

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

The Senate met at 1.35 p.m.

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

Mr. President: Hon. Members, leave of absence from sittings of the Senate has been approved for Sen. Jearlean John during the period July 15—22, 2000.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson

President.

TO: MR. VINCENT CABRERA

WHEREAS Senator Jearlean John is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

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

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

Condolences

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**CONDOLENCES
(Mr. Garfield Blackman—“Ras Shorty I”)**

Mr. President: Hon. Members, the Senate now pays tribute to another stalwart of the entertainment industry, the late Garfield Blackman, better known as Ras Shorty I, who passed away on Wednesday of last week and will be interred tomorrow, July 19, 2000 at the Paradise Cemetery in San Fernando.

The late Ras Shorty I began his calypso career some 35 or 36 years ago and became an instant hit with several of his calypsos. Because of his stature, muscular build and handsome appearance, he quickly acquired another sobriquet, the “Love Man” and made a very valuable contribution to the calypso art form. After several years of stage performance, he became disenchanted and moved with his family to the forest of Piparo where he set up his home with his wife and children.

Continuing his music, but however, in a different vein, he concentrated on what I would call spiritual calypso—he called it “Jamoo” (Jah music) where he created several masterpieces, amongst which is one that might yet be his signature tune, “Watch Out My Children”. We are told that over the period of time, this hit was translated into about 10 languages and distributed worldwide.

Garfield Blackman died at a relatively early age, by today's standards, of 59, leaving to mourn his wife and, according to today's death column notice, 19 children, several in-laws, other relatives, family and friends. On behalf of the Senate, I wish to offer our sincere condolences to the bereaved family and I have instructed the Clerk of the Senate to send an appropriate letter of condolence to the family. May his soul rest in peace. Members wishing to pay tribute may do so now.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, on behalf of the Government of the Republic of Trinidad and Tobago, I would like to take this opportunity to pay special tribute to Ras Shorty I. We on this side of the Senate believe that it is fitting that this honourable Senate pay special tribute to Ras Shorty I, one of this country's great artistes, and a man who has managed through the years, and through his devotion and love for God and his country, to pen his music for the further development of our society and, in particular, the young people of our community.

Ras Shorty I, christened Garfield Blackman 59 years ago, could well be considered a legend of his own time. In a career which spanned almost three decades, he produced a series of calypsos which included his more popular and

earlier pieces such as “Endless Vibrations”, “Om Shanti” and “Indrani”. It was through the controversial “Om Shanti” that Shorty began to experiment and to fuse the traditional kaiso with the East Indian rhythm of our island.

Having created a revolution in calypso through the 1970s and 1980s, Shorty made a dramatic change in his life. In his earlier days as a calypsonian, he used his music for lovemaking and for adulation of the female form, earning for himself, as you have mentioned, the title of the “Love Man” in the early 1970s.

In 1980 he became a self-confessed born-again Christian and moved to live at Piparo with his wife Claudette and his 14 children. It was then that the new Shorty began to emerge and be reflected in his musical compositions with a virtually new rhythm which he christened “Jamoo”. The one which comes to mind and which has won critical acclaim is the ever popular “Watch Out My Children”: I believe that this composition stands as a living testimony of the lyrical genius of Ras Shorty I and of the endless devotion he had for the Creator.

It was this unswerving faith and love for God that Shorty expressed throughout his illness. At the beginning of June of this year, the Ras Shorty I Appeal Fund was established and the Government made its contribution through the Ministry of Community and Social Development. Shorty's new life was dedicated to producing a special kind of music that contained powerful messages for all in our society. He has created a legacy of music that can be used as a reference for all of us.

Ras Shorty I died on Wednesday July 12, 2000 after succumbing to bone cancer, Mr. President. May his soul rest in peace.

Sen. Nafeesa Mohammed: Mr. President, Trinidad and Tobago has lost yet another one of our cultural icons. Ras Shorty I, whose real name, as we all know, was Garfield Blackman died, as you just heard, last Wednesday. Ras Shorty I will go down in the history of Trinidad and Tobago as being responsible for fusing calypso rhythms with East Indian instruments, thereby creating soca music. He was a calypsonian who became popular in the 1970s with the advent of soca, but apart from being the father of soca, Ras Shorty I also created a new rhythm which he christened “Jamoo” around 1981.

As a child growing up, I remember witnessing this dramatic transformation in Ras Shorty I's lifestyle. Suddenly he became a very earthly person, having abandoned the material aspects of life on this earth. He often wore white and often reminded me of the late great Mahatma Gandhi clothed in his very simple

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white shroud. It was only this weekend when I read the newspapers that I discovered the reasons for this transformation in Ras Shorty I's lifestyle. Apparently, he became very disenchanted with life in the late 1970s. At that time he was abroad and he got a vision which told him to come back home. As soon as he returned to Trinidad, he abandoned his southern home and went to live in the hills of Piparo. This was around 1980. It was then he became christened into his new faith.

Cognizant of the problems in our society, Ras Shorty I will always be remembered for his very deep and soul-searching compositions, especially the chart topper, "Watch Out My Children"; a very powerful message, especially to the youths of our nation. On behalf of my colleagues on this side of this honourable Chamber, I extend condolences to the entire family of the late Garfield Blackman and, indeed, to the calypsonian fraternity in Trinidad and Tobago.

As it is often said when we receive the news of the death of an individual, we must always remember that it is from God we came and to God is our eventual return. Thank you.

Sen. Prof. Kenneth Ramchand: Mr. President, "Death is Compulsory" is the title of one of Lord Kitchener's calypsos. We accept the fact of death, but in the last months, the nation has had to bear the loss of a number of men and women who lived fully and authentically as Trinidadian persons. Men and women who were proud products of the meeting of peoples and cultures, which is authentic globalization. Men and women who believed in belonging to a particular place and a particular clime. Ras Shorty I was one of those patriots, cultural radicals, and Trinidadian persons.

Garfield Blackman will be remembered for his contribution to our music and our cross-culturality; for the example of self-transformation and soul-making that his life furnished; for the affirmation of family and the widening circle of love; and for his intuitive understanding of what formerly colonized and now globalized countries must do in order to enter the world on their own terms.

Mr. President, it is well known that the second half of the 20th Century saw the beginning of a conscious recognition and acknowledgment of the place of Trinidadian Indian culture in the culture of Trinidad and Tobago. With hindsight and in an impressionistic way, we could trace the process back to the late 19th Century, but in the second half of the 20th Century, and especially in music,

which is the clearest example and the most emphatic expression of popular sensibility, we can name songs, singers and orchestras, and we can notice the introduction of specific instruments and certain kinds of instrumentation based upon affinities between all the “musics” of the island.

1.50 p.m.

We can point also, Mr. President, to the introduction and modification of rhythmic patterns from Indian folk music and Indian light classical music.

Ras Shorty I grew up in rural Trinidad—Lengua, Talparo and Piparo—and was exposed to cultural ferment on a daily basis. He could speak Hindi/Bhojpuri; he knew Indian songs and dances. It is no wonder that he introduced and knew that he was introducing Indian rhythms and effects associated with Indian instruments into calypso music.

To get a little technical, he was familiar with the “kaharwa taal”, the rhythmic cycle of eight beats that is the staple of Indian folk music, including chutney music. He understood the difference between the Indian cycle and the western linear patterns. More than later practitioners in Trinidad and in other islands, he had a feel for the Indian melodic lines and Indian intonation; features that are present in "Indrani" where there is no sign of patronage or ridicule when he tried to sound like an Indian.

He coined the word “sokah” spelt S-O-K-A-H, to signify that he was bringing to the soul of calypso, from which he was taking the syllable “so”, the “kah” of Indian influence. This Trinidadian person knew that “kah” is the first letter of the Indian alphabet and the first syllable in "kahalwah". If Sundar Popo brought calypso into chutney, Ras Shorty I took chutney into calypso.

Later calypsonians were to turn the 8-beat cycle into the more familiar 4-4 pattern, and North American influence was to introduce another variant of “soca”, this time spelt appropriately, S-O-C-A, to signify the blending of soul and calypso.

Gradually, the general term “soca” has come to cover Ras Shorty I's “sokah”, the soulful “soca” and even the soulless “soca” of the party circuit. It has also been hyphenated to cover six of one and half a dozen of the other, soca chutney and chutney soca.

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Mr. President, I have gone into these technicalities and tried to pick my way through the controversies because I want to register what is not in dispute, the remarkable extent to which Ras Shorty I's work tells us about our identity as Trinidadian persons. The man has gone, but the legacy remains. It continues in spite of the surface irritations promoted by politicians and the politically inflamed.

Mr. President, Ras Shorty I's life is an exemplification of the saying that the world is a vale of soul-making, a place in which we can live the life of the body and still become shining spirit. As our society and other modern societies move further and further away from believing in the possibility of belief, I hope we will learn from the integrity of the man who could say, "Get thee behind me Satan", as he moved out of the calypso limelight and turned away from the commercial circuit; the moral courage of a man who felt that there was something terribly wrong with his life and who did something about it; the self-transformation of the sexiest calypsonian from the man of too many affairs into holy man entering the fourth phase of his life.

This was one "sanyasi" who believed in family, and the spiritual journey of the born-again Christian who composed "Om Shanti", was a journey undertaken together with his wife and 14 children—just the kind of "sanyasi" to be produced in a place like Trinidad and Tobago. Ras Shorty I was blessed with the love and respect of his children and in this, too, his life will continue to have meaning and value for our society.

I still cannot understand, Mr. President, how he could get all these young people to go and live with him in the bush. I would say that it was out of the sustainment of family bonding that he was able to see and feel for all the young people of our country. Right there in Piparo, in the lion's den, he addressed one of the major problems of our time and shaped "Watch Out My Children", the finest musical product of his caring and his conscience.

Mr. President, Ras Shorty I made it more than clear in the satirical calypso "Money Is No Problem" that he understood about the phones, the floods and the frenzy on the roads. He saw the corruption. He felt the rising tide of materialism. He felt the threat of global encirclement. He engaged with the world by retreating from the imported celluloid realities of the world. He left the satellite city and encamped in the forest. He was concerned with developmental problems and sought from his base in the countryside to give to the term "development", a human meaning and a meaning appropriate to himself and to those who loved him.

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We cannot deny ourselves the comforts and conveniences of modern life, but there is something emblematic in Ras Shorty I's choice to live simply in the bush which is precious, because it still belongs to us.

I think of him as someone who gave himself to the land and took his nourishment from the land. He knew intuitively that to change the economy and resist the new colonialism, we have to repudiate what is shallow, self-indulgent and deforming in our inherited lifestyle. This may turn out to be the most vital message of his life.

May he rest in peace.

OATH OF ALLEGIANCE

Sen. Vincent Cabrera took and subscribed the Oath of Allegiance as required by law.

