 11 which deals with renewals and I would refer Senators in looking at the renewals, to clause 12. Now, clause 12 sort of stands alone in that it deals with certain classes for standards of care—classes one, two and three.

Now, quite clearly, in the granting of renewal of licences, there is not necessarily going to be—in fact, there will be many issues relative to the inspection team in the granting or the renewal of a licence. Some of the issues will be absolutely critical and some not so critical, as is clearly seen in terms of the classes as set out in clause 12. Now, some of the ones that are not so critical that do not go to the root of the care that is being provided would hardly warrant the non-issuing of the licence, but there is no provision in here for the Minister to grant the licence with the proviso that you fix certain things.

In other words, there is no form of a provisional licensing with the proviso that you fix the window or the toilet, or something of the sort, within a specified time frame. It is simply that if you do not meet the requirements, all of them, no matter how trivial, your licence is not renewed. That does not seem to be quite fair, especially when there might be deadlines in terms of the applications. So, it seems to me it is only proper that the Minister be granted—the Minister, the board or whatever—some kind of facility whereby the discretion is had to grant a temporary licence until some of the more minor things have, in fact, been corrected.

We are dealing with people here. The hardships on the residents of the homes if they are put out of the house because one of the toilets is broken, is going to seem to be not what is intended by this legislation. I think that needs to be seriously re-considered.

I refer also to the issue of clause 17, the transitional provisions about which I spoke earlier. That is relevant to clause 17, to which Sen. Prof. Kenny referred, so I would not belabour that point.

I would refer hon. Senators to clause 21(2)(f)(iii) where:

"Each resident of the facility—
(iii) is transferred or discharged..."

for specific reasons. I would be inclined to think that could be rather restrictive on the owner of a home. It means that in the event that he wishes to close his home, he cannot transfer everybody out. He cannot. He is stuck there in perpetuity. They have a tenancy there until they decide to move out. Now, that cannot be right.

It cannot be right either if the particular tenant or the resident is obnoxious or rude, uses bad language or whatever, that would not fit in with the words which are used here:

"..for his welfare or that of other residents..."

If he is being obnoxious, rude or he is not wanted in the home. I think that it should be the right of the owner of the premises to say, "You have a month's notice or whatever. You must find a place." I think that is only reasonable. No allowance is made for that here.

I think it was Sen. Dr. Mc Kenzie who mentioned the issue in clause 22. Again, I had difficulty with that clause because it says:

"Every Home for Older Persons shall at all times have a named Manager who shall be present on the premises..."

Sen. Prof. Ramchand is not here and I would certainly have liked his advice on whether the manager must be present at all times, or whether he must just be employed at all times. I am really not sure how that reads. It was a little ambiguous.

I was inclined to take Sen. Prof. Kenny's view that it read the manager must be there at all times, 24 hours of the day, which means you must now have three managers working eight hours a day. I do not think, from the gist of the legislation, that is really what was intended, and I think the Minister is going to need to consult with the team that drafted this to get what the real intention was unless he really knows it. But I think this needs to go back and get a bit of work. We will support it but we think it needs to be clarified.

The other thing I was disappointed in was that clause 22(3) referred to the manager being:

"...qualified in accordance with this Act and the Regulations..."

Homes for Older Persons Bill
[SEN. MONTANO]

Thursday, May 25, 2000

Unfortunately, we do not have the regulations so we do not know what kind of qualifications we are talking about so we do not know if this is going to be a particular burden on the existing owners or not. We are not capable of making any kind of statement on that and I think that is unreasonable to ask of legislators.

Clause 24 says:

"The Manager shall provide the Division of Aging with a monthly report on the status of each resident."

What is that? The number of his bowel movements? What status? I mean, it is not a problem in terms of some kind of report, but a report dealing with what. What status? His height? His weight? What exactly are we talking about? What are we dealing with here?

The Bill, obviously, has been hastily drafted, not thought through all the way and, unfortunately, the Minister has not really looked at it in a holistic sense. It really does not work. I know that this came through the other place and, of course, it was done in the dead of night in a big rush and everything else. We need to take our time here. This is where we take our time and look at things properly.

We have no problem with the principle of the legislation, but we would like to see the Minister take a little time and correct some of the issues that have been brought out.

Mr. President, I thank you very much.