CONSTITUTION (AMDT.) BILL

Bill to amend the Constitution of Trinidad and Tobago, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of Trinidad and Tobago Forest Products Company Limited for the year ended December 31, 1981. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of Trinidad and Tobago Forest Products Company Limited for the year ended December 31, 1982. (*Sen. The Hon. W. Mark*)
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of Trinidad and Tobago Forest Products Company Limited for the year ended December 31, 1983. (*Sen. The Hon. W. Mark*)
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of Trinidad and Tobago Forest Products Company Limited for the year ended December 31, 1984. (*Sen. The Hon. W. Mark*)

5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of San Fernando City Corporation for the year ended December 31, 1992. (*Sen. The Hon. W. Mark*)
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of San Fernando City Corporation for the year ended December 31, 1993. (*Sen. The Hon. W. Mark*)
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Tobago House of Assembly for the year ended December 31, 1995. (*Sen. The Hon. W. Mark*)
8. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Eastern Regional Health Authority for the period December 19, 1994 to December 31, 1995. (*Sen. The Hon. W. Mark*)
9. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of San Fernando City Corporation for the year ended December 31, 1994. (*Sen. The Hon. W. Mark*)
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of San Fernando City Corporation for the year ended December 31, 1995. (*Sen. The Hon. W. Mark*)
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of San Fernando City Corporation for the year ended December 31, 1996. (*Sen. The Hon. W. Mark*)
12. Report of the Auditor General of the Republic of Trinidad and Tobago on the audit of transactions pertaining to the Project for Restructuring the Management of Social Services and Community Empowerment in Trinidad and Tobago for the year ended December 31, 1998. (*Sen. The Hon. W. Mark*)
13. Report of the Auditor General of the Republic of Trinidad and Tobago on the audit of the transactions pertaining to the Project for Restructuring the System of Managing Social Services in Trinidad and Tobago for the year ended December 31, 1999. (*Sen. The Hon. W. Mark*)
14. Report of the Auditor General of the Republic of Trinidad and Tobago on the transactions pertaining to the Project for Enabling Trinidad and Tobago to prepare its First National Communications in response to its commitments to United Nations Framework Convention on Climate

Change per Agreement TRI/98/G81/A/GI/99 between the United Nations Development Programme and the Government of Trinidad and Tobago for the year ended December 31, 1999. (*Sen. The Hon. W. Mark*)

15. Report of the Auditor General of the Republic of Trinidad and Tobago on the transactions pertaining to the Project for a National Biodiversity Strategy Action Plan and Report to the CBD as per Agreement TRI/97/G31/A/IG/99 between the United Nations Development Programme and the Government of Trinidad and Tobago for the year ended December 31, 1999. (*Sen. The Hon. W. Mark*)
16. Administration Report of the Trinidad and Tobago Racing Authority for the period August 01, 1989 to July 31, 1990. (*Sen. The Hon. W. Mark*)
17. Administration Report of the Trinidad and Tobago Racing Authority for the period August 01, 1990 to July 31, 1991. (*Sen. The Hon. W. Mark*)
18. Administration Report of the Trinidad and Tobago Racing Authority for the period August 01, 1991 to July 31, 1992. (*Sen. The Hon. W. Mark*)
19. Administration Report of the Trinidad and Tobago Racing Authority for the period August 01, 1992 to July 31, 1993. (*Sen. The Hon. W. Mark*)
20. Administration Report of the Trinidad and Tobago Racing Authority for the period August 01, 1993 to July 31, 1994. (*Sen. The Hon. W. Mark*)
21. 22nd Annual Report of the Ombudsman for the year ended December 31, 1999. (*Sen. The Hon. W. Mark*)
22. Report of the Auditor General on the audit of transactions pertaining to the Project for Restructuring the System of Managing Social Services in Trinidad and Tobago for the year ended December 31, 1998. (*Sen. The Hon. W. Mark*)

2.05 p.m.

**CARIB COMMUNITY
(Day of Recognition)**

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, I thank you for the opportunity to make a statement on the declaration of October 14 as the day of recognition of the Carib Community of the Republic of Trinidad and Tobago. On July 12, 2000, the Cabinet of Trinidad

and Tobago approved a recommendation by the Minister of Culture and Gender Affairs, on the instruction of the hon. Prime Minister, which was based on a request of the Carib community for identification of a day of recognition. This day of recognition, which is to be commemorated on October 14 annually, is based on the acknowledgement of the contribution and significance of the Carib community and to the uniqueness of our culture and national life in Trinidad and Tobago.

The Santa Rosa community in its efforts to lift national awareness of the culture and history of the indigenous people of Trinidad and Tobago had requested that a day of recognition to be known as the Amerindian Heritage Day be designated to all our people of Amerindian origin who have, of course, contributed to the overall development of Trinidad and Tobago.

The Government of Trinidad and Tobago is of the view that installing an Amerindian Heritage Day into the national calendar would serve to highlight, educate and instil a sense of pride and recognition of the history, presence and cultural contribution of the first peoples of Trinidad and Tobago.

October 14 was identified at the request of the Carib community as a significant celebration of Amerindian Heritage Day, because it commemorates that historical day in 1637 when Hyarima, a war chief based in Arima and leader of the Amerindian resistance to European domination, attacked the Spanish settlement at St. Joseph. This chieftain was supported by 1,000 native warriors and Dutch forces from Tobago who destroyed St. Joseph by burning the capital to the ground. They successfully expelled the Spaniards from Trinidad although only for a short time. Hyarima is considered to be one of the earliest national heroes of Trinidad who devoted his entire life to the protection of his homeland from Spanish invaders.

According to Mr. Ricardo Bharath Hernandez, President of the Carib community, at the launch of the International Indigenous Gathering 2000:

“...history tells us that there were several tribes living in Trinidad long before Columbus landed on our shores. We are also knowledgeable of historical records of the decimation of our Ancestors as the colonizers set out to claim this land for their masters.

‘Although we have no more pure Amerindians in Trinidad or Tobago, we do have descendants of the original inhabitants, who can be found all over this country. Arima is, however, the only place where we can still find an

organised community, called the Santa Rosa Carib Community. The Santa Rosa Carib Community is made up of descendants of the surviving populations of Indian villages that were amalgamated to form the Mission of Santa Rosa de Arima, which is today the town of Arima. Many (of the Santa Rosa Community) can trace their ancestry to the original families who settled there from Caura, Tacarigua and Arouca.

The Amerindians, having eventually been converted to Catholicism, adopted Santa Rosa, the first saint of the New World, as their Patron Saint. Today, the Carib community's celebration of the Feast of Santa Rosa is in itself its own peculiar hallmark of Tradition.”

Mr. President, after having been formally identified in the 1986—1991 administration for assistance with the celebration of Amerindian heritage, which has continued today in the form of an annual subvention, the Carib community through its leader has stated, and again I quote:

“We believe that a Day of Recognition, not a Public holiday, is important as it would serve to highlight our Amerindian heritage. Educational programmes and other events will be planned with the intention of reawakening a sense of pride and interest in the heritage among the descendents of the First People of this nation. It will further serve to sensitize the national community to the fundamental contribution made to the distinctive culture of Trinidad and Tobago by the First Peoples of this land.

The date we suggest is October 14. This date is of special significance, because it is on this date in 1637 when Hyarima, the great Amerindian Chief based in Arima carried out his most daring act in defence of his people and his land when he attacked and destroyed St. Joseph, the centre of Spanish colonialism in Trinidad and Tobago. We are suggesting that this day be called Amerindian Heritage Day.”

Mr. President, based on the request of the Carib community, the Government of Trinidad and Tobago is pleased to declare October 14, 2000, the first official day of recognition of Amerindian heritage in Trinidad and Tobago. This date, which is not a public holiday, is to be placed on the national calendar and observed annually in recognition of the contribution and survival of the Amerindian people, their culture and traditions in Trinidad and Tobago.

Mr. President, I thank you.

CITIZENSHIP OF THE REPUBLIC OF TRINIDAD AND TOBAGO (AMDT.) BILL

Bill to amend the Citizenship of the Republic of Trinidad and Tobago Act, Chap.1:50 [*The Minister of Public Administration*]; read the first time.

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

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the Senate at this time to deal with “Bills Second Reading” at this stage of the proceedings instead of “Motions”.

Agreed to.

STAMP DUTY (SPECIAL PROVISIONS) BILL

[Second Day]

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

That the Bill be now read a second time.

Question again proposed.

Mr. President: Senators will recall that the hon. Minister of Finance, Planning and Development had moved that the Senate resolve itself into committee to consider the Bill clause by clause, but had requested a postponement of the committee stage to today's sitting. In the circumstances, the Senate will now resolve itself into committee.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 4.

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

Sen. Kuei Tung: Mr. Chairman, when this Bill was debated last week, I indicated that whilst these Bills were money bills that I would send this one to the committee merely so that I would have the opportunity to provide some explanation to hon. Senators with respect to the purpose of clause 4.

The explanation reads:

“Clause 4 would permit the Minister by Order...”

The Minister here is the Minister of Finance, Planning and Development.

“subject to negative resolution, to vary the amount of any stamp duty or fee which was previously payable by adhesive stamps or postage stamps.”

Mr. Chairman, this clause is applicable to those government departments where payment for services provided by those departments is in the form of stamps. The Registrar General’s department is the prime collector of fees for services and certificates payable by means of postage stamps.

Clause 4 is intended to address those situations where under existing written law the amount of stamp duties or fees is stated in the body of the particular Act of Parliament. For instance, in the body of the Marriage Act, which is to be found at Chap. 45:01, it specifically states the amount of fees payable in respect of the issue of a presidential licence, where the normal notice for marriage is dispensed with. Also, certain fees are payable for searches made in any marriage register or for the issue of certified copies of entries made in a marriage register.

The idea behind clause 4 is to allow for greater efficiency in simultaneous amendment to several pieces of legislation whenever stamp duties or fees are payable. In other words, rather than having to amend each Act of Parliament separately, the draftsman has come up with a creative legislative technique which would allow several duties and fees referred to in these Acts to be amended through one single statutory instrument. In other words, it is for mere ease of convenience that it is being done this way.

It is not intended that the Minister would be changing fees and duties on a whim, as it were, or a daily basis. It is only when those fees and duties are changed that, instead of having to come back and change several pieces of legislation, which are governed by several different fees and duties, it is being put in this way so that we would have an opportunity to change those fees and duties without having to amend every piece of legislation that is so affected.

Apparently, there are several Acts. For argument’s sake, the Minister is empowered to issue an order under the new amendment varying the duties and fees referred to in the Marriage Act, the Births and Deaths Registration Act, the Registration Act, the Registration of Deeds Act and the Stamp Duty Act. So each time stamp duties or fees are paid we would have to come and change each one of these Acts, for argument’s sake. Rather than having that, this amendment allows me as Minister to make an order changing those fees and duties, and then come here by resolution to have it confirmed.

I would concede, however, that I do not think it should be done by negative resolution. I would prefer if it were done by affirmative resolution. I, therefore, would suggest that we amend clause 4 to read:

“The Minister may by Order, subject to affirmative resolution of Parliament, vary the amount of any stamp duty or fee.”

It is normal for these stamp duties and fees to be changed, normally like at budget time. It is not that it would be changed on a regular monthly basis. If it should be changed it is easier to do it this way, which is by order and having that order affirmed by Parliament. That allows any increase in stamp duty or fee to be subject to the Parliament.

2.20 p.m.

Mr. President, with that explanation, I hope Senators will support the amendment which is amended to read:

“By affirmative rather than by negative resolution.”

Sen. Rev. Teelucksingh: Mr. President, it is just the use of language there, but I think I understand what the hon. Minister is saying, he is saying to vary the amount of any stamp duty or fee...

Sen. Kuei Tung: But only those that are captured by this amendment. Remember we are amending a specific section of the Stamp Duty Act which is Chap. 76:01, I think, and those under that Chapter. So I do not think for argument's sake that it captures stamp duty on transfer of property.

Sen. Rev. Teelucksingh: I hope, Sir, that five years from now that explanation will be written somewhere for some public servant to understand it, or possibly, many years from now, another Minister to understand that particular explanation if the language stays as it is.

Thank you.

Sen. Kuei Tung: Bear in mind that the Order will not take effect until it is debated by Parliament now that it is affirmative. Even if I place the order, it cannot go into effect until Parliament affirms it by resolution. So I hope that would provide enough safeguard for parliamentary checks.

Question put and agreed to.

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

Clause 5 ordered to stand part of the Bill.

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

Senate resumed.

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

COMMUNITY MEDIATION (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Community Mediation Act, 1998 be now read a second time.

Mr. President, the purpose of this amendment is quite simple, that apart from stating its purpose, I will give to Senators a general background to it and what has happened since it has been passed in Parliament and give some indication when the parent Act would be implemented.

This amendment seeks to amend the parent Act by adding greater detail to Part II of the Act which deals with mediation in civil matters. I will explain it further when I am going through the Bill, but that is one of the purposes of the amendment.

The second purpose is that clause 3 seeks to amend section 5 of the parent Act to prevent adjourned matters from being treated as part heard. What that means is that when the matter is called in court and the magistrate adjourns the matter for persons to consider whether there can be agreement on mediation, we wanted to close the loophole that people could not say it had to go back before the same magistrate so the matter would not be regarded as part-heard in those circumstances.

Clause 4 would amend section 12(3) of the Act so as to deem the matter completed by mediation, as dismissed by the court, bringing a sense of finality to the closure of the process. In section 12(3) of the Act, one sees that instead, we have the expression “determined by mediation” and we want to use the word “dismissed” so that there can be finality to it.

With respect to the First Schedule of the Act, there has been an additional offence included, and that is the offence of petty trespass.

Mr. President, hon. Senators would recall that under the parent Act, the Parliament passed for the first time a law which gave powers in petty criminal matters for mediation to take place. In section 3 of the parent Act, a person who is charged for the first time with an offence which was listed in Schedule I of the Act and has not been convicted of any other offence was eligible for mediation. Hon. Senators would recall that in the First Schedule there were some of the petty criminal matters in which we had stated we were going to start the process and included offences such as assault and battery, unlawful and malicious damage and so forth.

The procedure was that the court trying an offence alleged to have been committed by a person who was eligible for mediation would inform the defendant and the *de facto* complainant that they may jointly or separately apply for mediation and where a person who decided to apply for mediation indicated to the court that he intended to apply for mediation, the court may then adjourn the hearing of the complaint to allow them time to come back. I am saying this so hon. Senators may refresh their memory on what the original Act was about.

In section 7 of the parent Act, the court would not approve an application for mediation unless it was satisfied about certain matters which included a report from the probation officer that the matter was one which could have been done in a criminal matter by mediation, and also that the parties agreed to the mediation and to the mediator.

In section 8 of the parent Act when the mediation order was made, the court would then make the order for the person to attend such mediation centres at such time as the court may order. The kind of orders under mediation were things like community service, work for the complainant, participation in educational or rehabilitative programmes and even compensation for the complainant, and there were other provisions of the Act dealing with the criminal matters, and mediation in civil matters in Part II of the Act, and this dealt with the process in respect of mediation in civil matters.

Mr. President, hon. Senators would recall that this measure did not come into effect on the assent of the Bill, it said it would come into force on a date to be proclaimed and the reason for that was that it was recognized that in order to implement this Bill, there were to be officers trained in mediation and, therefore, there had to be a programme for persons to be trained. What has happened since then to now was that there was a training programme and persons have been interviewed and are in the process of being selected.

The Ministry of the Attorney General and the Ministry of Social and Community Development in conjunction with the United Nations Drug Control Programme sponsored a seminar and the United Nations Drug Control Programme assisted in the training measures in respect of these particular measures, and those persons are about to be appointed. We also needed mediation centres.

Hon. Senators would also recall that there was a pilot project study which was done by Dr. Ramesh Deosaran and it was agreed that we would have mediation in three centres initially in Trinidad and Tobago. They were to be in San Juan, Cunupia, and one would be in Tobago. We have decided to stagger the staff and have mediation throughout Trinidad and Tobago although there would be these three centres and use some of the government buildings on a temporary basis and some of the community centres in order to have the mediation. That has been put in place and it is expected that in the third week in August the Community Mediation Centres would be opened and staff employed and the Act implemented.

Sen. Mahabir-Wyatt: Mr. President, I wonder if the hon. Attorney General would be so kind in his opening address to clarify two matters for me? One is under section 14(2) to which he just referred which says: "Where a party informs the court of his willingness to apply for mediation..." Does this mean that both parties have to agree to the mediation? Because my reading of section 14 does not seem to indicate that and your words do seem to indicate that.

Secondly, in relation to training for the mediation, could you give us a few details about the number of persons and how long this mediation workshop went on? It is very important.

Hon. R. L. Maharaj: Mr. President, on the last aspect of it with respect to the mediation workshop, there was a workshop on a weekend which initially identified some of the things which have to be done, but the Ministry of Social and Community Development did over a training programme, but I do not know exactly how long it took. What I do know is that persons had been interviewed by the Ministry and it is in the process of selecting.

With respect to section 14, if you will permit me, I will explain that a little later as I go through the Bill. So the mediation centres would be ready and they are expected to launch the programme. In addition to that, it was also agreed that the Government would sensitize the population about these matters and a programme has been put in place which also includes a skit explaining what is mediation. That would also be on the air in three weeks' time and there will be pamphlets so people would understand what it is.

Mr. President, that being the case, what happened is that this seminar sponsored by the United Nations Drug Control Programme and the two ministries, when we were going through the Act which was passed, we had invited to that meeting Mrs. Donna Parchment, the Director of Alternative Dispute Resolution from Jamaica and it was found that there were certain matters to consider whether we should amend in the Act. It is based on those recommendations that we have come with these amendments which I will go through to explain the point.

Mr. President, hon. Senators, you would also recall that when we piloted this Bill which has become the parent Act, we indicated that there were studies done by the University of the West Indies which showed that seven out of ten crimes reported to the police were minor and were committed by juveniles and young adults. It was felt that if there could have been measures which would take away the young people and these first-time offenders from having to go to court to face that process of a court case, it would be in the interest of society and it was in this context we tried to adopt this model of having community mediation in criminal and civil matters.

2.35 p.m.

So, Mr. President, with that in mind, let me see if I could explain the Bill and in explaining the amendments, I will try to deal with the points raised by hon. Sen. Mahabir-Wyatt. If one looks at the Bill, one would see that clause 3—I will not deal with clauses 1 and 2 because they are self-explanatory—says:

“Section 5 of the Act is amended by inserting after subsection (3), the following subsection:

‘(4) Where the Court adjourns the hearing of a complaint under subsection (1), the Court shall not treat the complaint as part-heard.’”

Mr. President, well, I think hon. Senators would recognize that but I would just explain it. When one looks at section 5 of the Act it reads:

“Where a person who is eligible to apply for mediation indicates to the Court that he intends to apply for mediation, the Court may adjourn the hearing of the complaint in order to allow him sufficient time to make his application.”

So, if, for example, when the matter comes back it says, well, this matter is part-heard, you may have a situation that exists all the time, where matters do not come up before the same magistrate and, therefore, the point could be taken that if it is a new magistrate the matter is part-heard and, therefore, it has to go before

that magistrate and that magistrate may be transferred to a different jurisdiction. So the intention of this amendment is really to try to prevent that process. I trust that hon. Senators understand that.

Under clause 4 of the Bill it attempts to amend section 12(3) of the parent Act which says:

“Where the Court records that a complaint is determined by mediation, neither the defendant nor the *de facto* complainant may initiate any legal proceedings in any court of law in respect of the matter so determined.”

What happens is, after the parties have agreed and the court has accepted the order in respect of the matter, the court has to record that the matter was determined.

Mr. President, in the parent Act, the Government had used the words “determined by mediation” and, perhaps, having considered what other jurisdictions had done, it was suggested to us that we should, as a matter of caution, use the word “dismissed” so that it would bring an end to the matter, and there can be no argument that a matter is still pending. So, that is all that has happened in this particular clause.

Mr. President, I should mention however, on reading the parent Act, it seems to me that there must be an agreement on both sides in order to have the mediation. Hon. Senators would recall that when the Government came with this Bill, the Government said it had to start somewhere. In order for the Bill to work, the Government had to take out of the system, where there would be an agreement. The Government did give an undertaking that as the law develops, it will have to come with the full measure in which there will be situations where there will be different institutions to assist the court. The court will have to make a decision—it may not be the traditional court that now exists—in the interest of everyone concerned, whether the person agrees or not, this matter should first go for mediation. In order for this to work, it had to be on the basis of an agreement first.

If one looks at section 7 of the parent Act, one would see that a court should not approve an application for mediation unless the defendant and the *de facto* complainant agree to the determination of the complaint by mediation. But, I remember clearly, Sen. Mahabir-Wyatt raised the same point. I know Sen. Mahabir-Wyatt is very committed to the process that it should not only be when there is an agreement. I support that principle, but I think the Government had to do this process first.

Let me deal with Part II of the Bill, which deals with civil matters. What has happened here is purely a deletion of what is in the Act in respect of civil matters, and to put it in greater particulars in order to ensure that there are no loopholes. Basically it says “At the commencement of the hearing of a matter...the Court shall inform the parties...to apply for mediation.” What happens next is the court will adjourn the matter. When the application is made, the parties would agree on appointing a mediator, referring the matter to mediation. Then under clause 16 it says:

- “The Court shall not approve an application for mediation unless—
- (a) it is satisfied that the application is in respect of a matter listed in Schedule 1A;
 - (b) the parties agree to the determination of the matter by mediation;
 - (c) the parties agree on the person who is to be appointed as a mediator...
 - (d) the Court is satisfied that the parties are suitable for mediation.”

In civil matters also one could seek the assistance of “...a Police Officer, Probation Officer or Social Welfare Officer...” on matters like that. There are forms and an insertion in clause 7 for the provision of an offence under the Trespass Act. That is in clause 7 and 1A deals with civil matters.

Mr. President, this amending Bill is to improve upon the parent Act. During the period of time that has occurred from the last time this matter came to the Parliament to now, there have been a lot of administrative matters which have been done, in order to implement the law. May I say, the Government has fixed August 26, as the date. I am certain it is the last week in August—in which mediation centres will be opened, and mediation in Trinidad and Tobago would come into effect in the Magistrates’ Courts. There will be mediation centres and mediation staff persons employed by the state. The mediation centres will work together with leaders in the communities in order to try to resolve these matters.

Mr. President, with these measures, the Parliament would be assisting the Government in completing that process by tidying up the Bill. I could safely say that mediation would be implemented in Trinidad and Tobago in the last week in August, and it is not going to be limited. Initially, when the Government came to the House with the Bill it said it was going to be limited to three areas in Trinidad and Tobago, but now it is going to be throughout Trinidad and Tobago.

Sen. Yuille-Williams: Could the Minister tell us about the pilot projects? I was not quite clear on that.

Hon. R. L. Maharaj: Yes. Mr. President, what happened was, before it was agreed to have mediation centres, the Government did a study and this study was done by the last administration. The last administration ordered a study to be done and the University of the West Indies produced a study. The study recommended that there be three pilot projects and the three pilot projects were in Tobago, Cunupia and San Juan. I do not want to go into the politics. There was a study done and it was there and this Government decided to implement it. What happened was the parent Act was passed in order to do the project, because you could not do the project without law. When the Government came to House with the Bill—that is why I was explaining—it was anticipated that when the law was passed, the Government could have only done it in these three areas.

Mr. President, what I am announcing is, the Government had decided to make it possible for mediation to be throughout Trinidad and Tobago, because if, for example, there is a court in San Juan ordering mediation, and let us say, people in Cedros do not have that same facility, you could have the question of inequality. What is going to happen is that throughout Trinidad and Tobago there are going to be mediation facilities where the court and the people will decide to have mediation in these matters and persons would be able to have assistance from state officers in order to achieve this mediation. So the pilot project has turned out to be—not just a pilot project—but for the whole country.

2.45 p.m.

Sen. Mohammed: Mr. President, I am still not clear as to where these mediation facilities are going to be based. Are they going to be in the Magistrates' Courts? Where? How are they going to access it?

Hon. R. L. Maharaj: The Senator was probably not here when I explained it, so I will explain it again. Initially, it was agreed to have three mediation centres where the Government would have buildings. These three buildings are there. These centres are going to be in San Juan, Cunupia, and Tobago. What we have done is that we have worked with the communities and with the non-governmental organizations. Also, we have located buildings owned by the Government, so although there are these three fixed centres, there will also be other facilities throughout Trinidad and Tobago, whose locations will be announced. The staff would go on certain days to the different buildings so that the whole of Trinidad and Tobago would be serviced initially, instead of having three areas alone being serviced.