Sen. Dr. Eric St. Cyr: Mr. President, I am very happy to see that we are moving in the direction of bringing some regulation to bear on this matter, the matter of the institutional care of older persons. By way of an aside, Sir, on one of the most important institutions in this democratic country and many others, with absolutely no regulations whatsoever—I am referring to political parties which play such a crucial part—we should probably think of giving a lead internationally and think up some regulations there.

I am supportive of this Bill and I was very pleased to hear the hon. Minister say that he was not denigrating or condemning those homes which, over the years, have done yeoman service. I think we know that there are a few that do not come up to standard, but I was very happy to know that he recognized, by and large, they have been doing good community and social work.

The main issue I address is the problem of affordability. I know that we are raising the standards of the quality of care in the interest of the residents of these

homes and this is for the good, but I think, in doing that, we would be raising costs. The thought that came to my mind, and I just put it out for consideration, was whether somewhere along the line we may not have to consider some form of a subvention to these homes.

I know whenever we speak of subventions, we immediately raise the issue of the availability of funds, but to the extent that we are showing in this Bill concern for the care and welfare of our senior citizens, I think we may need, Mr. President, to consider whether we would not need to make some form of subvention.

3.25 p.m.

There are going to be costs, but I see the additional costs here being taken in in the setting up of the Aging Division: that is a cost element; the board: that is a cost element; and a very important team, the Facility Review Team which, as I understand it, would be the mechanism that will do the annual inspections of these homes.

Once we say that you must have a named manager at all times, and minimum medical care, we are doing what is, I think, technically would be raising the overhead costs of these facilities. Except there is minimum scale, that will raise the unit cost and raise the issue of affordability.

The persons who, over the years, have done this labour of love in setting up these homes for senior citizens, will not put someone out if they cannot meet the cost, so this added burden will fall somewhere. Through you, Sir, I am appealing to the kind heart of the hon. Minister to see whether a subvention—however we operationalize that subvention—could not be considered for these homes, which would now be of minimum physical standard, giving minimum levels of care which is the objective of this measure.

If the Minister would like a way of justifying going in that direction, the clause that he may want to hang that subvention on is clause 24, because we are, there, introducing a measure of bureaucratic reporting from the home; by way of giving a monthly report, I imagine it would be on the state of health and welfare of each of the residents. One wonders whether monthly reporting would not be much too frequent, probably quarterly. I am suggesting that in the staffing of these homes, perhaps, one could underwrite the stipend of the manager and probably the stipend of the medical supervisor and some clerical person, if we insist on clause 24.

I just want to make a couple other comments on specifics. Looking at clause 29(3) where it is stated here:

Homes for Older Persons Bill
[SEN. MONTANO]

Thursday, May 25, 2000

“Where the Facility Review Team has reasonable grounds to believe or to suspect that a building is used as a Home for Older Persons without being licensed...”

et cetera,

“...they may enter and inspect any such building.”

I was wondering whether or not we may need to have a warrant to do that. I trust that consideration would be given there.

I also have a comment on clause 23(1)(d):

“...information on the nearest relative of each resident.”

I feel sure that that could be tidied. It is obviously referring to the nearest relative or other person who is legally responsible for the resident, so you have a contact person who need not necessarily be the nearest relative. One is clearly, there, attempting to identify the person responsible.

I had a little difficulty with how the level and quality of care would be measured for operational purposes, but I am sure that those could be dealt with in terms of the specification of the physical facilities and other number of rooms and space, *et cetera*.

Mr. President, by and large, I think that this measure is necessary at this time. I think it is one of the consequences of our moving into the modern world, where parents no longer look after their children, and the burden of caring for children, disciplining and bringing them up falls largely on society which, when we do not bear it properly, ends up in our prisons being overcrowded. On the other end where we no longer care for our grandparents, great-grandparents and the old in the society we have to make the necessary institutional arrangements to care for our older persons.

With these remarks, Sir, I am broadly in support and I would go with Sen. Prof. Kenny’s suggestion that we go ahead and start, and refine as we gather experience, rather than delay unnecessarily.

I thank you very much, Sir.

Sen. Laila Valere: Mr. President, I too support this Bill. It is meeting the needs of our society. As our society is changing, we too have to change to meet its needs. I just wanted to look at a point here on Part II, clause 4(2)(g), which has to do with the members of the board. I could not understand why you have at (g) a

social psychologist, which is research-oriented, and looking after the concerns of the society rather than what I would have thought would be more appropriate, a counselling psychologist, a clinical psychologist or a psycho-therapist who does individual therapy that would meet the needs of the aged. I cannot see the relevance of a social psychologist on the board. I could not understand that. Perhaps you may want to look at that. There are a number of psychologists that are very well qualified to be on a board like this and who are practising psychology as therapists. Perhaps we may want to look at that.

I only just got the Bill, so I am going through it very quickly. Thank you for this opportunity to contribute.

3.35 p.m.

Sen. Joan Yuille-Williams: Mr. President, I want to associate myself with all the comments this afternoon. However, there is just one area that I would like to add. I am hoping that the hon. Minister would recognize that we make these comments in good faith and that, in the past, whether one belonged to this Senate came from the other place, regardless of whether they agreed or disagreed, Members were always grateful for the comments and always made us feel that they appreciated what one had to say. I hope that will continue this evening. With that in mind, I am hoping that will happen. I will just make my comments on the interpretation on page 8.

In his presentation I was hoping that the Minister would tell me about the Division of Aging. That is important to me, because somewhere lower down in this Bill, I think my colleague pointed it out on page 22. In clause 24 it states:

“The Manager shall provide the Division of Aging with a monthly report on the status of each resident.”

If we are not aware of what is this Division of Aging, how it is staffed and what is its function, then there is a difficulty for us to relate to it. In fact, I would say that the comments on this Bill, on the whole, would have been hindered if certain interpretations were not given to us.

I called different divisions in the ministry asking about the Division of Aging, because this is a new division to me, and none of them were able to tell me. Last night a gentleman said, “You probably would have to go back to the Research Division and they probably will tell you what it is.” Which means that it might be still on the drawing board; I do not know if it is established.

Homes for Older Persons Bill
[SEN. VALERE]

Thursday, May 25, 2000

It says here that it is established in the Ministry of Social and Community Development. Probably it has not started or is still being researched. Therefore, we needed to know something more about this division. I will tell you how it interferes with my thinking: somewhere in this Bill the Minister has a facility review team, which would go once a year to these homes. I remember when I was at school and we had the annual inspection, as we knew as kids that there was going to be an annual inspection, as we were part of the preparation for it. In fact, I think almost for a week or so, no school work was done while we tried to do everything to ensure that the school passed the inspection. We were all part of it.

This facility review team could be doing an annual inspection, therefore, a lot of preparation could be done—you cannot stop that—to ensure that the home will receive the kind of assessment that will allow it to continue. What happens for the rest of the year with these people? Do we have persons who would be visiting these homes regularly to see what is happening? It is lives we are dealing with and that is why I wonder about this Division of Aging. Is it going to be staffed with social workers as well, who would be out there monitoring those homes on a weekly or monthly basis, as you do with other institutions? I am not sure. I think it is absolutely necessary.

We cannot allow these homes to function for 12 months and do an assessment once a year. I needed to know something about the Division of Aging. I wanted to know if that division would provide what I am asking for, these inspections or visits by some persons—I think they are the social workers—so that they could advise, report, talk about things that are happening, and we could get feedback from what is happening in the homes. Because there are elderly people there for all these months without somebody reporting to, let us say, this division, or somebody who is in charge. It is a serious matter.

At the same time, Mr. President, I looked at the status report, as my colleagues did, where it says once a month and I wondered, if it would have been necessary to have this report if we had visitors from the ministry to these homes who would give an on the spot report. Any manager could report on what you want without being honest about what is happening. It is left to the manager to give the status report, whereas if we had social workers going out, they could also give a report on what is happening in each home. I think it is important that that happens. So we need to balance this off if we are really trying to improve the homes, as I know this legislation is trying to do.

I, myself, had the opportunity to go to many of these homes and I recognise that you need constant visits to some, for many reasons. I think we need to tell ourselves what kind of monitoring systems we are putting in place.

Sen. Prof. Ramchand is not here today, but I saw his amendment. He asked for a dietician on the board, and I want to go along with it. I have a friend who works at a home abroad and was talking about doing some work on the Geriatric/Adolescent Programme. She was able to show me diet sheets from different homes. In those homes they had to prepare their diet sheet for the month and it was approved by the home office, which might be your Division of Aging, let us say. Therefore, what we need is a dietician on board to assist these people with the menus they are going to provide for the elderly in these homes. Therefore, even in the monitoring we should have control, or somebody advising on the diets that are prepared for this group of people whom we treasure so much.