Sen. Mohammed: How much staff, in terms of servicing all these centres?

Hon. R. L. Maharaj: Mr. President, I do not have those facts as to how much staff, how many clerks they have. I did not think it was important to bring that here. What I want to tell them is that what was not implemented is now going to be implemented, not only in these three areas, but throughout Trinidad and Tobago. If the hon. Member would like to know how much staff, how much they are getting paid, when they will go to work, what time they will come back, and how much luggage they will take with them, I will be able to supply that. She can tell me what she wants to find out.

Sen. Mohammed: Attorney General, my question is very simple. I am simply trying to find out how many trained mediators there are at present. If you are talking about August 24, it is just over a month away. You should know how many trained mediators we have.

Sen. Yuille-Williams: Just before you answer, there is one other question I want to ask. You said that somewhere along, the persons would be able to choose the mediators, and I am getting the impression that you have assigned mediators to certain centres. Could you just show me that difference, please?

Hon. R. L. Maharaj: Mr. President, this Bill is going to be implemented by the Ministry of Community and Social Development. I came here to give this Senate some idea as to what is happening. I did not come prepared to tell them how many mediators exist, where they would be, and when they would be here, because I do not think that is important.

I thought the Opposition would be very happy to know that they sat on this report, they did not do anything about it, and that the Government decided to implement it. We implement it not only with a pilot project in three areas, but we will be going throughout Trinidad and Tobago.

I would like to help the Opposition, and if they want to get all those details, I would be able to get it on paper to tell them. Mr. President, what I would say is that these officers have been trained, the Ministry of Community and Social Development has been in the process of employing them, and there would be sufficient mediators trained to serve throughout Trinidad and Tobago. If hon. Members in the Opposition would do their homework, they would remember that

this concept is that the Government was working with the communities, and there would be social workers in the communities who would be in partnership with the Government in order to help implement this measure.

Mr. President, what I would like to say, as the core and the kernel of this matter, is that these amendments are purely amendments in order to tidy up the parent Act, and I took the opportunity to give hon. Members some indication as to this novel concept being introduced in Trinidad and Tobago to help the young people to not be contaminated with the traditional legal process.

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

Question proposed.

Sen. Eudine Job: Mr. President, it is often said that today's solutions cause tomorrow's problems. We on this side would like to commend the hon. Minister for the timeliness of these amendments and the Act, because Mr. President, the need for this Bill will become most evident if or when the hastily implemented education for all backfires. [*Desk thumping*]

I hasten to add that I am not wishing that it happens, but we have to face reality, because when we place children in a secondary school, they have expectations. Secondary school for most of us is the beginning of the road to success, but when these expectations are not fulfilled, when some of the students cannot cope with the demands of secondary school, what happens? I will tell you what happens. The frustration that results from their inability to cope would also result in increased high school dropouts, increased petty crimes and, of course, the implementation of this Act would be absolutely necessary. [*Desk thumping*]

I want to also focus on another issue while I am on the floor. Martin Luther King said that if people believe that they do not have a stake in a society that is developing, they are bound to destroy it. Again, we see—and I am referring here in particular to Tobago—where the tourism industry is developing at a rate, but unfortunately, the benefits that can accrue from this industry are not being derived by the average Tobagonians. Again, we hear that petty crimes against visitors in Tobago are on the increase. Why? Because they do not have a stake in that development. They do not benefit from it. It is being creamed off at the top and the average person cannot have anything coming out of this industry.

Mr. President, I hasten to also add that the purpose of our tourism development in Tobago, or in any country, is to encourage economic growth, and also for the citizenry of that community to improve their standard of living. If one

sees other people benefiting from one's industry, what is going to happen? Crime against visitors has started to increase. When I worked in the department of tourism, almost every week we got some report of visitors being robbed. Why is that? We have to look at the causes of those criminal activities.

Before I take my seat, I would like to mention a story that I have been told about a carpet merchant who constructed this spanking new building and carpeted the floor. The next morning when he returned to his building there was a bubble under the carpet. He went and smoothed it out, left it and returned home. He came back the next day and the same thing happened. He smoothed it out, went home, came back and it happened again. That third day he decided, "Look, you see this. I cannot handle this. I am going to take the carpet out." Do you know what he found when he took up the carpet? A snake! The moral of the story, Mr. President, is that we have got to look at the root causes.

Mr. Maharaj: He found a snake from the Balisier! *[Laughter]*

Sen. E. Job: We are not going to point fingers at who or what the snake is, because I guess the snake would come out of hiding eventually. Anyway, Mr. President, the moral of the story is that we have to look at the causes of the social ills that are plaguing our society. They are joking about serious things, but this concerns our children. When they want to implement plans for political gains, we are going to have serious problems, so let us focus on the children, please.

We on this side would like to implore the Government to spare no effort and to be proactive in investigating and addressing the causes of the social ills that are plaguing this society, particularly from the young children. I dare say that if that does not happen, we will see the hon. Minister coming back before this Parliament before too long with other draconian amendments to this Mediation Bill.

I thank you.

Sen. Mark: You not easy, girl!

Sen. Diana Mahabir-Wyatt: Mr. President, before I start my short contribution on the Mediation Bill, may I congratulate our new Senator from Tobago on her appointment to the Senate and wish her a most enjoyable stay here. *[Desk thumping]* I can see from her address that she looks like she is going to be enjoying it.

Talking about being proactive, I would like to congratulate the Government on being proactive in bringing this Bill before the Parliament. It is something which I think is extremely important, because the whole question of community mediation—as I have perhaps gone on about at great lengths in the past—is something I am very much in favour of, particularly where it comes to dealing with youthful offenders.

I know from having worked for the last couple of years with the Community Police, the number of times in which police officers and probation officers have saved the lives and futures of young people by their intervention in acts of petty criminality. This is going to go into all the communities and the communities will be taking part as dealing with, especially, youthful offenders. I think it is very important as a general philosophical move which we have been trying to make over the last six or seven years in promoting decision-making in the communities and that communities should be taking care of communities.

This is one very positive step in the right direction, and I am particularly pleased with clause 16(2) which says:

“In determining whether a mediation order should be made, the Court may seek assistance of a Police Officer, Probation Officer, or Social Welfare Officer of the district in which the parties reside.”

I would even venture to add that we should have schoolteachers, where relevant, to deal with young people. I will defer that to the drafters.

It is just that where we are dealing with young people, very often, the guidance officers in schools, the teachers in schools and people who work in religious and non-governmental organizations are very instrumental in the communities. This is very much so in Tobago, as my fellow Independent Senator is nodding, but it is also very true in other areas in Trinidad and Tobago as well.

3.00 p.m.

I would respectfully request the Attorney General to think about, in that section, whether or not it should not be broadened to other relevant people in the community—I am speaking of section 16(2)—particularly where it deals with juvenile cases, because I think we are all very much concerned with the juvenile cases.

There is a new feature in this particular Bill which was not in the previous one, and if I hesitated when I was making an earlier intervention, it was because I think that the question of training of the mediators is very important and it is obvious, from the interventions of Sen. Mohammed who also deals in family matters in court, that she is also concerned with this. I will tell you why I am particularly concerned. Because the new Schedule 1A which is now bringing in civil matters which may be referred to mediation, includes not only:

“1. Matters falling for the determination of the court under section 8 of the Petty Civil Courts Act;”

That is fine, and I think we talked about this in 1998 when the parent Act came in, but:

“2. Applications for ancillary relief following the grant of a *decree nisi* of divorce or a decree of judicial separation;”

Again, I do not think anybody can find any question with that, but I am a little torn here when it comes to the applications under (3) and (4) which deal with the custody of children and access and maintenance of children and spouse. It is just to utter a word of caution if we do not have properly trained mediators—and a one-, two- or three-day workshop is not enough to properly train a mediator. In most cases, mediators are trained for periods of between three weeks to three months in order to get their certificates, for example, when you are talking about alternative dispute resolution training. Such training is available in the United Kingdom; it is available in the United States; it is also available from time to time in Trinidad and Tobago on a periodic basis when various organizations bring people down to train people in how to use it.

The reason I mention this is that there have been very mixed results for mediation when it comes to matrimonial matters in that, if you do not have very well trained mediators, and the parties to the matrimonial matters are represented by lawyers, it is not a secret anywhere in the world that usually the male partner has greater financial resources and is better able to get legal representation, which is going to mean stronger legal representation than the female partner can afford and, over and over again, experience has shown that unless there is a very well-trained strong mediator, the female partner is virtually bullied during the mediation process into giving up whatever positions or rights she has. When this comes to custody, education, supervision and maintenance of children, it is a particularly sensitive issue, as I am sure anyone here who has dealt with these matters in court knows. It is a highly emotional issue and children are often used as weapons in matrimonial cases where one spouse, or one ex-spouse, wishes to hurt or retaliate against the other.

Under Schedule 1A, (3) and (4) are, therefore, particularly sensitive ones when it comes to mediation because children do suffer and where you get one spouse who has greater resources, simply because that one spouse has greater financial resources than the other, the results can be often very traumatic for the children.

I do note that under section 17 where no decision is made, that the mediation hearing can be suspended and the court can resume the hearing. I bring this up because I remember over and over again when discussing mediation, the actual application of mediation in matrimonial cases, in domestic violence cases, which is not included here, is in the cases of custody of children that more experienced legal people, older and wiser than I am, have often said how important it is that the guidance of the court be there to be able to protect the parties.

It is on those grounds that I am totally in favour of mediation, especially community mediation. I think it is very important that even these issues—and I would like to echo the concerns that have been expressed elsewhere about the professionalism and the training of mediators and the breadth of selection of mediators—that people should, according to this Bill, have the ability to choose their mediators and agree on them. If there is only one available, it could mean, “Well, it is either take it or get it.”

I realize that it is totally unfair to ask the Minister this because it is not under his portfolio, but I would like to echo the concerns and just ask that the hon. Minister refer these to the Minister of Social and Community Development on the grounds that these are legitimate concerns which I think must be addressed as the mediation goes into effect, because it is going to be very important for the building up of communities and for cases dealing with children in matrimonial matters which, if they are not dealt with, very often do go on to become juvenile court matters and matters of petty crime.

Thank you very much, Mr. President.

Sen. Nafeesa Mohammed: Mr. President, when I came here this afternoon, I anticipated that this debate was going to be a very simple, straightforward debate because when it comes to community mediation, we on this side certainly support the policy of introducing measures to have community mediation. This has been a PNM position, a PNM policy. In fact, during the course of debate on the parent Act which was passed in this Senate in November 1998, the hon. Attorney General himself acknowledged that this was a piece of legislation, the policy and thinking

behind which, they inherited when they assumed office. We were, indeed, very pleased and encouraged to know that they were, in fact, following through with this particular measure because we know how important it is, especially in these times where, throughout the world, countries have been moving more and more towards community-based mediation in an effort to deal with problems that exist in societies throughout the world.

We have been hearing a lot of talk about alternative dispute resolution and we are very eager to see this type of machinery put in place for it to be workable so that it will be accessible to the people of Trinidad and Tobago. But, when I listened to the hon. Attorney General a short while ago, I was very disappointed because I thought that he of all people, the present Attorney General, would have appreciated how important it is to ensure that we get this system in place and that we get it right and make it into a system that will be truly workable.

Instead, the answers given by the hon. Attorney General a short while ago made it abundantly clear that he, too, has joined the bandwagon of UNC politicians who are parading throughout this country, politicking and saying, “Airport by August 31”, “Water for all by 2000”, and “School places for all”, *et cetera*, and we know that it is all part of their campaign for the general election, whenever it is called. We are very disappointed that the hon. Attorney General stood here this afternoon and was politicking [*Interruption*] and is still politicking with a significant piece of legislation like this because we on this side are certainly committed.

We would like to see these community-based mediation centres put into effect and into operation to perform the role it is envisaged they will perform because there are very serious matters involved here, especially where we are operating under a system in Trinidad and Tobago today where the administration of justice has been very high on the national agenda for the last few months. We know the many difficulties that the justice system in this country is confronted with, in the sense that in the courts there is a backlog of cases.

There are so many problems that exist and we, certainly, would like to see a very collective effort in order to get the justice system operating in our country, because if the justice system is working, certainly we would see, for example, a simple thing like the crime situation and they campaigned on a platform of reducing crime in this country in 1995—what is their track record come 2000, Mr. President? Crime continues to be a major problem in our society and that is a fact. I myself have been a victim on two occasions, at least, right in my area in Barataria/San Juan, which seems to be suddenly important to the Senators on the other side.

I heard the hon. Attorney General make mention of the pilot project that was supposed to have been started in San Juan, in Cunupia, in Tobago and now we are hearing that there will be community facilities throughout Trinidad and Tobago by the third week in August and they will announce where these facilities will be available. Is it that they are going to launch the facilities in all their UNC offices as they prepare for the general election? Or, on top of rum shops? As they are doing with the school and the education system, having schools on top of rum shops.

The hon. Attorney General sought, again, to politicize this issue by suggesting that there was a report on community mediation under the last administration, the PNM administration, and he suggested that we had dragged our feet on this report as though nothing happened and nothing was happening. It is regrettable that he did that because I have a copy of the report in my possession. In fact, this report was published in *The Lawyer* of October, 1995. This was a report that was presented in 1995 and we know for a fact that the PNM government came out of office in November of 1995. They have been in office for nearly five years now and have been dragging their feet. To this day, they cannot even launch the mediation centres and, instead, the hon. Attorney General stands here this afternoon to announce “Mediation for all by August, 2000”.

We have to highlight this fact and I am sure the rest of the population is cognizant of the fact that all they are doing is making promises simply because it is a general election year, but you know it is said, “You can fool some of the people some of the time, but you cannot fool all the people all of the time.”

Mr. Maharaj: You all nervous. What are you nervous for?

Sen. N. Mohammed: It is only a matter of time before the people of Trinidad and Tobago register what their right thoughts are with respect to this high level of public relations, propaganda and politicking that is taking place. We know, Mr. President.

I have to highlight this point because, Mr. President, [*Crosstalk*] we have to be concerned about where these mediation centres are going to be. Sure enough, we would like to see people in Cedros [*Crosstalk*] who have a dispute, able to access—

Mr. President: Let us have some order please.

Sen. N. Mohammed: Thank you, Mr. President—that they are able to access this kind of mediation facility, whether it is in Cedros, in Mayaro or wherever it may be.

One would have thought that the hon. Attorney General would have been here this afternoon prepared to talk about mediation, but to come here and say he does not know about the staffing, about how many people will be employed and who will be employed, is really regrettable, especially when we are talking about setting up mediation centres. We certainly would expect that you are talking about appointing people to act as mediators.

3.15 p.m.

Sen. Diana Mahabir-Wyatt a few minutes ago spoke about the need for trained mediators and she indicated the period of training that is required on average. The hon. Attorney General could not answer the question. I am sure the information is available as to how many trained mediators they have at present, or is it that they are now going to embark on a training programme, from now until the third week in August, in order to get enough mediators?

Certainly, Mr. President, in my professional background I have acted as a mediator in several disputes. [*Interruption*] I do not need to rely on them for a job, because this kind of effort is done on a voluntary basis, and we know in our society that there are competent people around who would be able to assist in this mediation effort.

Sen. Mahabir-Wyatt commented just now about the types of matters that can be referred to mediation. In referring to Schedule 1A she made specific reference to “Applications for ancillary relief following the grant of a *decree nisi* of divorce or a decree of judicial separation;” applications, generally, for custody, as well as for maintenance, access arrangements and what have you. Mr. President, in this field of family law, especially in this area of family law, this is an area out of all the areas in which you can have community-based mediation. This is one area where you definitely need to have people who can be mediators and who are properly and sufficiently trained in the field, because when you deal with family disputes you are dealing with very sensitive matters; it is a very delicate area.

Mr. President, one of the things, for example, that would be required, is a very high level of confidentiality in dealing with disputes in a particular community. I would not like to know that if I had some kind of dispute and someone whom the hon. Attorney General has announced is a mediator from the community, who happens to be one of the activists from the UNC, comes to discuss with me these things and the next thing you know it is a matter out on the streets. [*Interruption*] You have to have trained people, because it is giving the hon. Attorney General—and I am assuming that it is the hon. Attorney General who would be appointing these mediators—[*Interruption*]

Mr. Maharaj: Mr. Kamal would assist.

Sen. N. Mohammed: I see the hon. Attorney General is assuming the power unto himself to determine who will be ministers and who will not be ministers; so it tells you something about his ambitions, and the hon. Prime Minister should take note of the comments made by the Attorney General. [*Laughter*]

Mr. President, as we come back to this issue of mediation, we are very concerned, because we know that some training has been taking place. When the parent Act was being debated here I think the hon. Attorney General indicated that 12 persons were trained. The hon. Attorney General should have come back to us today and told us that they have trained more than 12 persons, because they are going to send them islandwide. It is very clear that they are suddenly trying to rush this through Parliament in order to meet the third week in August deadline.

Mr. President, quite apart from the training of these mediators, one of the other issues that is bound to arise is the cost of mediation. We would like to know the cost of making these mediation facilities available. Is it that the Government is bearing these costs, and if so, what kinds of costs are involved? The hon. Attorney General said that the pilot project is going to be started in three areas, San Juan, Cunupia and Tobago. Now they are doing away with that and putting these facilities in government buildings throughout the country.

Mr. President, I live in San Juan and I really was very curious to know what efforts were being made to have the mediation facilities set up there. I am sure in Cunupia one would have thought that there might have been some building that they were going to designate as a mediation centre. I am sure there are areas in Trinidad where there may not necessarily be a government building that you can regard as a mediation centre, so we are very curious, very anxious indeed to know about these centres and the cost of mediation.

The hon. Attorney General mentioned that matters would be referred, I assume, from the Magistrates' Courts and, perhaps, from the police and what have you. Our concern is to ensure that in setting up or making this kind of facility work that it is made accessible to people. In terms of cost and what have you, I am assuming that you would not be paying for these facilities. Certainly, we would like to get some clarification on this. Is it that for the parties who may agree to have a mediator appointed, some cost factor is involved or is it that the state would be bearing the cost throughout, in terms of these facilities and how the system progresses? These are matters that arise Mr. President.

While we are on this issue of mediation, and especially looking at the amendments being made to Part II of the parent Act dealing with mediation in civil type matters, where the hon. Attorney General said that that amendment is to give more particulars to what is set out in the parent Act as it relates to civil matters, Mr. President, this area we know deals particularly with mediation, especially in family matters. This brings me to a very topical point and issue and that is the establishment of a family court in Trinidad and Tobago.

Nearly every time the hon. Attorney General is in this Chamber we on this side have raised this issue with him. In fact, in 1997 he went publicly—there are newspaper clippings which reveal that the hon. Attorney General was saying that by the end of that year the family court would be established. We asked him in 1998; we asked him in 1999. In fact, he came to this Chamber on one occasion and said that a family court is not just a building. We know that; we know it is not just a building. We know, we are aware, we are mindful of the fact that there are several things that may have to be put in place. What we are concerned about is the status of the establishment of the family court.

We know that when the PNM was in government this was a very important area of concern for us; we were very eager to see the family court established. I know that some pieces of legislation were brought to the Parliament. We in this Chamber have debated several family law related Bills, and now with their term in office running out we are wondering where things stand with this family court. Can the hon. Attorney General tell us when this court will be established? Is it that he is going to fast track it as well to coincide with their election campaign as part of their election promises? We would hope that in the establishment of this family court he would take the politics out of it and deal with it on the basis of a genuine need in the country; we need it, we want it.

We are talking about mediation. If this court is established we envisage that there would be support services available in the operations of a court like this. Certainly, when it comes to mediation one would assume that you can be involved in a court matter and if the day the matter comes up in court and the parties decide that they want to have some discussion—as often happens—We know that in the High Court, for example, or even in the Magistrates' Court when a matter is before the court, it might be an application for maintenance or custody, on the day in question, in the courtroom sometimes, the parties themselves, very often, are in a frame of mind where they are willing to discuss some kind of settlement of their matter.

If it is that in these courtrooms or wherever the family court is established that you can have a system where a matter can easily be referred for mediation, I am suggesting or hoping that, perhaps, in the establishment of this court there would also be some kind of mediation facility operating there to simplify the process and the procedures in terms of getting justice in these civil type matters. It would be much easier, and in terms of time and so forth, we would be cutting down on time. So this family court is a matter of grave concern to us, and we are looking forward to the hon. Attorney General getting back on a serious course.

I have a lot of respect for the hon. Attorney General when it comes to the legal system, and knowing of his legal background and his contribution to the legal system in this country, he would have these matters at heart. It is unfortunate that he is mixing it up with the politics of the day. We know that in terms of our legal system, there are many things that need to be done. We know of his track record in that field in recent times with all the attacks and confrontational attitudes that have been adopted over the last few months, where the whole administration of justice has been brought into disrepute.

We are hoping—especially now that their term of office is coming to an end and the hon. Attorney General, I am sure, is eager to get back into private practice and he would have to appear before these courts, that he would, at least try to leave a legacy in terms of improving the legal system and the administration of justice; he could tell his grandchildren, perhaps, that he did something. It would be very unfortunate if he joins the bandwagon of politicians, making promises like the hon. Minister of Works and Transport who has announced that they would have a Ganesh puja when the airport is being opened on August 31; the Minister of Education, school places for all and the Prime Minister—

Mr. President: Senator, you are veering off too far.

Sen. N. Mohammed: Thank you, Mr. President, I was just winding up in terms of my contribution on this Mediation (Amdt.) Bill.

Before I take my seat I simply want to endorse the comment made by our new Sen. Eudine Job. I certainly would like to congratulate her in terms of her contribution in this Chamber so far. She mentioned the possible need for mediation when the backlash occurs with respect to their education thrust, school places for all; it is only a matter of time. [*Desk thumping*] We in the PNM will be there to clean it up.

Thank you, Mr. President.

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, I have a few comments to make. I want to begin by congratulating the hon. Attorney General for trying to ensure that this Bill becomes an Act and that we have implementation of the process. That has always been one of my fallouts. I find that we take too long to implement measures passed in the Senate. So I want to congratulate the Attorney General for trying to ensure that this mediation process is in progress.

I want to support Sen. Diana Mahabir-Wyatt on section 16(2). I know that in any type of mediation in families and so forth, the first person you run to is your religious leader. Under section 16(2), I would like to ask the Attorney General to include a religious leader, whatever you want to call that person, whether it is your priest, the pastor or whatever you call him, whether it is a nun or whoever, that the court may seek assistance from a religious person also.

Secondly, Mr. President, I would like to congratulate the Government on the measure taken for public education. I was very happy when I heard the hon. Attorney General mention that there would be skits, posters, slogans and so forth, and use would be made of the electronic media, television and the newspapers to spread the word of mediation. I am very, very pleased with that.

I hope that this will stretch also to the legal people, because I remember reading—when we had the team investigating justice in the country there was mention made by someone that, very often, they were not aware of some of the measures and laws passed in the country and, as such, there was ignorance, even amongst the legal people.

I am hoping that the public education would stretch to legal persons, be they magistrates, lawyers and so forth.

3.30 p.m.

I want to touch on the training of mediators and stress as previous speakers have done, the need to ensure the proper and sound training of these persons, not only dealing with the content of the matter, but also the culture of our people, because I can tell you that what you may be able to advise one person in Trinidad to do, you could not come to Tobago and do it. So they have to be aware of culture, environment, values and habits of people when they are trying to mediate in some of these areas.