These are some of the main areas on which I wanted to make my comments. I also remember that at some time we had had day care centres for the elderly. I think the last administration had thought about it, it was on paper, and I think that this administration had picked it up. We are hoping that somewhere within the regulations—I do not know where you will put it—we could see the type of facilities for recreation or otherwise for these people in homes. This is no simple matter. We are trying to provide a total environment for these senior citizens and, therefore, we need to look at that as well.

Therefore, I just want to ask the Minister to let us know the structure of the Division of Aging; whether that division would contain social workers, whether there would be another monitoring system other than the once a year facility review system; whether you would take on board the idea of a dietician and how we could monitor the diets of the elderly.

I also wondered about the security and safety of these homes. It is not mentioned here in this Bill and I do not know if it would come up in the regulations, but I think that we need to be very careful about security for these elderly people. I spoke to someone who is in charge of a home and she said that her biggest problem was the reception area, where people come in all the time, but because of the fact that they do not have much money, they could not put in the security facilities that they would like. Therefore, if you have 20 or 30 elderly people in a home, we should ensure that these people are safe, because, for some reason or other, some people feel that some of them may have something valuable which they may want to have with them. I think that we need to look at the security facilities.

Homes for Older Persons Bill
[SEN. VALERE]

Thursday, May 25, 2000

The Independents might have said, yes, put it on board and we would make changes as we go on, but I would hope that the hon. Minister would probably just pause for a few days and go back to the drawing board with it and tidy it up a little. We would make changes as we go ahead, because we know when you start something everything does not fall into place. I think from what I have heard this afternoon that there are certain changes which need to be made even before we approve the Bill.

With that in mind, we are happy that it has come to the Senate and we wish to give it our fullest support, but hope that the hon. Minister would appreciate our concerns and know that there is nothing political in the comments we are making. We are just trying to ensure that yesterday's children are well taken care of.

Sen. Vimala Tota-Maharaj: Mr. President, I rise to give support to this piece of legislation entitled the Homes for Older Persons Bill.

Personally, I will use another word instead of “older” probably “golden years” or “twilight years” or something like that, as you get older. Also I feel the same way as Sen. Prof. Kenny at this stage. To me, some people who are 60 years old sometimes appear more vibrant, youthful or younger than how I feel, and I am in my 40s. When I look at the two gentlemen sitting here in this Senate who are over 60 years old—I will not reveal your ages Sen. Prof. Spence and Sen. Prof. Kenny—it is a pleasure for me, for the past four and a half years, when I come here every week, I seek out one of these two gentlemen for some form of inspiration. [*Desk thumping*] Mr. President, this is no mamaguy, this is not asking them to be easy on me when I get up to speak about something controversial, but I have learned tremendously from these gentlemen in the Senate and they make a significant contribution.

One or two of our senatorial colleagues here this afternoon raised concerns about the establishment of this division. At present, I would like to inform the honourable Senate that the Ministry of Health is the caretaker ministry of the senior citizens' or the older persons' homes. As at this point in time, these homes are regulated under the Private Hospitals Act. This is an interim measure until more definitive legislation has been enacted. So, at present, the homes fall under the purview of the Ministry of Health.

We are unable, at this time, to deal with the social aspects of the homes, so the Ministry of Health and the Ministry of Social and Community Development have formed a partnership; we are working hand in hand to ensure that quality care is provided for our senior citizens. Just the mere composition of the board highlights

that it is a collaborative effort between the Ministry of Health and the Ministry of Social and Community Development.

Mr. President, since assuming the position of Minister in the Ministry of Health, I have visited quite a number of homes where senior citizens or older persons reside. Many of them are not referred to as senior citizens' homes, but institutions or enhanced health care facilities. I was shocked to learn that these facilities which were supposed to cater for those with other problems really became senior citizens homes.

In the Sangre Grande area, especially, where I do a tremendous amount of work, there are about five such homes and these people have been abandoned by their children. Why have they been abandoned? Because of Alzheimer's or they are too much to handle. Many of these cases are citizens who signed over their properties to their children; their children no longer want them, so they drop them off at the home without any clothes, amenities or anything to take care of them, and just totally abandon them. This is a shame and a disgrace.

I have initiated a little movement among my own community where we have noticed that this is becoming prevalent, where I am asking our older persons not to sign anything. Prepare a will or something, but protect yourself, make sure you have a nest egg or some type of insurance to protect and take care of you until your dying day. This is reality; this is what is happening, because we have moved to the single or nuclear family system.

I remember, Mr. President, a little personal incident that took place about 15 years ago with me, when I told my own father that I think we need to think about establishing senior citizens' homes under our organization, which is the Maha Sabha. He turned to me and said, "Are you planning to put me in a home? Now, those who know this gentleman would know that he would turn a home upside down, because he is approaching 70 and is still very active. But when I explained to him the trend that was taking place and some of the statistics coming back, and I was doing this as a member of a non-governmental association, it frightened me. I said, "Hey, now is the time to prepare in case I am sent to a home."

That is why I laughed just now when Sen. Prof. Kenny mentioned, God forbid, that he should go to a home, but if he does, send his books with him, but I know that Prof. Kenny would prefer to carry his computer with him.

3.50 p.m.

Mr. President, there were stigmas which are attached to sending our senior citizens to homes and I thought these stigmas were still relevant at this time. Over

Homes for Older Persons Bill
[SEN. VALERE]

Thursday, May 25, 2000

the past few days I started visiting a couple of senior citizens who I know. They are at home, very independent, over 70 years, and they are talking about going into homes. My mother-in-law is that type of person. She lives in a house by herself and this weekend she said to me: “Do you know something, going to a home sounds good.” I asked her why she was thinking like that. She replied: “I could live with anyone of you, all of you have asked me to live with you, but I want to be independent and you all work and just have a little time with me on an evening or at night when you come home, but I feel lonely, and I want to spend time with people during the day. Someone who could listen to me, someone to whom I could listen.”

This is true and this is happening to many of our senior citizens. I went through this book “*A profile of the elderly in Trinidad and Tobago*” prepared by the Pan American Health Organization (PAHO). There were a number of questions and on page 24, question 9 asked: What is the main problem that makes you dissatisfied with your life? The answers were:

- (1) economic problem
- (2) health problem
- (3) housing problem
- (4) food problem
- (5) transportation problem
- (6) clothing problem
- (7) social problems; and
- (8) loneliness.

This really did not occur to me until several days ago when I heard some of the older members of our community talking about loneliness. But lo and behold also, as part of my education on what would happen to me as I get older and to all of us, once we cross age 60—70, is the fact that we need company most of the time when we reach that age because our physical activity slows down and we just need someone to be with us. I am very pleased to know that a number of our health centres in Trinidad and Tobago are catering for senior citizens of communities in North, South and even in Central Trinidad.

Sen. The Hon. Daphne Phillips’ daughter is a doctor at the Woodbrook Health Centre and when I visited there recently, I saw about three or four senior citizens

sitting there, and I asked why they were there and enquired if they had not been attended to by the doctor. They said yes, the doctor is very good and that Dr. Phillips is taking very good care of them. I then asked what is wrong, and whether they got their drugs to which they replied yes. I then asked why they were still there. And the answer was: “We don’t want to go to home, we have nobody to talk to when we go home.” They asked me to arrange a television for them at the health centre. Since then, a television has been put in at the Woodbrook Health Centre so they look forward every day to going there. There are no threats, they are not miserable as some people would say about senior citizens, but they look forward to getting up with a routine and this is how they survive. This is happening in partnership community groups with health centres right across this country. Our senior citizens have something to look forward to, to keep them going and alive, so to speak.

Sen. Montano mentioned standards. The Ministry of Health, under the quality management aspect of our ministry, has been involved in the standards set out for our senior citizens’ homes. Within a five mile radius, I visited two homes in the East of Trinidad. One I was very disgusted to visit when I saw the conditions under which our senior citizens were living and how they were being treated, and the other one I was extremely pleased to see. So there is a huge contrast. The standards at our homes need to be brought up to a certain level, hence the importance of having a quality person on the boards of these homes to ensure that we take care of our senior citizens in a dignified manner so that they see they are still worth something in this country.