Finally, I would like the Attorney General to ensure that where we have places used as mediation centres, that some sign could be put up stating that these places are mediation centres from Monday to Wednesday and at what time so that persons are not stumbling around looking for these centres because they have no signs to identify the places.

Thank you, Mr. President.

Sen. Joan Yuille-Williams: Mr. President, I would not have wished to make a contribution on this Bill, but when I tried to get a response from the Attorney General I do not think I was satisfied with it. The reason I tried to ask a question is simply to get information so I do not have to take the House through 30 minutes when I could have got it from him at the time. Having not had it then, I am forced to ask the same questions again although I heard them raised this afternoon.

I wish to state at the beginning as the Attorney General mentioned, this whole idea of community mediation was started by the previous administration, we got the report in October and we demitted office some time in November. The parent Act was brought in 1998 and I am one of those persons who has been following this parent Act from 1998. In fact, I had even asked the Minister of Social and Community Development about this some time ago because I am interested in it and wanted to know what has been happening. One of the problems we have been seeing is that there is a lot of legislation coming to Parliament, but the implementation seems to be a problem. *[Desk thumping]*

The Attorney General, having brought the amendment, should have been prepared for questions concerning the parent Act and its implementation. At the same time we have a Parliamentary Secretary with us from the Ministry of Social and Community Development and probably he could have used that medium to update us on what is happening with this Act. In fact, I want to tell the hon. Attorney General that some of the fears we have with the implementation coming from the Ministry—not being too critical—are that we have sat and waited in this Parliament for some time for the foster care system coming from that Ministry, and some of it came through the budget presentation of the hon. Minister of Finance. The Day Care Centre for the elderly has been mouthed many times and has not materialized. We looked at the probation hostels which we heard were to be in Couva. We waited for those probation hostels to help, they were built and we heard other people occupied them and, therefore, you can see our concern when you tell us that you have brought the legislation but the other Ministry is going to implement it. I think the Attorney General should be concerned whether this would be really implemented. I am very serious about it because too often within that Ministry we have heard that type of thing happening.

May I say one other thing about what happened, and I stand corrected to the hon. Minister of Social and Community Development. I spoke to him about the mediators and his response to me was that there were a number of trained persons in Trinidad who could be used as mediators. When I say trained, not necessarily

training being given in Trinidad, they might have had training elsewhere and they could be used as mediators. I think that needs to be checked to see whether that is so and whether that is a source from where these mediators are coming because I think that is the response I got. I am not sure there was any training done in terms of having these persons prepared and this is because I have been checking and asking about it. I saw the advertisement in the newspapers about people who were being recruited with certain criteria and I want to believe that the training was not done by the ministry and they probably might have had training elsewhere, but I think we need to look at that. The date, time and place could have already been set up and then find what we are expecting is not there. As I said before, there is a history of that coming out of that particular ministry—sad to say—where we have not been able to get things implemented.

For example, we have talked about the public education with which I agree, but I do not know which ministry is going to do it whether it is the same Ministry of Social and Community Development. It might be an idea which is commendable, but the implementation of that is very important to us.

I heard the Attorney General say he is going to have these centres at various places, some in community centres and other places which are to be used and I think he should be serious about where they will be and whether those places provide the facilities. I know that a number of community centres are not even private enough to hold this because this is something that is going to be very private where you are going to be working with these persons, and most of them are just open hallways. Work has to be done with the infrastructure if we have to do it at all, to get space within those places to set up these centres. It is not a matter that we are going to set them up in all these places because there are so many things that I have heard coming to this Parliament which are supposed to be going to the community centres, that if we use them we would not have place for the communities to come in at any time. A number of things. I think the Drop-in-Centres were also to be in the community centres and several other things are there with training programmes going on. Some centres you have to apply in advance to use them, so it is not enough to say that you are going to be setting them up here, there and everywhere.

We have to select the places, put in the infrastructure and get all these things ready by August 24, 2000 so it is not that we are trying to be critical; we are concerned, we want to support this, it is important to us and the Attorney General needs to look at the other Ministers and functionaries who are supposed to be trying to implement what we have been saying. The centres need to be looked at, and the mediators need to be looked at.

I asked a question with respect to section 7(1)(d) where the defendant and the *de facto* complainant agree on the person who is to be appointed as a mediator of the complaint and that person also consents to be so appointed in a prescribed form. I asked if these two are going to agree and I got the impression when the Attorney General spoke that the centres will be manned by mediators. We thought there was going to be a pool and people would select who they want. All we are asking is about the implementation of this system. I have been following it very carefully and we like the fact that you agree with it, therefore, Sen. Mohammed's concern would no longer be valid if we can go with section 7(1)(d) where it says that you agree on the person. I am not putting anything political to it, but if this is what the law states, that is what I am asking you. If you say that we are having 14 centres and there are 14 mediators, it means if I am from this area, I have no choice, I just go to the centre and use the mediator. If that is the plan, I do not have a problem with it. What I am saying is if the law says agree and if you are changing that word, let us know what is happening.

I am still saying that this is the cure, we are trying to see how best we can help our first-time offenders. I remember we asked the question about including robbery by first-time offenders coming under this mediation. I see we have petty trespassing included this time. Apparently that was not one we decided to look at, but I think it is something we wanted to look at.

As my colleague Sen. Job said, we also have to look at the prevention and if I stand for two minutes, I must say to you, hon. Attorney General and to you Mr. President, that a number of our youth programmes are going by the board and, therefore, what is to hold our young people from coming to this state, what are we doing about it? A number of the youth programmes which we had in place we seem not to be focussing on them and you should do what you can in your capacity as the Attorney General to ensure that those ministries where there are youth programmes are well financed and executed instead of having things moving away.

I do not wish to be repeating myself, I am quite sure this Parliament has heard me because every time I stand, I talk about it because daily I am seeing the programmes which helped our young people are no longer there. In fact, I think the Youth Training and Employment Partnership Programme (YTEPP) might be the last remaining bastion, but the rest of the programmes where young people were supposed to be doing training and be influenced by the older persons, all those programmes have been taken away. I do not want to say anything that

would hurt my dear Senator, the Minister of National Security again but it hurts that every time you think about the young people, you think about the programmes that have been taken away on one side.

I am not going to talk education today because we have a lot of time next week to talk about it, but one cannot miss the fact that in schools where certain programmes, like the tech-voc programmes which so many of our young people would hold on to if they could not do the academic subjects, I understand that area is being phased out of the schools. Therefore, we need to look at a balance, we have to look at those things that hold our young people, because according to Sen. Job, this community mediation would become very important to us. We are trying to prevent some of our young people getting to this stage. This stage was to take them away from being with the hardened criminals and giving them a chance to shape up, but even before this, we have to spend some time and money to assist our young people and what I am seeing happening daily is that the things young people were hoping to have, we are taking away from them.

Mr. President, I hope that the Attorney General would liaise directly with that Ministry to ensure that what he is expecting is really coming out of it because we can do all and open on August 24 or 26, 2000 only to find that the things needed to support the programme are not there. In fact, I would feel that if we were coming to the Parliament this afternoon with this particular Bill anybody would know that there are questions people would like answered. We want to get an update on the status of the entire matter. I think it is only fair and responsible on the part of any person, Opposition, Independent, even Government, and I am sure the Government Senators who are here would like to know exactly where we have reached in the programme.

I think it is unfair to the Parliament that we have been a bit narrow in looking at the legal aspects only, but the other supportive parts of it are not there. So I look forward to seeing what is happening, I am going to look to see where these centres are being placed, the infrastructure that is being placed in these centres, the training of these mediators. I understand that they are trained already. I am going to see if there is a choice for the persons with the mediators and I am certainly going to look forward to this public education programme all of which will come forward before August 24, 2000. It is July 18, so in one month we have much work to do before we get these centres functioning.

I do not know if we needed to push it because it is important to us and I do not know if that opening date, and having them functioning on that date at this late stage was really necessary, or whether we need to get some of the things in place.

It has been some time we have been waiting for it. We would like to support the amendments to it, but I would like the hon. Attorney General to ensure that when this begins that it is not going to be off to a false start and that we are working with the courts and remember, this is for the community to take charge, and the community is well aware of what is happening.

Thank you, Mr. President.

3.45 p.m.

Sen. Rev. Daniel Teelucksingh: Mr. President, I hope that within the next few months leading to the general election, I will not be disturbed with pre-election campaign exchanges at this level to colour debates and spoil my afternoons, when such serious legislation as this Bill before us today is being considered. When we consider and address such laws as proposed, it is not necessary. Maybe I should confess that I might just be politically naïve, but I do not think that it is necessary—whether election is this year, next year, or in the next six months—for any of us to have the election in mind with the kind of political power we talked about and craved after when there are discussions at this level.

Mr. President, who really cares about our vain exchanges in the nation's Parliament when the society is hurting out there? This is a crime Bill. Who cares when placard bearing union leaders threaten to shut down all systems in Trinidad and Tobago and have days of resistance? No one carries a placard calling for a month of resistance against crime in Trinidad and Tobago. [*Desk thumping*] Who cares about the electoral war games at Rienzi or Balisier House, anyhow, when the real great need is out there where real bullets are used; where real people live in the rough and tumble of the real world?

Mr. President, I am glad the Attorney General quoted from that UWI Study which states that seven out of ten crimes are committed in this society by minors and juveniles. That is a very important reminder the Attorney General shared with us in the study of this Bill, dealing with alternatives to dispute resolution and to possible imprisonment, instead of having these matters possibly end up jamming our prisons more. Could we have another way of solving our problems?

Mr. President, I want to support this Bill, and I think it is a very serious piece of legislation. The Attorney General used the word “novel” and maybe it is. If it is a novel piece of legislation and a novel addition to the justice system in Trinidad and Tobago, then I think that election or no election—whether it is this

Government or any other government—it is a good suggestion. I think it is an excellent experiment in dealing with the question of justice and possibly the backlog in the courts; the daily additions to the responsibilities of magistrates and judges; and the pressure that is put on the court system. If we could have community mediation, sit down, talk, discuss and solve our disputes—and these problems that are described in the Bill as petty—in another way, maybe through mediation centres and mediation officers, then it is a good thing. As far as I am concerned it is a very good Bill. I will support the Bill, election or no election.

I want to ask the hon. Attorney General though: who initiates and recommends mediation and at what stage? It is a question I want to leave with him. Who initiates and when? Is it the magistrate at the first or the earliest stage in a hearing or would the attorneys for disputing parties advise their clients as to when mediation is an option and when it should be considered? That is the answer for which I am searching.

Mr. President, it is an excellent Bill. I just want to add a little, using the word “mediation”. I really think, Sir, in our society, we need to apply the principle of mediation a little more and at various levels, not merely in dealing with petty criminal matters. I really feel there are many problems in this society that could be solved by mediation—I am using that word—and the two political parties have to sit together when there are serious matters like these. I do not know who will be the mediator. If we cannot find a mediator, God help us! When there are national issues such as the crime situation in this country—and I have a list.

Hon. Senator: Give us.

Sen. Rev. D. Teelucksingh: I have been very worried about what has been happening. On June 5, 2000, a Diego Martin father was shot dead near a pharmacy by armed bandits; on June 5, 2000, a young man was shot at 2nd Caledonia Hill, Morvant; on June 9, 2000, the La Romain tragedy where a policeman shot his wife and committed suicide; on June 11, 2000, a bandit was shot and killed at La Romain, and you add to this list. Is this the concern of the Government? Who is the Government? This is the Government meeting here today—all of us, everybody. This is our concern and we need to find ways and means of mediating. We definitely have to do this.

Mr. President, I feel very troubled. So many decades have passed and we wonder what to do with our high school students. Suddenly, a government decides that it is going to make an attempt this year, and it is not going to postpone it no

matter what—even if it is upstairs a rum shop—it is going to find a place for our high school students, and no longer will our high school students suffer. What are we quarrelling about? *[Desk thumping]*

Hon. Senators: Politics, politics.