Mr. President, another centre which I visited, an outreach centre, is carded for closure right now under our health sector reform programme. It is the Hugh Hill Centre. Many people have never heard of Hugh Hill. It is located at Frederick Settlement in Caroni, and at the request of the Minister of Social and Community Development, I visited that centre because it was carded for closure. When I asked to see a register of those who utilize this centre twice a week, to my surprise, 70—80 per cent of the persons accessing health care were people over the age of 60 who would go there for their diabetes, high blood pressure, heart problems or just to sit and “ole” talk. So it is very important for us to establish homes even if they are part of a day-care system because I can see residential homes also becoming day-care centres, or day-care facilities. I know this would take time, it would evolve eventually, but preparing and providing a place for our citizens in the near future is essential. As I mentioned earlier, all of us may be in that same boat eventually.

Homes for Older Persons Bill
[SEN. VALERE]

Thursday, May 25, 2000

Mr. President, thank you very much for allowing me to make this brief contribution.

Sen. Rev. Daniel Teelucksingh: Mr. President, I know I am not late in associating with all the others in this honourable Chamber in extending a most gracious welcome to Sen. Carlos John. *[Desk thumping]* I wish him every success in his special portfolio. One John was called the beloved disciple. I think it is more important that you should not be called the beloved party person, but I wish the time would come when you would be regarded as the beloved public servant.

Mr. President, I rise to support in principle the Homes for Older Persons Bill and I want to associate with all those who have some discomfort with the name. I have had problems. We visit the Old Peoples' Homes, Senior Citizens' Homes and if there is need, or if there is a possibility for an amendment to the name, I will go along with that. I think the hon. Minister would have heard enough suggestions that there is some offence with the name Older Persons Care Board. Enough persons have said they are uncomfortable with such names as Geriatric Homes, Old Peoples' Home, Division of Aging and Older Persons' Home. I have heard enough, and I think he would have heard enough to want to go back to the drawing board and have an alternative. What about Senior Citizens Homes? I do not feel too uncomfortable with that. I am not far from it, anyhow, but I prefer to be in the camp of the senior citizens than the geriatrics, the old people and the aged ones and so forth. I am not too far from that, only a few months away.

Mr. President, this legislation is urgently required for getting regulation and all the monitoring mechanisms to supervise our 54-odd homes for the aged. Although the operation of these homes is a fast-growing business enterprise, this is what it is for many of them. I do want to say that these homes meet a need, they meet a social need and there are many families who are extremely grateful for these homes. They are really big business and I was just chatting with Sen. Prof. Spence telling him that in most of these homes, only the privileged old people can go. That old age pension is not enough to maintain yourself in one of these homes. It is only the privileged and well-to-do who can go there because they have the money, or their children can support them. This legislation is extremely necessary because we need to have conditions and standards improved in these homes.

One thing we have to bear in mind and I hope the proposed board will bear in mind that these homes are not merely places of compassion for the infirmed, but they also have among the residents, sick persons: those who have been paralyzed by strokes; those who have been afflicted by Alzheimer's and possibly Parkinson's disease and who are extremely sick. These are not ordinary homes of

refuge, but really private hospitals and I hope the new board will recognize that there is need for specialized facilities and skilled personnel in collaboration with public health care institutions for the residents of these homes.

I would point out through you, Mr. President to the hon. Minister, and I think Sen. Montano mentioned something about the need to have specifically the definition set out concerning the responsibilities and duties for the Older Persons Care Board, I am using the term in the legislation. Mr. President, have you noticed that there are two parallel administrative bodies in this legislation? One is the Older Persons Care Board and the next one is the Facility Review Team. I have a problem, and they seem to be parallel, autonomous, independent and there is very little connection between the two bodies but they all have the same agenda. That is my biggest problem with the legislation, otherwise I am willing to support it. What is the link between the Older Persons Care Board and the Facility Review Team? Personally, I see two boards with different names. I think there is a need in the legislation to redefine the relationship between both bodies, it is absolutely essential and maybe there is not too much to do because in clause 30, with reference to the Facility Review Team, it says:

“30(1) The Facility Review Team, shall, subject to subsection (2), forward a report to the Minister within fourteen days of the completion of the inspection or examination.”

Mr. President, I think that report should go not only to the Minister, but also to the board. The board needs to know what the review team has found. The Minister is not a member of the board. Actually, what you are having there is a board and a standing committee of the board. The Facility Review Team should really have been a standing committee of the board. So that is possibly one way out.

4.05 p.m.

Another problem I have is that looking at the Facility Review Team—which I would want to call a committee or a board—and comparing the composition of the two bodies, the only difference is, there is a fire officer and an auditor in the Facility Review Team but you do not have the fire officer and the Auditor on the Board. Another question I may ask is: Are you having an Auditor on the team who will be auditing all 54 books and, maybe, in the course of the years there will be more homes? I do not know if an auditor can be paid that kind of money. But one of my colleagues talked about a subvention. Could we pay an auditor to audit the books of all these 54 homes and more?

In a normal organization—we do it here—I have noticed that these various organizations would have their own certified personal auditor and so on, and copies of

Homes for Older Persons Bill
[SEN. REV. TEELUCKSINGH]

Thursday, May 25, 2000

these reports could be sent to the board. I see this as being a problem. This is not practicable at all, to have an auditor on the Facility Review Team who will be auditing all the books. This is very cumbersome and impracticable anyway.

I would like to support the Bill but I would hope that we could possibly spend a few more days and let the drafters look at some of these problems. I have no problem with having a Facility Review Team. There must be some way to go—but I do not like this once a year thing—I like the suggestion made by a previous speaker. You need a small committee to visit these homes a little more regularly. I remember some years ago—someone talked about the NGOs operating good homes—on one of the television channels there was a scandalous report of a home in the St. Augustine area. Oh, I can tell you, it must have been on one of these programmes; it was a feature investigative report on one of the private homes and the kind of neglect of the elderly who have been at those homes and they were paying enormous sums to maintain their stay and their keep in those places.

Mr. President, I thank you.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark):

Mr. President, in moving to adjourn this honourable Senate I would like to take this opportunity to inform my fellow Senators that next Tuesday being a national holiday, Indian Arrival Day, we would not be meeting, of course, on that day. We are going to resume sittings on Thursday, June 01, 2000 at 1.30 p.m, at which time we are going to concentrate on concluding the Praedial Larceny (Amdt.) Bill and the Summary Offences (Amdt.) Bill.

I want to serve notice that next Tuesday we would start at 10.00 in the morning, and the following Tuesday we would start at 10.00 a.m. and we would be dealing with the Dangerous Dogs (Amdt.) Bill—that is the first Bill. Having completed that, we are going to conclude this matter that is before us. Then the Minister of Finance ought to be back from China and he will then deal with the Financial (Miscellaneous Provisions) Bill that we have been studying for the last two and a half weeks. So I am just giving advance notice in terms of the agenda so that all of us can prepare ourselves for the occasion.

Indian Arrival Day (Greetings)

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, if I can indulge the Senate for just a moment—seeing that next Tuesday

Indian Arrival Day (Greetings)

Thursday, May 25, 2000

is, in fact, a public holiday and, moreover, specifically, Indian Arrival Day, all our Senators on this side would like to join the national community in advance of Indian Arrival Day, and on behalf of the Government of Trinidad and Tobago, extend our profound and sincerest congratulations to the national community, and especially our citizens of Indian descent who will be celebrating their Arrival and their contribution to the national, economic and political developments in our country. We hope that the occasion would serve as an inspiration to further cement and consolidate our quest for a united nation living in peace, unity and harmony. So we would like, in advance, to wish the entire national community a happy and a wonderful Indian Arrival Day.

With those words, I do not know if anybody would like to join, Sir.

Sen. Danny Montano: Mr. President, we, on this side, on behalf of the party would like to extend best wishes to all the citizens of the country and particularly, to our Indian brothers and sisters whose forefathers brought such a wealth of culture to our little land here. Trinidad and Tobago would not be what it is without our Indian brothers and sisters, and we on this side look forward to the celebration, and we hope that everybody has a safe and a happy holiday and would reflect on the value and the richness of our small society.

Thank you very much.

Sen. Prof. J. Spence: Mr. President, on behalf of the Independent Senators may I also join in wishing the national community a happy Indian Arrival Day. May we hope that the celebrations, particularly which are to be mounted by our Indian brothers and sisters, are successful.

Thank you.

Mr. President: Hon. Senators, I would also like to associate myself with the remarks made by the three Senators and on my own behalf wish the national community a very pleasant Indian Arrival Day, and I trust that all the citizens of Trinidad and Tobago will, in fact, enjoy the day.

Hon. Senators, the question is, that this Senate do now adjourn to Thursday, June 01, 2000 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.12 p.m.