Sen. Rev. D. Teelucksingh: Mr. President, I think it is the most beautiful and wonderful thing that has happened for the last 20 years in Trinidad and Tobago, that high school students at 11-plus will be going somewhere. *[Desk thumping]* Mr. President, what about those who are partners and participants in this? Look at the Trinidad and Tobago Unified Teachers Association; the Primary School Principals Association; and the Secondary School Principals Association, they are all pulling in different directions. It is something this entire nation has been hoping for the day to come when 10,000 children who have been unjustly treated over the years, would be given that opportunity. *[Desk thumping]* Mr. President, do you know what will happen as far as mediation is concerned, if all these interested parties could have gotten together to find an answer? Oh man, I tell you a miracle would have been performed. I hope that this little Bill will provide miracles too as far as dispute resolution is concerned.

I want to close, by saying I am very happy that there has been enough mediation—I am using the word—to solve that very embarrassing situation involving the four Nigerians detained at the Maximum Security Prison. *[Laughter]* I am really concerned and worried about this matter. Why have we not tapped, used and utilized all the various forms of dialogue and discussions? I really hope that there will be an immediate attempt to initiate some kind of mediation for illegal immigrants awaiting deportation and we will find answers.

In all these bilateral talks that have been going on, there must be mediators. We must find mediators, not only for petty crimes, but for national and regional crimes. *[Desk thumping]* We must find mediators. You cannot have four people being detained there and possibly others from Caricom territories all because they are what? Illegal immigrants! What have the embassies been doing in Trinidad and Tobago? There are embassies in the city. The time has come though that if there are to be safe houses for them; if they have to be repatriated home; and if their home embassies are here, I do not believe the citizens of Trinidad and Tobago should continue to maintain their stay in this country. I really believe that the embassy should step in. They are the mediators—the mediators between the law system in Trinidad and Tobago; the immigration systems; and those who have

broken our law. I hope that day will come very quickly, when all the embassies in Trinidad and Tobago will be responsible for illegal immigrants and not the Treasury of Trinidad and Tobago.

I know the hon. Minister of National Security has started bilateral talks. I really hope that there will be some answers to this very serious problem that is not really solved with the possible freeing of the four Nigerians because we have others to deal with.

3.55 p.m.

Mr. President, mediation is an excellent avenue, and an excellent way of resolving the disputes we have. If the Government is seeing that mediation is good for petty crimes, I just want to suggest that it is a good answer for so many of the other problems we have.

Thank you very much, Sir.

Sen. Muhammad Shabazz: Mr. President, during the course of the debate, I had my points to make, but I think the debate has taken a slightly different turn for me. It has saddened me a little, but before I go there, I would really start off from another point. I would come back to that point as to why I am a bit saddened.

I first want to say to the hon. Attorney General, that on this side, the points we are making, we honestly believe that what we are saying is correct and we would like him to look at it, not as political points to score political gains, but to let him know that we have a feel for the community, for the people of Trinidad and Tobago, and that in our hearts, we speak—even though I will agree that at times we speak politically, and I do at times—with meaning.

I would like to see things improve. We have made the point that we consider the passing of the Bill to be important. Not only that, but as the hon. Attorney General said, this is a Bill that was in a way initiated by the People's National Movement. So, we are for community mediation and we would like to see it really happen. The point we are making, though, to the Attorney General and the Government, is that in implementing ideas, even though they may be good ideas, if they do not put the right support systems in place, these ideas will not work.

In truth and in fact, the road to hell at times is paved with good intentions. We understand that. We are asking this Government in implementing its plans that may seem to be good and even may be good, to do it in a way that it will work properly for everybody. Think it out, work it out and study it before bringing it to this House to ask us to pass it.

Let me go back a little. We have something called community service that was implemented in this House. What has happened since then with community service? We have not heard of any real cases where community service has been given. Do you know why? We are certain that it is because the support systems have not been put into place. If I am wrong, I would like the Attorney General when he gets up to say so. I believe that on this side we are correct to believe that.

There are other things. Sen. Nafeesa Mohammed spoke about the family court. Many of these disputes—if the family court as a support system was put into place, it would have been working differently and it would have been a different situation when it comes to community mediation. The family court and all these other things are proper support systems to help all these things we are doing, because this Bill in isolation, as all the others, will not be as properly workable as should be.

We have heard the Attorney General speak about family court to the extent that it will happen, it will be implemented, yet it has not happened. We are asking them from this side. It is not a political thing. It is not that the PNM was there and we did not do it or tried to do it and they are now doing it. Yes, we congratulate them for now doing it, but the fact that the PNM did not do it or just put it into place has nothing to do with the last five years and the way they have operated in this country. They have not done it and they must stand up squarely and face that.

When we were hearing about community mediation, the question was rightfully asked, who will decide? We were hearing about the block leaders. Somewhere the block leaders came up as to probably there might have been people involved; the religious people, whoever is going to be involved. We are asking the hon. Attorney General in setting it up, because some people may be taking their cases from the court to go to community mediation. In taking it from the court to community mediation, we really want trained people with proper expertise to handle these matters when they go for mediation.

The question that has been asked to the Attorney General is whether people have been trained, how trained they are, and that is an important question for the Attorney General to answer. It is serious because it is people's lives and people's minds they are going to play with. To say that he brought the Bill here only to support or to explain, and it is not really his Ministry, indeed is not a very strong point. We are asking the Minister that these things be put into place because we feel it would work better. None of us in this House may have to face community mediation. None of us here may have to appear for community service. It is the people out there and we expect the Minister to do something in a serious way.

What have we been finding? He has said there will be three centres. Not only that. He goes to the Government's favourite term, "for all"; those two words they love to use. He is going to ensure that mediation will be for all over the country by having centres at different places where the staff will go and mediate. Which staff? Where is that staff? They do not even have proper staff and they cannot tell us what will be happening with staff for the three centres they have, but they will be sending staff to all the other centres. We are asking this question, not as a political question, but as a serious question to find out from the Attorney General whether the staff is available and whether they could handle the situation better than they have done with community service and all these other matters.

Mr. President, a number of speakers have alluded today to the question of school places for all. In truth and in fact, the People's National Movement has a policy where we say that maybe all children should be sent to school, some type of school, we probably do not believe—

Sen. Cabrera: Mr. President, I rise on a point of order to direct your attention to the fact that the Senator is being irrelevant to the matter before the Senate.

Mr. President: Technically, the Member is correct. I will ask Sen. Shabazz if he wants to make the point to make it quickly but do not dwell on it since the issue has already been permitted in the House.

Sen. M. Shabazz: Mr. President, I say thank you. I would not develop on the point. I wanted to be straight with them. I just want to say though, that I listened to my dear friend Sen. Rev. Teelucksingh speak, and I heard him make a point. We talk about the criminals in the country. The sad thing about the crime situation in the country is that, although there are so many crimes and we are hearing that it is improving, we seem to think it is getting worse. Not only that, the sad thing that is happening is there are so many unsolved crimes in Trinidad and Tobago and we need to look at that.

I cannot stand on my feet and say to Sen. Rev. Teelucksingh, even though he believes that the system is a good system, it touches my heart when the hon. Rev. Daniel Teelucksingh said the system is good, even if we have to put the school on top of a rum shop. It touches me. I am a bit sad for that, and I feel that things must not be achieved at all cost. It must be done in a proper way, and if done in a proper way, it is the only way to benefit. Not only now, but sometime in the long-term.

Thank you Mr. President.

The Minister in the Ministry of Health (Sen. The Hon. Vimala Tota-Maharaj): Mr. President, I rise to make a brief contribution on the Community Mediation (Amdt.) Bill, 1998 which was presented by the Attorney General and Minister of Legal Affairs. In the Attorney General's presentation this afternoon, his emphasis was on young people. I am pleased also to note that when Sen. Yuille-Williams got up to speak this afternoon, she also spoke at length about the young people. However, I am disappointed at the political game-playing that did take place with her colleagues, especially Sen. Nafeesa Mohammed, who for one so young has made such spurious and pernicious comments.

Mr. President, she seems to be obsessed with the elections 2000 and the politics. Could it be, hon. Senators, that she went for screening under the UNC and she was not successful at some time?

Sen. Mohammed: Mr. President, on a point of order, the hon. Senator is misleading the Senate!

Mr. President: Hon. Senator, once there is a point of order, I must rule, and I would rule that you please desist.

Sen. The Hon. V. Tota-Maharaj: Mr. President, I would be so guided. I would like to share some information from a document entitled *America's Childcare Crisis: A Crime Prevention Strategy*. This is a report called *Invest in Kids*, and it says that when children do not get the right start in life, all of us are in danger. Good educational childcare is one of our most powerful weapons against crime. While poor quality childcare implies the risk that children will grow up to be a threat to every American family—and I can associate this to Trinidad and Tobago—yet millions of eligible children are missing out on the help they need to get that right start in life.

Mr. President, this Government is ensuring that our children are getting a right start in life, and today's piece of legislation attests to that. We have brought a number of pieces of legislation to the Parliament and will be bringing some more and in our next term of office as the Government of this country from 2001 to ensure that our children do get a right start in life.

Mr. President, our policies and what our ministries are doing, headed by the members of this Government, we are ensuring that the adolescents of our country are properly catered for. The hon. Sen. Nafeesa Mohammed did mention that on two occasions she was a victim of crimes by probably young persons, but those

young people were not invested in and they were not catered for while they were younger, hence the result that these criminals emerged, or they were forced to perform these criminal activities.

I will not attack and blame any other previous administration, but we need to reflect on what really took place and why there is so much talk and so much politicking on the education system and what has been happening. We have been attacked as a government left, right and centre, but this piece of legislation is ensuring—

Sen. Shabazz: Mr. President, on a point of order concerning the discussion on the education system.

Mr. President: I did not quite catch what you are saying, Senator.

Sen. Shabazz: Mr. President, on a point of order, I think the hon. Minister is irrelevant and moving away from the point on to the education system. *[Laughter]*

4.10 p.m.

Mr. President: I will permit the Member to continue since that issue has been raised in the Senate and permitted to continue. *[Desk thumping]*

Sen. The Hon. V. Tota-Maharaj: Thank you, Mr. President. I would like to share with the honourable Senate, an experience which I had a couple weeks ago. The Pan-American Health Organization invited me to lead a delegation to the Bahamas to view the adolescent wellness programme that is taking place there. This whole initiative on adolescent wellness which ties in crisply with the community mediation and other aspects of legislation, shows us what can happen when ministries, NGOs and religious groups network and work together, and partisan politics, individual differences and individual agendas are put aside.

The focal Ministry in adolescent wellness—and I stress wellness—is the Ministry of Health in the Bahamas, but the Ministry of National Security, the Attorney General's Office, the Ministry of Legal Affairs, the Ministry of Education, the Ministry of Social Services and a host of other ministries have come together to ensure that the young people of that nation are well taken care of and are well prepared for the challenges which they meet as they grow older.

Within my own Ministry, I have been holding discussions with the heads of the Regional Health Authorities who are willing to prepare proposals to assist the community mediators from the Ministry of Social Services to ensure that our younger people—

Sen. Prof. Spence: Point of order, Mr. President. Education is one thing because it was introduced but, surely, now we really are wandering over a very wide field that has nothing to do with mediation and criminal matters.

Mr. President: Yes, Minister, unless you can make an immediate connection, I am asking you to revert to the Bill under discussion.

Sen. The Hon. V. Tota-Maharaj: Thank you, Mr. President. I was not allowed to develop the point, however, Sen. Prof. Spence, I would like to explain to you that all this is part of the community mediation. Centres have been set up—this is a holistic approach—where young people can go to access services—services from every single ministry—to access assistance. This is what we are focussing on with this community mediation, where our young people are looking for opportunities and places where they can get some form of assistance and some form of guidance.

It is important at this stage that we give support to this piece of legislation which was presented by the Attorney General to ensure that our children and our young people get a chance to make a significant contribution in this country. It is unfortunate that certain comments were made concerning this piece of legislation but I feel secure that this piece of legislation, presented by this Government, will definitely help our children and our future leaders of Trinidad and Tobago.

Mr. President, I wish to thank you for allowing me to make a brief contribution. [*Desk thumping*]

Sen. Martin Daly: Mr. President, I rise to support the legislation, the amendments and also to add a word of support to my colleague, the Very Reverend—well, actually, he is not Very Reverend, but Rev. Daniel Teelucksingh. He put it more diplomatically but here he is pleading for no politics in the Senate and the need for mediation in the wider affairs of the country. I support the point about the need for mediation in the wider affairs of the country because, not having intended to speak, Mr. President, as I listened to the debate and was stimulated, particularly by the last speaker who, I believe, may need some mediation herself, I immediately drew up a list of six questions in support of the very relevant contribution made by Sen. Rev. Daniel Teelucksingh.

Who mediated between the President and the Prime Minister? Who mediates between the acting Prime Minister and his colleagues? Who mediates between the two biggest lawyers in the country? Who mediates in the Pointe-a-Pierre and St. Augustine seats? Who mediates in the National Trade Union Centre election?

And who is going to mediate in the Unit Trust where, apparently, we have had a vast manipulation of the Stock Exchange by a public—and I mean public in the sense of not publicly listed company but in the sense of a statutory corporation? Who is going to mediate there where we have had this huge manipulation on the Stock Exchange and we have not heard a word from any of the authorities? Perhaps they are silently mediating. That is the only conclusion to which I can come because we have not heard one word. Town has a view about it and town has a view about which corporation was involved, so maybe they are silently mediating.

We could, of course, go further afield. It seems there has been successful mediation in Arima, but there has not been successful mediation in Port of Spain North and so, you know, it is very important. I entirely agree with Sen. Rev. Teelucksingh that we need to look carefully at the need for mediation in the wider community because if we are going to “fight like cat and dog” over seat, presidency, vice-presidency and other such issues—actually I left out the Anglican Church. They seem to be taking an awfully long time to elect a bishop. I left that out of my list. So you see, Mr. President, without in any way singling out anybody and committing a clause 7 offence, I have given some very catholic—and I use the word with a common “c”—examples of the need for mediation in the wider community. Perhaps on the occasion when we are advocating mediation for others whom we assume to be less privileged than we are, we should consider the lesson for ourselves.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, I think I am going to take the advice that Sen. Rev. Daniel Teelucksingh gave and that is, that we should try to keep politics in the party dimension out of this Bill, because it is a serious matter. It is unfortunate, in my view, if I may say with the greatest respect to the Opposition, that they saw this Bill as a measure in which one can make political gains. [*Desk thumping*]

I think it is unfortunate, Mr. President, because here it is that this is an amendment Bill and one would, therefore, assume and presume that the Opposition, in preparing for this debate, would have read the parent Act but it is quite clear they have not read it, because if they had read it, they would have known the provisions of the Act. The Leader of Opposition Business in the Senate has asked whether this is going to be paid for or not, the mediation. One knows that the policy which underpinned this Act was that mediation centres were being set up by Government to assist persons who wanted to voluntarily take the services if they wanted them, so there was no question of costs to persons.

When we did the Bill which became the parent Act, it was recognized that what was happening was that you had young people who went to court and when they went to court and through the court system, the fact that they had to await trial, they had to go through the processes of the court, they became contaminated with the court process and even if they went to prison, or a fine was imposed, they, in effect, altered their lives and society suffered.

So what we did here as a Parliament, we decided that in these petty criminal offences, we would start where the emphasis would be on rehabilitation instead of punishing. We tried to have the concept of restorative justice whereby the person, the wrongdoer, would recognize that what he or she did was a community wrong and the community would get involved in trying to solve the problems of the individual. That is why when we passed the Bill, we said that although we were going to have the community organization and the social people playing a part, that Government should be able to have trained mediation persons available so that if persons wanted to resort to using them, they could use them to assist in resolving disputes and on the basis that, if it did not work, the persons could resort to going through the legal process.

In effect, we recognized that this was not the whole answer but we recognized that if we had to deal with the crime problem in Trinidad and Tobago, we had to deal with it on a holistic basis. We recognized that crime was one of the most important problems affecting the society and that we had to deal with it, not only with passing laws in order to provide a better criminal justice system in the sense of having better punishment and punishing people, but we had to pass measures which would aim at rehabilitating offenders because we could not build enough jails in order to keep the offenders.

The Government recognizes that crime is an important matter which any Government must address, but I am sure hon. Senators would understand that when we, in effect, passed this measure, the Parliament also recognized that we needed measures like these, because the young people, when they become involved, have a conviction, have a fine, or become tarnished with any of these processes. They, in effect, become very difficult at times to control. They can get into bad company and you have crimes committed. We recognize that and that is what this Bill is about.

Mr. President, what we came here to do today are some trivial amendments because we recognized that what happened was that in 1998 when we passed this measure, it was a measure you could not implement within six months or within a

year. It would take some time because one had to pass the law in order to be able to set up the centres; one had to pass the law in order to implement the measures; it needed training and the Government recognized that training is very important and I do not want, in any way, to make that appear to be watered down.

As a matter of fact, training is very important but as we all know, no situation can be perfect and if we sometimes wait for a perfect situation, we may not be able to implement a measure. What we decided to do—just as this measure was not perfect because one would have expected to have many more offences included in the Community Mediation Act, but we said there were problems, there were difficulties and what we decided to do was to come, even with an imperfect measure, in an effort to try to solve the problem.

I agree with Sen. Rev. Daniel Teelucksingh that yes, even if you have to have a mediation centre in a place which will not normally be a mediation centre, but as long as it is conducive where people can use it and it can serve a good, then I see no wrong in doing it. But I was at pains to say that when we approved this measure in this Senate, it was on the basis that initially it was thought to be a measure in which there were only going to be three mediation centres and it is because the Government was going to get buildings in these areas—acquire them or rent them—and have them there permanently, as mediation centres.

4.25 p.m.

I said that in the interval which occurred we had a committee working since 1998 taking steps to implement this law. What we decided was that it would be unfair to the rest of the country if we did not have this facility available for all the population of Trinidad and Tobago, because when a matter goes to court there would be other people in other parts of the country who may want to resort to the same facility. So in order to produce some equity we decided to see whether the resources available could be shared in such a way that the whole country could benefit.

Mr. President, I apologize sincerely if the Opposition thought that in order for me to get them to support this measure I had to come with all the details of who trained, what training and so forth. I want to give them the assurance that the Government is committed to ensuring that training is an essential ingredient of the implementation of this process.

The family court issue has been raised, and I think having regard to the emphasis which has been made on the family court, I am going to try to keep the party politics out of this. If I may say so while I remember, may I take the

opportunity to congratulate our goodly Senator Eudine Job for the contribution which she has made. [*Desk thumping*] It is the first time that I have heard her and I want to say that she speaks like the Job who is on this side—[*Laughter*—and, therefore, I feel very convinced that there is some connection.

Sen. Daly: Mr. President, I do not have my blue book, but I must rise to the defence of the newest Senator. I believe that it is out of order under Standing Order 35(4) to make insulting remarks about Senators. [*Laughter*]

Hon. R. L. Maharaj: Mr. President, I am very sorry if the Senator construed it as that, but I thought it was a compliment.

May I continue by saying that I congratulate the hon. Senator. She made a very good contribution, but the only aspect of it which I think really spoilt it, if I may say so with the greatest respect, is with respect to the education matter. I think that having heard Sen. Rev. Teelucksingh she would have been persuaded that she was probably wrong. [*Laughter*]

Mr. President, regarding the family court issue, when this Government took office it was faced with a situation in which previous administrations had been talking about a family court. What this administration found is that there was nothing done in order to set up a family court. All that was done, really, was that discussions were had to have a separate building called a family court, and that you would have had the same rules and the same system in place.

We took the position that a family court was not just putting a judge in a building. A family court, in order to solve the problems that relate to young people was to try to find different procedures and measures, and a different kind of court in order to deal with family problems. What it entailed was for the Law Commission to study the systems throughout the Commonwealth. We have come up with, after discussions and consultation, a Family Court Bill which is before the Cabinet.

It seems as though the Opposition is blowing hot and cold; in one breath they are telling us do not rush to do anything, because if you rush to do anything you are only doing it for political purposes. When you take your time and study things and do things in a way in which one would be sure as to what one is doing, you still face the criticism. The Opposition should be the last party in the world to talk about implementation of legislation. [*Desk thumping*]

When this Government took office there were over 25 pieces of legislation which were not implemented at all, and the Government made a public statement about that. This Government took steps to implement the majority of those pieces of legislation and what we did not implement was because they stayed so long that the legislation had become outdated and we had to draft new legislation.

Hon. Senators: Oh, my God!

Hon. R. L. Maharaj: Let me deal with some of the points. I want to mention that in relation to the persons who can assist in the mediation, in section 16(2) of the parent Act—and I will read it:

“The Mediator shall have the power to—

- (a) co-opt, with the agreement of the parties, persons from the community in which the Mediation Centre is located, who may have expertise or the type of influence required for the particular mediation process; and
- (b) request the support of any social groups, groups, community organisations or non-governmental organisations where such support is required for the success of the mediation process.”

We recognized this, and if I may give credit for this clause it would be to Sen. Mahabir-Wyatt who had said, when the Bill initially came, that we should, in effect, co-opt people from the community in order to have it.

In respect of the matters which Sen. Mahabir-Wyatt has raised regarding civil matters with respect to custody, I merely want to say that it was at the insistence of the Independent Bench, if I may use that expression without specifying, that the Government went the route, in the parent Act, of having custody matters included. What we have put in this amendment is really a reproduction of that. If one looks at Part I of the parent Act, one would see that under (c) it deals with applications falling for determination by a court, under the Matrimonial Proceedings and Property Act, for the custody, education, supervision and maintenance of children.

We have taken the point that what we have to do is have effective training in order to provide effective assistance in the mediation process. I think we should make it quite clear that this is not a process in which we are going to force mediation down the throat of anyone. Sen. Rev. Teelucksingh has asked, in effect, when does it start. If you have, let us say, a petty criminal offence; when the person is charged by the police, let us say it involves an offence in which there are two members of the community, it can even start before the matter reaches the court.

You will have the mediation centre and the process going, people will know about it, but when it reaches the court it will then be the obligation of the court to indicate to the parties, in any event, if they do not know, that there can be mediation. What then happens is that the communities work along. If it goes along and one feels very confident that with the kind of support the communities can give and the churches and religious institutions as part of the community, you can have a lot of success in getting many of these matters taken out of the court system.

That is the thrust of the Bill, and all that we have come here today to say is that since 1998 we have not slept on the Bill; that we have had a committee; we have been working and we have been trying to train people. We also recognize that when the people are employed they would also have to go through a further training process. It is not as if this Bill is going to be passed now, and now we are going to start to do things to open these centres in August. As a matter of fact, this committee has been working. We could have opened the centres a long time ago, but we were not ready for them, and we wanted to be sure that when they were opened they would function effectively to the maximum that they could.

Mr. President, I think I should not deal with political mediation or any other mediation. [*Laughter*] I would not be tempted to deal with that. All that I can say is that if we have to deal with that I think the Opposition requires a lot of political mediators to solve some of the problems they have at the present time. [*Laughter*]

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

Question put and agreed to.

Bill accordingly read a second time.

Mr. President: Let me just say that we will complete this Bill before proceeding to tea.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 9 ordered to stand part of the Bill.

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

Senate resumed.

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

Adjournment

Tuesday, July 18, 2000

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, before adjourning this honourable Senate, may I inform colleagues that we are going to be dealing with Private Members' business next Tuesday, when we will resume debate on Sen. Prof. Ramchand's Motion on education.

I beg to move that this Senate do now adjourn to Tuesday July 25, 2000, at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.40 p.m.